

# **Town of Mentz Zoning Ordinance**



**Cayuga County, New York**

**Adopted  
October 22, 2019**

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## **Article I. General Provisions**

### **Section 1.01 - Short Title**

A. This Ordinance shall be known as the “Zoning Ordinance of the Town of Mentz, NY”.

### **Section 1.02 - Purpose**

- A. Such Ordinance is made under and pursuant to Article 16 of the Town Law of the State of New York and in accordance with the Town’s adopted Comprehensive Plan; and is designed to promote the health, safety, and general welfare of the community; to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; the size of buildings and other structures; the percentage of lot that may be occupied; the size of yards; the density of populations; and the use of buildings, structures and land for trade, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.
- B. Such regulations were made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

### **Section 1.03 - Jurisdiction**

A. The regulations and provisions of this Ordinance shall apply to and affect all lands in the Town of Mentz which are not within the incorporated limits of the Village of Port Byron.

### **Section 1.04 - Application of Ordinance**

A. No building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this Ordinance. However, this Ordinance shall not require any change to any building, structure or use legally existing at the effective date of this Ordinance, or any amendment thereto; or to any building, structure, or use planned and construction started in compliance with existing laws prior to the effective date of the Ordinance, or any amendment thereto, and completed within a one year period after the effective date of this Ordinance, or any amendment thereto, except as provided in Article XIII.

## Article II. Definitions

### Section 2.01 - General

- A. Unless a contrary intention clearly appears, the following words and phrases shall have for the purpose of this Ordinance 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 "person" includes a corporation, partnership, and association as well as the individual.
  - 4. The word "lot" includes the words "plot", "parcel", or "property".
  - 5. The term "shall" is mandatory.
  - 6. The word "used" or "occupied" as applied to any land or building and 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 usage.

### Section 2.02 - Specific Definitions

- A. When used in this Ordinance, unless otherwise expressly stated, the following words and phrases shall have the meanings hereinafter set forth. Certain specific words and terms used in this Ordinance shall be interpreted and defined as follows:

**Accessory**: The term applied to a building, structure, system, or use (except for an accessory dwelling unit) that (1) is customarily incidental and subordinate to and serves a principle building or use served; (2) is subordinate in area, extent, or purpose to the principle building or use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principle building or principle use; and (4) is located on the same parcel as the principle building or principle use.

**Accessory Dwelling Unit**: A second subordinate unit that is: (1) contained with the existing primary single dwelling unit; (2) an addition to the existing primary dwelling unit; (3) an adaptive reuse of an existing permanent detached accessory structure such as a barn, carriage house or garage on the same parcel as the primary dwelling unit; or (4) designed into new construction of a single dwelling unit.

**Adult Oriented Business**: Any use or substantial or significant part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods, including books, magazines, pictures, slides, film, phonographic records, prerecorded magnetic tape and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewings and encounters, the principal feature or characteristic of which is the nudity or partial nudity of any person, or in respect of which the word "nude", "naked", "topless", "bottomless" "sexy" or any other word, picture, symbol or representation having like meaning or implication is used in any advertisement.

**Agriculture**: The use of farmland and resources for the production of food, fiber, fuel, and for agri-tourism activities in accordance with the accepted agricultural practices of land, nutrient, and farm management as defined by the New York State Department of Agriculture & Markets including but not limited to: the raising, harvesting, and selling of crops; feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals, or honeybees; dairying and the sale of dairy products; any other aquacultural, floricultural, horticultural, silvicultural, or viticultural use; animal husbandry, agricultural support industries, or by any combination thereof; and the use of land for the primary purpose of stabling or training equines including, but not limited to, providing riding lessons, training clinics, and schooling shows; and as further defined in “Agricultural Practices” elsewhere in this Ordinance.

**Agricultural Practices**: Those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. Examples of such practices include, but are not limited to: operation of farm equipment, construction and use of farm structures, proper licensed use of agricultural chemicals, and proper nutrient management activities (e.g. spreading of manure or compost, application of nutrients like nitrogen on the soil, and other accepted crop production methods) as defined by the New York State Department of Agriculture & Markets. This definition also includes the construction and maintenance of “Farmstead” structures as elsewhere in this Ordinance.

**Agri-Tourism**: A form of commercial enterprise that links agricultural production and/or processing with tourism in order to attract visitors onto a farm or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm or business owner including but not limited to: pumpkin picking patches, corn mazes, U-pick or Community Supported Agriculture (CSA) operations, petting and feeding zoos, hay rides, cut-your-own Christmas tree farms, demonstration farms, agricultural museums, living history farms, on-farm farmers’ markets or road-side stands, winery tours and wine tasting, and garden tours.

**Airport**: The use of land, buildings, or structures for facilitating the take-off, landing, and handling of aircraft and their passengers and freight and; without limiting the generality of the foregoing, accessory uses may include ticket offices, confections, luggage-checking facilities, and parcel-shipping facilities.

**Airstrip**: An aircraft landing field, usually with one runway without normal airport facilities.

**Alterations, Structural**: 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, but not including normal maintenance or non-structural repairs or improvements.

**Animal Care Facility**: Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. This term is also commonly referred to as an animal hospitals or veterinary clinics.

**Animal Kennel**: Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding or care of dogs, cats, pets, fowl, horses, or other domestic animals for profit, but exclusive of animals used for agricultural purposes.

**Animal Training Facility:** A primary or accessory use where domestic animals (for example, dogs and cats) are temporarily present for non-medical care (grooming or training programs) such as dog obedience; companion, seeing-eye, or rescue instruction, or competitive skills activities (hunting, retrieving, racing). This land use may include ancillary sale of retail products and/or areas for shows. The definition excludes facilities for the boarding or breeding of animals.

**Apartment:** One or more rooms or suites with private bath and kitchen facilities comprising an independent self-contained dwelling unit not owned in fee simple, located in a building containing two or more such rooms or suites.

**Area Regulations:** Those regulations which refer to dimensional or numerical requirements in this Local Law, such as but not limited to lot size, lot width, setback dimensions, percentage of lot coverage, percentage of impervious material, building height, number of parking spaces, density and supplemental regulations which refer to dimensional or numerical requirements.

**Automobile Sales:** The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new or used motor vehicles, boats, trailers (as defined elsewhere in this Ordinance), or farm equipment of all types. This use may also include any warranty repair work and other repair service conducted as an accessory use.

**Automobile Service Station:** Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, recreational vehicles, boats, or similar vehicles including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage. Gasoline stations, as defined elsewhere in this Ordinance, are not considered automobile service stations and as such as not included in this definition.

**Basement:** A story that is partly underground with less than half of its clear height below finished grade. A basement shall be counted in determining the permissible height of a building in terms of the number of stories.

**Bed & Breakfast:** Lodging facilities located in an owner-occupied private residence, having one (1) to five (5) guest rooms and serving breakfast to guests only.

**Benevolent Society Clubs and Lodges:** Buildings and facilities, owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

**Building:** A structure enclosed within exterior walls, built, erected and framed of a combination of materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property.

**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 eaves and ridge for gable, hip, and gambrel roofs.

**Building, Principal:** A building in which the primary use of the lot on which the building is located is conducted.

**Car Wash:** A building or portion thereof containing facilities for washing more than two automobiles, using production line methods. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this Ordinance, coin-operated devices operated on a self-service basis shall be construed to be the same.

**Cellar:** A story partly underground having one half or more 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.

**Code Enforcement Officer:** A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the code enforcement officer may be construed to include building inspector, plumbing inspector, electrical inspector, and the like, where applicable.

**Craft Beverage Industry:** Land and buildings used for the production and sale of craft beverages, including offering of tastings with or without an accessory restaurant use. Examples of craft beverage industries include wineries, breweries, cideries, and distilleries; and includes operations that are classified as either a “regular”, “farm”, “special”, or “micro” based operation by the NYS Alcohol and Beverage Control Law.

**Cultural Establishments:** A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

**Daycare Facility:** A facility licensed by the state; providing care for six or more children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and which may include some instruction.

**Deck:** A deck is a roofless outdoor space built as an aboveground platform projecting from the wall of a building and is connected by structural supports at grade or by the building structure.

**Drinking Establishment:** Any building or structure which is not part of a larger restaurant and where alcoholic beverages are sold for on-site consumption. This includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages.

**Dwelling:** A building designed for use exclusively for one or more dwelling units; more specifically defined as the following:

1. **Single-Family Detached Dwelling:** A detached building, designed exclusively for and occupied exclusively by one family. This term does not include a manufactured home as defined elsewhere in this Ordinance.
2. **Two-Family Dwelling:** A detached or semi-detached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

3. **Multi-Family Dwelling**: A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.
4. **Dwelling Unit**: A complete self-contained residential unit that provides complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Easement**: A legal interest in land, granted by the owner to another person, which allows that person(s) the use of all or a portion of the owner's land, generally for a stated purpose including but not limited to access or placement of utilities.

**Easement, Access**: An easement created for the purpose of providing vehicular or pedestrian access to a property.

**Excavation**: The process of altering the natural (grade) elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

**Extraction**: To draw out or forth; hence to derive as if by drawing out; removal of physical matter in a solid, liquid, or gaseous state from its naturally occurring location; the initial step in use of a natural resource; examples include petroleum and natural gas wells, shale and coal mines, gravel pits, timber cutting.

**Extractive Industry/Mining**: The extraction or removal of minerals, including solids, such as sand, shale, soil, gravel, coal, and ores; liquids, such as crude petroleum; and gases, such as natural gases from the ground or the breaking of the surface soil, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity. This term shall not include excavation or grading when conducted for farm improvement including tilling of soil for planting or harvesting crops; or the incorporation of manure or other fertilizers into the soil for agricultural purposes.

**Farm Stand**: A structure or vehicle whose principal use is the seasonal display and sale of agricultural and value-added products; and may also involve the accessory sales of home-made handicrafts.

1. **Agricultural Product**: Any agricultural product of the soil or water, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, nuts, and cut or potted flowers or plants.
2. **Value-Added Agricultural Product**: The increase in the fair market value of an agricultural product resulting from the processing of such product. Examples of value-added agricultural products include, but are not limited to honey, preserves, maple sap products, apple cider, fruit juice, and baked goods.

**Farm Worker Housing:** Dwelling units, including mobile homes, for use by full-time, temporary, or permanent employees, maintained exclusively for the occupancy of farm employees and their families in connection with any farm work or place where farm work is being performed, and the premises upon which they are situated.

**Farmland:** Land which is currently used for crop production, pasture, or a farmstead; and land which is not currently in use for but, is suitable for these purposes in the future (e.g. idle farmland).

**Farmstead:** The land upon which agricultural buildings and equipment is located or stored which may or may not also include a single-family residence and associated accessory buildings, and/or farm worker housing.

**Fence:** An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

**Floor Area:** The sum of the square footage of all of the floors of a structure or building.

**Food Processing Establishment:** Any place which receives food or food products for the purpose of processing or otherwise adding to the value of the product for commercial sale. It includes, but is not limited to, bakeries, processing plants, beverage plants, and food manufactories. However, the term does not include: those establishments that process and manufacture food or food products that are sold exclusively at retail for consumption on the premises; those operations which cut meat and sell such meat at retail on the premises; or service food establishments, including vending machine commissaries.

1. **Processing:** Means processing foods in any manner, such as by manufacturing, canning, preserving, freezing, drying, dehydrating, juicing, pickling, baking, brining, bottling, packing, repacking, pressing, waxing, heating or cooking, or otherwise treating food in such a way as to create a risk that it may become adulterated if improperly handled.

**Funeral Home:** A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the deceased for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation.

**Gasoline Station:** That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity.

**Grade, Finished:** The finished ground level adjoining the building at all exterior walls.

**Grade, Street:** The top of the curb, or the top of the edge of the pavement or traveled way where no curb exists.

**Greenhouse/Nursery- Commercial:** An operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale, and for related accessory sales and uses.

**Habitable Floor Area**: The total floor area devoted to habitable space of a building, above finished grade, measured from the outside dimensions of the exterior walls used for dwelling purposes, and excluding all non-dwelling areas such as an attic, storage, carport, cellar, and/or garage.

**Habitable Space**: A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

**Health Care Facility**: As used in this Ordinance, the term Health Care Facility defines a facility where patients are treated or attended to by licensed medical practitioners that include but are not limited to— physicians, dentists, physical or occupational therapists, laboratory tests and diagnostic (X-ray, MRI, etc.) testing.

**Home Occupation**: An activity customarily carried on in a dwelling unit or in a building or other accessory structure to a dwelling unit, for profit, by members of the immediate family residing in that dwelling unit; and which activity is clearly incidental to the principal use of any dwelling. In particular, a home occupation includes the following or similar uses: accountant, billing service, or bookkeeper; answering service; architect or engineer; artist or graphic designer studio; author or writer; auto repair; beauty or barber shop; business support service; chiropractor or massage therapist; consultant service; dressmaking or tailor shop; financial planner; foundation or not-for-profit (educational/philanthropic/research); handcrafts shop; lawyer; mailing service; management consultant; photographer; software engineer or developer; tutor and/or educational services (of not more than four (4) pupils simultaneously); web designer; word processing service; gun and ammunition sales, repair, or manufacture; heavy equipment repair and storage; monument or stone cutting sales and service; welding services; .or taxidermy. The following uses are not considered to be home occupations: shooting ranges using either guns or archery equipment; and auto sales.

**Hotel**: Any building containing six or more guest rooms which are used, rented, or hired for sleeping purposes by transient guests and with access to units primarily from interior lobbies, courts, or halls.

**Junk**: Any worn out or discarded materials including but not necessarily limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

**Junkyard**: Any parcel of land or portion thereof in area of 200 square feet or more, including any accessory structure thereon, which is used for buying, selling, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition, and metals, glass, paper, plastics, rags, and rubber tires. A lot on which three or more inoperable vehicles are stored shall be deemed a junkyard. A junkyard includes an automobile wrecking yard.

**Landfill**: In accordance with New York State Codes, Rules and Regulations (NYCRR) Section 6 NYCRR Part 360.2, (b), (152) a “Landfill means a facility where waste is intentionally placed and intended to remain and which is designed, constructed, operated and closed to minimize adverse environmental impacts”.

**Laundromat**: A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

**Light Industrial:** Uses engaged in the manufacture, predominantly from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, "light industrial" shall mean uses such as the manufacture of electronic instruments, food processing, pharmaceutical manufacturing, research and scientific laboratories, or the like. "Light industrial" shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal, or related industries.

**Lot:** A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Ordinance.

1. **Lot Area:** The computed area contained within the lot lines.
2. **Lot Coverage:** The percentage of the plot or lot area that is covered by the building area.
3. **Lot Depth:** The average distance between the front and the rear lot lines.
4. **Lot Lines:** The property lines bounding the lot.
  - a. **Lot Line, Front:** The line separating the lot from a street right-of-way.
  - b. **Lot Line, Rear:** The lot line opposite and most distant from the front lot line.
  - c. **Lot Line, Side:** Any lot line other than a front or rear lot line. A side lot line separating a lot from a street right-of-way is called a side street lot line.
5. **Lot Width:** The width of the lot between side lot lines at the front building line as prescribed by the front setback regulations.
6. **Corner Lot:** A parcel of land at the junction of and fronting on two or more intersecting streets.
7. **Flag Lot:** A lot not meeting minimum lot frontage requirements and where access to a public or private street is provided by means of a long, narrow driveway between abutting lots.
8. **Through Lot:** An interior lot having frontage on two parallel or approximately parallel streets.

**Manufactured Home:** As used in this Ordinance, the terms manufactured home or mobile home are defined by the terms of the Residential Code of the NYS Uniform Fire Prevention and Building Code Chapter 2 Section R202 as adopted or hereafter amended. The terms "mobile home" and "manufactured home" shall not include any self-propelled recreational vehicle or Park Model Recreational Unit.

**Manufactured Home Park:** A contiguous parcel of land which has been planned, developed, and improved for the placement of manufactured homes residential use with single control or ownership by an individual, firm, trust, partnership, public or private association, or corporation. Any grouping of two or more manufactured homes or manufactured home lots shall be considered a manufactured home park.

**Motel**: A building or series of buildings in which lodging is offered for compensation, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit.

**Motor Vehicle**: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

**Native Species**: A species that normally lives and thrives in a particular ecosystem. This can include any species that developed with the surrounding habitat, and can be assisted by or affected by a new species. Native species are not considered invasive species.

1. **Invasive Species**: Any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem; and whose introduction does or is likely to cause economic or environmental harm or harm to human health.

**Nonconforming Lot, Structure, or Use**:

1. **Nonconforming Structure or Lot**: A structure or lot that does not conform to a dimensional regulation prescribed by this Ordinance 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 in existence at the effective date of this Ordinance and was lawful at the time it was established.
2. **Nonconforming Use**: A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the effective date of this Ordinance and was lawful at the time it was established.

**Nursing and Convalescent Home**: A facility where elderly, sick, invalid, infirm, or convalescent persons are housed or provided lodging, furnished with meals and long-term nursing care and related medical services on a 24-hour per day basis to two or more individuals. Such facility may be established for profit or nonprofit, and provides care for those persons not in need of hospital care.

**Office, Professional**: The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories: architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, or any similar type of profession.

**Outdoor Storage**: The storage of personal or business property, including motor vehicles, in any outdoor location not designated and approved as a retail sales display.

**Park Model Recreational Unit**: A Park Model Recreational Unit is transportable and primarily designed for long-term permanent placement on a site. When set-up, park model units are to be connected to utilities which are necessary to operate fixtures and appliances, they are not self-contained as an RV. Because of its more permanent nature, Park Model Recreational Units may only be located in an approved Recreational Vehicle Park.

**Patio**: A level, surfaced area usually made of concrete, brick, or other masonry material, directly adjacent to a principal building at or within three feet of the finished grade, without a permanent roof intended for outdoor lounging, dining, and the like.

**Permit:** A document issued by the Code Enforcement Officer allowing a person to begin an activity provided for in this Ordinance.

1. **Permit, Building:** A permit issued by the duly designated building official authorizing the erection, construction, reconstruction, alteration, repair, conversion, or maintenance of any building, structure, or portion thereof. Such a permit shall not be issued without the signature of the Code Enforcement Officer, certifying compliance with this Ordinance.
2. **Permit, Occupancy:** The written approval of the Code Enforcement Officer certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this Ordinance and that such structure is habitable and in conformance with all applicable sections of the NYS Uniform Fire Prevention and Building Code. Also referred to as a Certificate of Occupancy.
3. **Permit, Zoning:** A statement, signed by the Code Enforcement Officer, setting forth that a building, structure, or use complies with the zoning law and the NYS Uniform Fire Prevention and Building Code and that the same may be used for the purposes stated on the permit. Also referred to as a certificate of zoning compliance.

**Permitted Use:** Any use which is or may be lawfully established in a particular district, provided it conforms with all the requirements applicable to that district.

**Personal Service Use:** An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops, shoe repair shops, and tailor shops.

**Physical Fitness Center:** A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

**Plat:** A map prepared by a licensed architect, engineer, or surveyor representing a tract of land or a subdivision showing the boundaries and location of individual properties and streets.

1. **Plat, Final:** A drawing or drawings, in final form, showing a proposed subdivision, containing all information or details required by law and by these regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.
2. **Plat, Preliminary:** A drawing or drawings, clearly marked ‘preliminary plat,’ showing the significant features of a proposed subdivision, as specified in Article XIX of this Ordinance, submitted to the Planning Board for the purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**Porch:** A roofed but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes; and that is not used for livable space.

**Public Utility, Essential Service:** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water

storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings used or intended to be used for human habitation. This term does not include Solar Energy or Wind Energy Systems which are defined elsewhere in this Ordinance.

**Recreation:** The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife. Recreation activities may take place indoors or outdoors.

1. **Camp:** Premises and facilities used or designed to be used occasionally or periodically for seasonal accommodation of individuals or members of groups or associations where outdoor recreational activities are provided. Facilities provided are typically rustic structures built as a permanent building, group of permanent buildings, tents, or other shelters (not including recreational vehicles or mobile homes). This definition does not include a Recreation Vehicle Campground as defined elsewhere in this Ordinance.
2. **Indoor:** A commercial recreational land use conducted entirely within a building. Typical uses may include, but are not limited to an arcade, arena, bowling alley, community center, gymnasium, pool or billiard hall, skating rink, swimming pool, or tennis court.
3. **Outdoor:** A commercial recreational land use conducted almost wholly outdoors. Typical uses may include, but are not limited to athletic fields, basketball courts, batting cages, golf driving ranges (not associated with a golf course), laser tag, miniature golf, motorized cart and motorcycle tracks, motorized model airplane flying facilities, paintball, swimming pools, tennis courts, and skateboard parks.

**Recreational Vehicle (RV):** A vehicle built on a single chassis, containing 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towed by another vehicle; and able to have movement on roadways without an oversized load permit (less than 8 ½ feet wide). A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house boats, and campers; but shall not include the term Park Model Recreational Unit as defined elsewhere in this Ordinance.

**Recreational Vehicle Park or Campground:** A recreational vehicle park (RV Park) or campground is a place where people with recreational vehicles can stay overnight, or longer, in allotted spaces known as "sites". It may also be referred to as a campground, which also provides facilities for tent camping.

**Religious Institution:** A building used as a church, place of worship, or religious assembly, with or without related accessory buildings or uses such as the following in any combination: rectory or convent, private school, meeting hall, offices for administration of the institution, licensed child or adult daycare, playground, or cemetery, where persons regularly assemble for religious purposes and related social events, which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

**Residential Property:** Lands with permanent structures used to provide housing for one or more persons.

**Restaurant**: A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute at least 51% of the gross sales receipts for food and beverages.

**Retail Business Establishment**: A place of business devoted in whole or in part to the sale, rental, or servicing of goods or commodities which are normally delivered or provided on the premises to a consumer. Typical categories of goods and services provided by retail business establishments include, but are not limited to artist and hobby supplies, auto supply stores, books, clothing and clothing accessories, food and liquor, flowers, furniture sales, garden supplies, gifts, hardware and paint, household goods and appliances, newspapers and stationery, pharmacy and medical supplies, sporting goods, and variety goods. The limited production of such goods, which are primarily intended for retail sale on the premises, shall be permitted provided that such production is a necessary adjunct of the retail establishment.

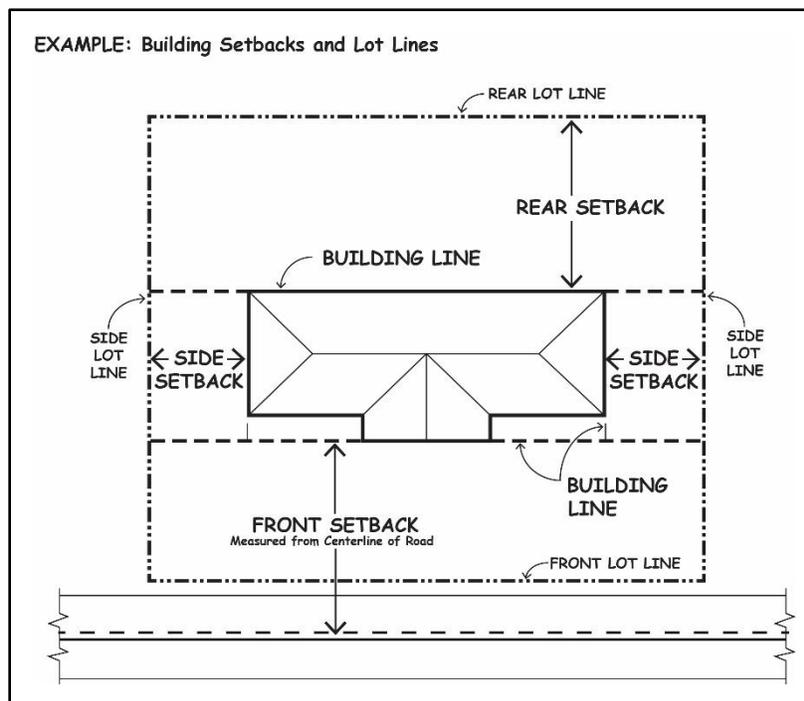
**Right-of-Way**: An area of land acquired by dedication or condemnation and intended for use as a public way to accommodate a transportation system. In addition to the roadway, a right-of-way normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities; and may also accommodate necessary public utility infrastructure (including but not limited to water lines, sewer lines, power lines, and gas lines.) In no case shall a right-of-way be construed to mean an easement.

**School, Public or Private**: An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

**SEQRA**: Abbreviation for the State Environmental Quality Review Act adopted by New York State and administered by the New York State Department of Environmental Conservation (NYS DEC). This State Act requires local legislators and land use agencies to consider, avoid, and mitigate significant environmental impacts of the projects that they approve, the plans or regulations that they adopt, and the projects they undertake directly.

1. **State Environmental Quality Review (SEQR)**: The process that reviewing boards must conduct to determine whether proposed projects may have a significant adverse effect on the environment and, if they do, to study these impacts and identify alternatives and mitigate conditions that protect the environment to the maximum extent possible.
  - a. **Environmental Assessment Form (EAF)**: A form completed by an applicant to assist an agency in determining environmental significance of a proposed action. A properly completed EAF must contain enough information to describe the proposed action, its location, purpose, and potential impacts on the environment.
  - b. **Environmental Impact Statement (EIS)**: A written draft or final document prepared in accordance with the SEQRA. An EIS provides a means for agencies, project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives, and mitigation strategies.

**Setback**: The least required horizontal distance between a lot line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps and ramps; except that the front setback shall be measured from the centerline of the road to the closest point of the building. All setback lines shall be drawn parallel to their respective lot lines regardless of the shape of the lot.



**Sketch Plan:** The first step in the site plan review process, often referred to as a concept plan. Sketch plans shall be provided and reviewed in accordance with the requirements in Article XVIII of this Ordinance.

**Shopping Center:** A group of more than three retail and other commercial establishments that is planned, owned, and managed as a single property, with customer and employee parking provided on-site. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center. The two main configurations of shopping centers are malls and open-air strip centers

**Short-Term Rental:** The rental of a Residential Property to an individual or a single group for a term of fewer than 30 calendar days in any given 12 month period.

**Short-Term Rental Property:** A Residential Property in the Town of Mentz used for Short-Term Rental.

**Sight Distance Triangle:** An area of land at the intersection of streets, or a street and a driveway, within which nothing may be erected, planted, placed, or allowed to grow in a manner which will obstruct the vision of motorists entering or leaving the intersection.

**Site:** A lot or group of contiguous lots not divided by any alley, street, other right-of-way or the Town limit that is proposed for development in accordance with the provisions of this Ordinance, and is in a single ownership or has multiple owners, all of whom join in an application for development.

**Site Plan:** A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

**Site Plan Review:** Authority delegated to the Planning Board by the Town Board, which enables the Planning Board to approve, approve with conditions, or disapprove the site development plans for all buildings or uses where site plan review is required.

**Small Wind Energy Systems:** Small Wind Energy Systems are Wind Energy Conversion System (WECS) that are limited in capacity to a maximum of 100 kilowatts and a total height of 200 feet.

**Solar Energy System:** Means a renewable energy project that either (a) generates electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy.

1. **Non-Utility Scale Installation:** Also referred to as Accessory Solar Energy Systems. An accessory use is defined as a secondary activity incidental to the primary use of the property. Non-utility solar installations are designed for a home, business, or agricultural use where the primary use of the property is either household living, a commercial activity, or an agricultural activity; and the energy produced by the solar installation provides electricity directly to the building or buildings on site for the principal use of the property. Non-utility solar installations have a rated capacity of anything under 25 kilowatts and are designed to meet the specific energy needs of the principal use. Non-utility scale solar installations may be rooftop installations, or freestanding installations that are either ground- or pole-mounted. Non-utility scale solar installations must meet at least one of the following criteria: has a disturbance zone equal to or less than two acres; is mounted on or over a building, parking lot, or other previously-disturbed area; or utilizes integrated PV only.
2. **Utility Scale Installation:** Considered a public utility and developed as a primary land use. Utility scale solar installations are typically freestanding, and the principal economic function of the land hosting a utility scale solar installation is producing solar power for off-site consumption. Utility scale solar installations have a minimum rated capacity of 25 kilowatts, but are usually multiple megawatts, and may cover tens to thousands of acres of land. These installations primarily supply power for offsite consumption through the electrical grid. Also referred to as a “solar farm”.

**Solid Waste Transfer Station:** A combination of structures, machinery or devices at a place or facility where solid waste is taken from collection vehicles and placed in larger transportation units for movement to another solid waste management facility, and also includes an area where brush, tree limbs, tree trunks, logs and other similar materials are deposited; a solid waste management facility, including a recyclable handling and recovery facility or a construction and demolition debris processing facility where solid waste is received for the purpose of subsequent transfer to other solid waste management facilities for further processing, treatment, transfer or disposal; and including accessory buildings and use areas necessary for the operation of the solid waste transfer station which may include, but are not limited to, the maintenance of vehicles and equipment, the storage of equipment and waste containers, offices, weigh stations and scales, and parking.

**Spa:** commercial establishment that promotes health and wellness through the provision of therapeutic and other professional services aimed at renewing the body, mind and spirit, including but not limited to bathing, exercising, acupuncture and herbal medicine, chiropractic, massage and spa treatments, reflexology, Reiki, and Yoga.

**Special Use Permit:** A use which, because of its unique characteristics, requires special consideration in each case by the Planning Board to assure that the proposed use is in harmony with the purpose and intent of the zoning district in which it is proposed; is subject to and will meet certain prescribed criteria and standards along with any others required by the Planning Board; and will not adversely affect the neighborhood if such requirements are met.

**Story:** That portion of a building, included between the upper surface of a floor and the upper surface of the floor or roof next above.

**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 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 permanent location on the ground, or attachment to something having a permanent location on the ground, including stationary and portable carports, or porches.

**Subdivision:** The legal division of any parcel of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease, or building development, with or without new roads. The term "subdivision" shall include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the Office of the Cayuga County Clerk.

1. **Subdivision, Major:** Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots, or any sized subdivision requiring a new street or extension of municipal facilities. A subdivision of a parcel that has been subdivided in the previous five (5) years shall be considered a Major Subdivision in accordance with the requirements of this Ordinance.
  - a. **Subdivision, Cluster:** A Cluster Subdivision is a site planning approach that is an alternative to conventional subdivision development. It is a practice of low impact development that groups residential properties in a proposed subdivision closer together in order to utilize the rest of the land for open space, recreation, or agriculture.
2. **Subdivision, Minor:** Any subdivision which contains not more than four (4) lots fronting on an existing street; does not include any new street or road; does not require the extension of municipal facilities; does not adversely affect adjacent properties; and is not in conflict with any provision of the Comprehensive Plan, the Official Zoning Map of the Town of Mentz, or these regulations.
  - a. **Lot Line Adjustment:** A realignment of property lines between two (2) adjacent parcels, where the land taken from one parcel is added to the adjacent parcel, and where no new lots are created.

**Trailer:** A vehicle without motor power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

**Unnecessary Hardship:** A restriction on a property so unreasonable that it results in an arbitrary and capricious interference with basic property rights. Hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user, and the property is rendered unusable without the granting of a variance. For a use variance application, in accordance with NYS Town Law §267-b, 2, (b), the applicant must prove to the Zoning Board of Appeals that an unnecessary hardship exists for each of the four (4) criteria listed in said law and provided in Article XXI, §21.03 of this Ordinance.

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

1. **Use, Accessory:** A use located on the same lot with a principle use, and clearly incidental or subordinate to, and customary in connection with, the principle use.
2. **Use, Principal:** The main or primary purpose for which a structure or lot is designed, arranged, or intended or for which it may be used, occupied, or maintained under this zoning Ordinance.

**Usable Open Space:** A required ground area or terrace area on a lot which is graded, developed, landscaped; and equipped, intended, and maintained for either active or passive recreation or both; available and accessible to and usable by all persons occupying a dwelling unit on the lot and their guests. Such areas shall be grassed and landscaped, or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute usable open space

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

**Variance, Area:** In accordance with NYS Town Law §267, 1, (b) an "Area variance shall mean the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations".

**Variance, Use:** In accordance with NYS Town Law §267, 1, (a) "Use variance shall mean the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations".

**Vested Property Right:** A right that has been legally established and cannot be revoked by subsequent conditions or changes in law without due process of law. Vested rights are often established by showing that some development permit has been obtained and substantial construction started on the project.

## **Article III. Right-to-Farm Law**

### **Section 3.01 - Title**

This chapter shall be known as the “Right-to-Farm Law of the Town of Mentz”.

### **Section 3.02 - Purpose and Intent**

- A. The Mentz Town Board finds, declares, and determines that agriculture is vital to the Town of Mentz because agriculture is an essential enterprise and an important industry that enhances the economic base, natural environment, and quality of life in the Town. In addition, agriculture provides locally produced fresh commodities and agricultural land does not increase the demand for services provided by local governments.
- B. The Town Board further declares that it shall be the policy of the Town to encourage agriculture and foster understanding by all residents of the necessary day-to-day operations involved in farming so as to encourage cooperation with those practices.
- C. It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, and to encourage the initiation and expansion of farms and agri-businesses.
- D. In order to maintain a viable farming economy in the Town of Mentz, it is necessary to limit the circumstances under which farming might be deemed to be a nuisance and to allow agricultural practices inherent to, and necessary for, the business of farming to be able to proceed, and to be undertaken free of unreasonable and unwarranted interference or restriction.

### **Section 3.03 - Definitions**

- A. When used in this Article, unless otherwise expressly stated, the following words and phrases shall have the meanings hereinafter set forth. Certain specific words and terms used in this Article shall be interpreted and defined as follows:

**Agriculture**: The use of land and resources for the production of food, fiber, fuel, and for agri-tourism activities in accordance with the accepted practices of land, nutrient, and farm management as defined by the New York State Department of Agriculture & Markets including but not limited to the raising, harvesting, and selling of crops; feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees; dairying and the sale of dairy products; any other aquacultural, floricultural, horticultural, silvicultural or viticultural use; animal husbandry, agricultural support industries, or by any combination thereof; and the use of land for the primary purpose of stabling or training equines including, but not limited to, providing riding lessons, training clinics and schooling shows.

**Agricultural Practices**: Those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. Examples of such practices include, but are not limited to: operation of farm equipment, construction and use of farm structures, proper licensed use of agricultural chemicals, and proper nutrient management activities (e.g. spreading of manure or compost, application of nutrients like nitrogen on the soil, and other

accepted crop production methods) as defined by the New York State Department of Agriculture & Markets.

**Agri-Tourism:** a form of commercial enterprise that links agricultural production and/or processing with tourism in order to attract visitors onto a farm or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm or business owner including but not limited to: pumpkin picking patches, corn mazes, U-pick or Community Supported Agriculture (CSA) operations, petting and feeding zoos, hay rides, cut-you-own Christmas tree farms, demonstration farms, agricultural museums, living history farms, on-farm farmers' markets or road-side stands, winery tours and wine tasting, and garden tours.

**Farmland:** Land which is currently used for crop production, pasture, or a farmstead; and land which is not currently in use for but, is suitable for these purposes in the future (e.g. idle farmland).

**Farmstead:** The land upon which agricultural buildings and equipment is located or stored which may or may not also include a single-family residence and associated accessory buildings, and/or farm worker housing.

### **Section 3.04 - Right-to-Farm Declaration**

- A. Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research, and improved technologies. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:
1. Reasonable and necessary to the particular farm or farm operation
  2. Conducted in a manner that is not negligent or reckless
  3. Conducted in conformity with generally accepted and sound agricultural practices
  4. Conducted in conformity with all local, state, and federal laws and regulations
  5. Conducted in a manner that does not constitute a threat to public health and safety or cause injury to the health or safety of any person, and
  6. Conducted in a manner that does not reasonably obstruct the free passage or use of navigable waters or public roadways.
- B. Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

**Section 3.05 - Notification to Real Estate Buyers**

- A. In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with section 310 of Article 25AA of New York State Agriculture and Markets Law, and provide notice to prospective purchasers and occupants as follows: “It is the policy of this state and this community to conserve, protect, and encourage the development and improvement of agricultural land for the production of food and other products, and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district, or partially or wholly adjacent to areas where farm operations take place, and that farming activities occur within the district and within these other areas. Such farming activities might include, but not be limited to, activities that cause noise, dust, and odors.” This notice shall be provided to prospective purchasers of property within an agricultural district or on property with boundaries within 500 feet of an agricultural district or a farm operation that might be located outside a designated agricultural district. A copy of this notice shall be included by the seller or seller’s agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

## Article IV. Establishment of Zoning Districts

### Section 4.01 - Districts

A. For the purpose of promoting the public health, safety, and general welfare of the Town of Mentz, the Town, exclusive of the area covered by the incorporated Village of Port Byron, is hereby divided into the following Zoning Districts and Overlay Districts:

1. **Agricultural District (A)**: The purpose of the Agricultural District is to promote the continued use of the land for agricultural production of all scales. The intent of the Agricultural District is to protect the rural agrarian character of the Town by limiting the number of new housing permits issued for non-farm related worker housing; and by requiring additional criteria for subdivisions. While some new growth is expected over time, new single family housing development should primarily occur in the Low-Density Residential or Medium-Density Residential Districts.
2. **Low-Density Residential District (LR)**: The purpose of the Low-Density Residential District is to allow for future residential development while still preserving the rural character of the Town. The intent of the Low-Density Residential District is to provide for future single-family residential development in areas that are already primarily developed as low density single-family neighborhoods mixed with agricultural uses. This district has larger minimum lot sizes than the Medium-Density Residential District and multi-family housing will only permitted with an approved special use permit.
3. **Medium-Density Residential District (MR)**: The purpose of the Medium-Density Residential District is to allow for future residential development in areas adjacent to the Village of Port Byron and in existing areas with a higher density of residential development. The intent of the Medium-Density Residential District is to provide for future residential development in areas are either currently served by water or that have already been experiencing a pattern of more dense development than elsewhere in the Town. This district will also provide for a greater mix of housing types and densities leading to more housing choices for residents of all ages and income levels.
4. **Commercial District (C)**: The purpose of the Commercial District is to provide for future commercial development that is compatible with the Village of Port Byron and neighboring towns. The intent of the Commercial District is to serve as the transitional extension of the Village of Port Byron's business district along NYS Route 31 eastward out to the Town boundary where future commercial development is the most appropriate; and to provide for development that is compatible with the Town of Brutus' commercial development along this major thoroughfare.
5. **Public Parkland District (P)**: The purpose of the Public Parkland District is to provide public access to parks and trails throughout the community for recreational use. The intent of the Public Parkland District is to identify and provide for public parks and trails on lands that are owned by the Town of Mentz, or other organizations, that the Town has determined should remain undeveloped and in a natural state with the exception of limited infrastructure, facilities, and amenities to serve the public who utilize the park and/or trail facilities.

6. **Conservation District (CS)**: The purpose of the Conservation District is to protect some of the most valuable natural resources in the Town including the areas located along major water bodies such as the Owasco River, the Seneca River, and the Erie Canal. The intent of the Conservation District is to limit new development in areas of the Town that are environmentally sensitive, highly susceptible to seasonal flooding, and important to the community for their unique scenic qualities. Areas of significant historical context may also be included in this district.
7. **Floodplain Overlay District (F)**: The purpose of the Floodplain Overlay District is to assist in controlling the alteration of natural floodplains and help minimize the potential for public and private losses due to flood conditions that can be attributable to the cumulative effect of obstruction in the floodplain causing increases in flood elevations and velocities, and by the presence uses, which are inadequately elevated, flood proofed, or otherwise protected. The intent of the Floodplain Overlay District is to protect the public health, safety, and welfare from damage and other losses, to the extent practical, from future flooding damage within the flood hazard areas in the Town of Mentz as determined, mapped, and updated by the Federal Emergency Management Agency (FEMA). It is also the intent of the Town to ensure future development in this overlay district adheres to the requirements of the Federal Flood Insurance Program, especially where base flood elevations have been determined, by requiring site plan review for all future development. As an overlay district, this zone does not impact the underlying zoning district with regard to permitted uses, uses permitted by special permit, lot size, or dimensional requirements.

#### **Section 4.02 - Zoning Map**

- A. Said districts are bounded as shown on a map entitled "Town of Mentz Zoning Map" certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Ordinance. (Appendix I.)

#### **Section 4.03 - Interpretation of District Boundaries**

- A. 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:
  1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines or highway lines shall be construed to be such boundaries.
  2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
  3. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as shall be determined by the use of the scale shown on the Zoning Map, or as indicated by a label drawn on the Zoning Map.
  4. In case of further uncertainty as to the true location of a zoning district boundary line in a particular instance, the Zoning Board of Appeals shall determine the location of such boundary.

## **Article V. Use Regulations**

### **Section 5.01 - Applicability**

- A. Except as provided by law or in this Ordinance, in each district, no building, structure, or land shall be used or occupied except for the purposes permitted in Section 5.05, Table 1 for the zoning districts so indicated.

### **Section 5.02 - Uses Subject to Other Regulations**

- A. All uses shall be subject, in addition to the use regulations, to additional regulations as specified in other Articles of this ordinance including but not limited to requirements for setbacks, lot size, lot width, building area, and off-street parking and loading areas.

### **Section 5.03 - Permitted Uses**

- A. The following describes the categories of uses as outlined in Section 5.05, Table 1:
  - 1. Uses permitted by right with a building permit as required. (Denoted by “**P**”)
  - 2. Uses permitted by right, but subject to Special Conditions, as defined in Section 5.06. Review by the Code Enforcement Officer is required before a permit will be issued. (Denoted by “**SC**”)
  - 3. Uses permitted upon issuance of a Special Use Permit subject to review and approval by the Planning Board and subject to the requirements of Article XI. (Denoted by “**SP**”).
  - 4. Uses that require Site Plan Review subject to the requirement of Article XVIII as part of the approval process are denoted by “\*”.
  - 5. A use that is not permitted in a particular zoning district is denoted by “-”.

### **Section 5.04 - Prohibited Uses**

- A. Any uses not expressly stated as permitted by right, permitted subject to special conditions, or permitted upon issuance of a special use permit in Section 5.05, Table 1 are prohibited in the Town of Mentz.

## Section 5.05 - Use Table

Use Category	Zoning District						Section Reference
	A	LR	MR	C	P	CS	
Accessory Building	P	P	P	P	SC	SC	§5.06A, 9 & 10
Accessory Dwelling Unit	SP	SP	SP	-	-	-	§11.06A, 1
Accessory Use	P	P	P	P	SC	SC	§5.06A, 9 & 10
Adult Oriented Business	-	-	-	SP*	-	-	§11.06A, 2
Airport or Airstrip	SP*	-	-	-	-	-	§11.06A, 3
Agriculture	P	P	P	P	SC	SC	§5.06A, 9 & 10
Agri-Tourism	SC	SC	SC	SC	SC	-	§5.06A, 1
Animal Kennel	P*	-	-	P*	-	-	
Animal Training Facility	P*	-	-	P*	-	-	
Apartment	-	-	P*	-	-	-	
Automobile Sales	-	-	-	P*	-	-	
Automobile Service Station	-	-	-	P*	-	-	
Bed & Breakfast	-	SC	SC	-	-	-	§5.06A, 2
Benevolent Society Clubs/ Lodges	-	-	P	P	-	-	
Bulk Storage of Petroleum/Gas	-	-	-	SP*	-	-	§11.06A, 4
Car Wash	-	-	-	P*	-	-	
Cemetery	P	P	P	-	-	SC	§5.06A, 10
Craft Beverage Industry	P*	-	-	P*	-	-	
Cultural Establishments	-	-	-	P*	-	-	
Daycare Facility	-	-	SP*	SP*	-	-	§11.06A, 5
Drinking Establishment	-	-	-	P	-	-	
Dry Cleaning	-	-	-	P	-	-	
Extractive Industry/Mining	SP*	SP*	-	SP*	-	-	§11.06A, 6
Farm Stand	SC	SC	SC	SC	SC	SC	§5.06A, 3,9 &10
Farm Worker Housing	P	P	P	-	-	SC	§5.06A, 10
Farmers' Market	P*	-	-	P*	P*	-	
Food Processing	P*	-	-	P*	-	-	
Funeral Home	-	-	-	P	-	-	
Gasoline Station	-	-	-	P*	-	-	
Greenhouse/Nursery- Commercial	P	-	-	P	-	SC	§5.06A, 10
Health Care Facility	-	-	-	P*	-	-	
Home Occupation	SC	SC	SC	-	-	SC	§5.06A, 4,9 &10
Hotel	-	-	-	P*	-	-	
Junkyard	-	-	-	SP*	-	-	§11.06A, 7
Laundromat	-	-	-	P*	-	-	
Light Industrial	-	-	-	P*	-	-	
Manufactured Home Park	-	-	SP*	-	-	-	§11.06A, 8
Motel	-	-	-	P*	-	-	
Multi-Family Dwelling	-	SP*	P*	-	-	-	§11.06A, 9

\* Uses that require Site Plan Review subject to Article XVIII as part of the approval process.

<b>Table 1: Town of Mentz Zoning Ordinance Use Table (Continued)</b>							
Use Category	Zoning District						Section Reference
	A	LR	MR	C	P	CS	
Nursing and Convalescent Home	-	SP*	SP*	P*	-	-	§11.06A, 10
Office, Professional	-	-	-	P*	-	-	
Outdoor Storage	-	-	-	SP*	-	-	§11.06A, 11
Personal Service Use	-	-	-	P*	-	-	
Physical Fitness Center	-	-	-	P*	-	-	
Public Utility, Essential Services	SC	SC	SC	SC	SC	SC	§5.06A, 5,9 & 10
Radio/Television Studio	SP*	-	-	SP*	-	-	§11.06A, 12
Recreation- Camp	P*	P*	P*	-	-	-	
Recreation- Outdoor	P*	P*	P*	P*	P*	SP*	§11.06A, 13
Recreational Vehicle, Habitation	SC	SC	SC	-	-	-	§5.06A, 6
Recreational Vehicle Park/Campground	SP*	SP*	-	-	-	-	§11.06A, 14
Religious Institution	-	P*	P*	P*	-	-	
Restaurant	-	-	-	P*	-	-	
Retail Business Establishment	-	-	-	P*	-	-	
School, Public or Private	P*	P*	P*	P*	-	-	
Single-family Detached Dwellings	P	P	P	-	-	SC	§5.06A, 10
Shopping Center	-	-	-	P*	-	-	
Short-Term Rental	SC	SC	SC	-	-	SC	§5.06A, 7&10
Solar Energy System, Non-Utility Scale	SC	SC	SC	SC	SC	SC	§5.06A, 8,9 & 10
Solar Energy System, Utility Scale	SP*	-	-	-	-	-	§11.06A, 15
Solid Waste Transfer Station	SP*	-	-	-	-	-	§11.06A, 16
Two-family Detached Dwelling	P	P	P	-	-	SC	§5.06A, 10
Wind Energy Systems	SP	SP	SP	SP	-	-	§11.06A, 17
Wireless Telecommunication Facility	SP*	SP*	SP*	SP*	SP*	SP*	§11.06A, 18

\* Uses that require Site Plan Review subject to Article XVIII as part of the approval process.

### Section 5.06 - Uses Subject to Special Conditions

- A. No Zoning Permit or Building Permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Section 5.05, Table 1 as having Special Conditions applicable (SC), until the Code Enforcement Officer is satisfied that the applicable regulations set forth below have been complied with as well as any other relevant requirements of this Ordinance.
1. Agri-Tourism.
    - a. Agri-Tourism activities shall be subordinate to and operated by an existing farm operation that owns farmland in the Town of Mentz. See the definition of “Agri-Tourism” in Article II, Section 2.01 for examples of typical permitted agri-tourism activities.
    - b. All buildings and structures used for Agri-Tourism activities must meet the setback requirements for principal structures for the zoning district which the use is located.
    - c. All activities, display, or sales areas must meet the requirements for traffic visibility across corners and maintain safe sight triangle distances at road intersections in accordance with Article VI, Section 6.05.

- d. All parking must be located on site. No parking for patrons, visitors, or employees will be permitted on the side or shoulder of any public street.
2. Bed & Breakfast. In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility shall be limited by the following criteria:
  - a. A Bed and Breakfast shall only be permitted in a single-family, detached dwelling.
  - b. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated. No accessory buildings shall be used for lodging.
  - c. The owner/operator of the Bed and Breakfast shall live full-time on the premises.
  - d. No more than two non-residents of the premises shall be engaged as employees of the operation.
  - e. A Bed and Breakfast shall have a maximum of five guest rooms.
  - f. The maximum length of stay for any guest is 14 consecutive calendar days.
3. Farm Stand. A farm stand shall be permitted as a seasonal accessory use related to an agricultural activity occurring on either a farm or a non-farm parcel, subject to the following regulations:
  - a. The farm stand shall be portable and capable of being dismantled or removed from the sales site.
  - b. The floor area devoted to the sales of home-made handcrafts items shall not exceed 50 percent of the total sales area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a farm stand.
  - c. The farm stand will be setback a minimum of twenty (20) feet from any street line and must meet the requirements for traffic visibility across corners and maintain safe sight triangle distances at road intersections in accordance with Article VI, Section 6.05.
  - d. A vehicle not exceeding ten thousand (10,000) pounds gross weight may be considered a permitted farm stand. However, a vehicle, or any part thereof, customarily known as a tractor-trailer or any containerized storage unit shall not be permitted.
  - e. Non-Farm Parcels: The total floor area of the stand shall not exceed one hundred fifty (150) square feet. The farm stand shall be solely for the seasonal display and sale of agricultural and value added products grown or produced on the premises.
  - f. Farm Parcels: The total floor area of the stand shall not exceed four hundred (400) square feet. Farms may seek relief from this requirement through an area variance. The applicant must demonstrate a need for an area variance for additional space based upon the needs of existing farm operations (see Article XIX, Section 19.02).
4. Home Occupation.
  - a. The home occupation shall be carried on wholly indoors and within the principal building or within an accessory structure on the same parcel, unless screened from view from the public right-of-way.

- b. There shall be no use of show windows, displays, or advertising visible outside the premises to attract customers or clients other than signs as permitted.
  - c. There shall be no exterior storage of materials.
  - d. No external alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home occupation, if the alterations would alter the residential character of the building.
  - e. The home occupation shall be carried on only by the owner-occupant of the dwelling unit and/or members of the immediate family residing in the dwelling unit, plus not more than one (1) additional non-residential employee.
  - f. The floor area devoted to a home occupation shall not be more than twenty-five (25) percent of the ground floor area of the principal residential structure or five hundred (500) square feet, whichever is less.
  - g. Parking: All home occupations shall provide off-street parking available for customers of the home occupation at the subject site. A minimum of two (2) off-street parking places shall be provided and a maximum of three (3) off-street parking spaces shall be permitted.
  - h. A Home Occupation Business Intent Form must be on file with the Town Clerk and it must be reviewed and approved by the Code Enforcement Officer.
  - i. Home Occupations Permitted. Home occupations, as defined in Article II, Section 2.01, are permitted, subject to the regulations included herein and after a completed Home Occupation Business Intent Form is submitted to the Town Clerk and the Code Enforcement Officer approves a Home Occupation Zoning Permit.
5. Public Utility, Essential Service.
- a. The erection, construction, alteration or maintenance by public utilities or Village 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, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith shall be allowed as reasonably necessary for the furnishing of adequate service by such public utilities or Village or other governmental agencies or for the public health or safety or general welfare, but not including buildings.
6. Recreational Vehicle, Habitation. Recreational Vehicles located outside of a designated recreational vehicle park may be occupied only as follows:
- a. With a Temporary Permit, issued by the Code Enforcement Officer, a recreational vehicle may be occupied for a period of up to six (6) months per calendar year. Recreational Vehicles shall not be rented for on premise habitation.
  - b. Applicant must provide:
    - i. Garbage removal plan;
    - ii. Waste water removal plan;
    - iii. Sewage removal plan;

- c. Permit must be prominently displayed in window, visible from the road.
- d. Location of occupied recreational vehicle on lot must meet all setback requirements.
- e. No decks, porches, roofs, or sheds shall be affixed to any recreational vehicle.
- f. An unoccupied recreational vehicle shall be stored no closer than twenty (20) feet to any rear or side lot line and no closer than twenty (20) feet to the road right-of-way. The recreational vehicle shall not obscure the view by neighbors or oncoming traffic. When so stored, no connections shall be permitted except electrical.

7. Short-Term Rental.

a. Management of Short-Term Rental Properties.

- i. It shall be the obligation of every owner of a Residential Property in the Town who permits the property to be used for Short-Term Rental to register said property with the Town Clerk. Such registration shall be completed by the property owner or their agents not fewer than ten (10) calendar days prior to the first occupancy of the Short-Term Rental Property. Each owner shall provide information to the Town such that the owner may be contacted by telephone at any time of day or night with complaints by the public. The owner must be able to respond to complaints about the Short-Term Rental Property and take necessary action to resolve the complaint within thirty (30) minutes after notice is given to the contact telephone number.
- ii. The Town Clerk shall maintain a Registry of Short-Term Rental Properties which shall contain the information in each registration form.
- iii. Every registration shall be on a registration form adopted by the Town Board. The information entered on the registration form shall be a public record.
- iv. If the owner of the Short-Term Rental Property does not reside within the Town, the owner must designate an Agent to represent the owner's interests and obligations. The Agent shall provide information to the Town such that the Agent may be contacted by telephone at any time of day or night with complaints by the public. The Agent must be able to respond to complaints about the Short-Term Rental Property and take necessary action to resolve the complaint within thirty (30) minutes after notice is given to the contact telephone number.
- v. The name and telephone number of the Owner or Agent to be contacted with complaints shall be posted on the Short-Term Rental Property in a durable and readable form posted inside the home and easily accessible for first responders.

b. Fees.

- i. There shall be an annual registration fee imposed for registration of Short-Term Rental Properties. The amount of the fee shall be established in a Fee Schedule from time to time by resolution of the Town Board.

c. Operational Standards for Short-Term Rentals.

- i. Each owner of a Short-Term Rental Property in the Town shall ensure that their rental tenants do not make noise at a level which can be heard beyond the boundaries of the property.

- ii. Each owner of a Short-Term Rental Property in the Town shall ensure that their rental tenants do not encroach upon the lands of adjoining owners with trespassing people, automobiles, trailers, boats, or other recreational vehicles.
- 8. Solar Energy System, Non-Utility Scale.
  - a. All Non-Utility Scale Solar Energy Systems shall meet the requirements of Article X.
- 9. Uses Subject to Special Conditions in the Public Park District (P). For all uses denoted as "SC" in the Public Park District in Section 5.05, Table 1 the following conditions must be met in order to obtain a building permit.
  - a. The proposed use or structure must clearly be accessory to the overall use of the parcel as a public park and shall not hinder the continued enjoyment of the space by the public for recreational purposes.
  - b. The proposed use or structure shall occupy the minimum footprint necessary to carry out said use. All public parks shall maintain at least fifty percent (50%) of the parcel as open public space.
  - c. The proposed use or structure shall be available and open for public use unless the proposed use or structure is a necessary essential service public utility (see the definition of "public utility, essential service" in Section 2.01).
- 10. Uses Subject to Special Conditions in the Conservation District (CS). For all uses denoted as "SC" in the Conservation District in Section 5.05, Table 1 the following conditions must be met in order to obtain a building permit.
  - a. No new structures shall be built unless the building is a replacement in-kind of an existing building that will be demolished for the project. In such case, the building footprint shall not be enlarged and the structure must be elevated above the Base Flood Elevation determined by FEMA as indicated on the Flood Insurance Rate Map (FIRM) for all areas in the Special Flood Hazard Areas designated as Zone AE.
  - b. Floodway Areas in Zone AE, as indicated on the FIRM map, shall be kept free of all encroachments by any structures as required by FEMA.

**Article VI. Regulations Applicable to All Zoning Districts**

**Section 6.01 - District Regulations and Dimensional Requirements**

A. District Regulations.

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

B. Table of Dimensional Requirements.

**Table 2: Town of Mentz Zoning Dimensional Requirements Table**

District	Minimum Lot Size (sq. ft.)	Minimum Lot Width (ft.)	Minimum Setbacks			Maximum Lot Coverage	Maximum Building Height (ft.)
			Front (ft.)	Side (ft.)	Rear (ft.)		
<b>Agricultural (A)</b>	43,560	200	100*	25	25	40%	40
<b>Low-Density Residential (LR)</b>	25,000	125	60*	15	30	40%	40
<b>Medium-Density Residential (MR)</b>	12,500	75	60*	15	20	60%	40
<b>Commercial (C)</b>	43,560	100	80*	25	30	60%	40
<b>Public Parkland (P)</b>	10,000	50	60*	15	15	20%	40
<b>Conservation (CS)</b>	43,560	200	60*	15	30	25%	40

\*This figure shall be increased by 20 feet for parcels with frontage on a NYS Highway.

C. Lot Area or Setbacks Required.

1. The lot or setback 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 Ordinance (e.g. such as required parking area). No lot shall be so altered that the area of the lot or the dimensions of setbacks or other open spaces are smaller than herein prescribed.
2. The front setback shall be measured from the centerline of the road to the closest point of the building.

D. Principal Buildings on a Lot.

1. Only one (1) principal building shall be permitted on any lot, except for Manufactured Homes located in an approved Manufactured Home Park by Special Use Permit.

E. Exceptions to Minimum Lot Sizes and Lot Widths.

1. The provisions of Article VI shall not prevent the construction of a single family dwelling, provided the dimensional requirements are observed on any lot which was lawful when created, provided the dimensional requirements then specified are observed, and which prior to the effective date of this Ordinance was in separate ownership duly recorded by plan or deed.
2. Exemption of lots shown on approved subdivision plats shall be made in accordance with the provision of the New York State Town Law Article 16, §265-a.

F. Exceptions to Maximum Building Height.

1. District height limitations shall not apply to church spires, cupolas and domes, monuments, water towers, chimneys, smoke-stacks, farm structures, silos, flag poles, utility poles, radio and television masts or aerials, utility towers, and parapet walls extending not more than four feet above the limiting height of the building.

G. Projections into Required Setbacks.

1. Projections into required setbacks shall be permitted as follows, except that no such projection shall be located closer than ten (10) feet to any side or rear lot line or twenty (20) feet to any front lot line.
  - a. Fire escapes, canopies, eaves, steps, ramps, or other architectural features not required for structural support may project into the required front, side, or rear setback not more than a total of five (5) feet.
  - b. Porches may project into the required front or rear setbacks up to ten (10) feet.
  - c. Patios may be located in the required side or rear setbacks not closer than ten (10) feet from any adjacent property line.

H. Unique Lots and Building Locations.

1. Through Lots. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street, the Planning Board shall decide which street will be considered the front street. No principal structure shall be erected on the rear of the lot.
2. Side Setback of a Corner Lot. The side setback of a corner lot which abuts a street, shall be equal to the required front setback for that street.

I. Regulations for Residential Structures.

1. Minimum Habitable Floor Area. Every dwelling unit shall have a minimum habitable floor area of three hundred twenty (320) square feet. Habitable floor area shall not include area contained in cellars, attics, or garages.
2. Additional requirements for Manufactured homes.
  - a. Manufactured homes shall be constructed in conformity with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Section 5401, et. seq.). Manufactured homes must meet all provisions, requirements, and definitions found in Appendix E: Manufactured Housing Used as Dwellings in the Residential Building Code section of the NYS Uniform Fire Prevention and Building Code, including:
    - i. Is a structure transportable in one or more sections which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet.
    - ii. Is built on a permanent chassis and designed to be used as a dwelling when connected to the required utilities.

- iii. Is installed on a permanent foundation with all towing devices, wheels, axles, and hitches, and skirted as described by the NYS Uniform Fire Prevention and Building Code.
- iv. For manufactured homes built prior to June 15, 1976, a label certifying compliance with the Standard for Mobile Homes, NFPA 501, ANSI 119.1, in effect at the time of manufacture, is required.
- v. Any additions to a manufactured housing unit shall comply with Subchapter AE102 of the NYS Uniform Fire Prevention and Building Code.

J. Traffic Visibility Across Corners

- 1. 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 public streets by obscuring the view. Visual obstructions shall be limited to a height of not more than three (3) 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 fifty (50) feet from the intersection of said street lines.

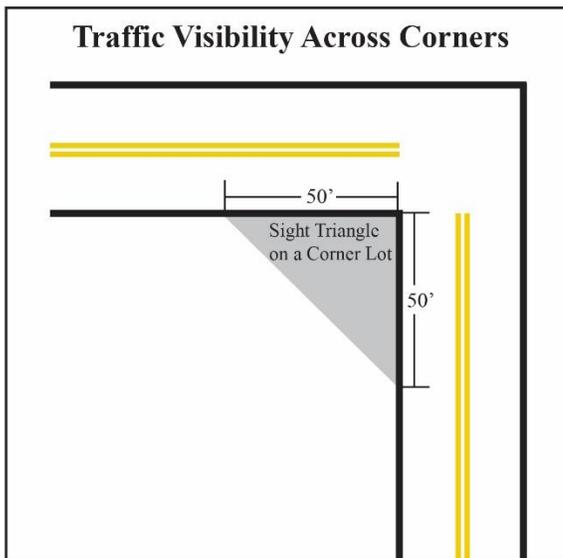


Figure 1: How to Measure a Sight Triangle on a Corner Lot

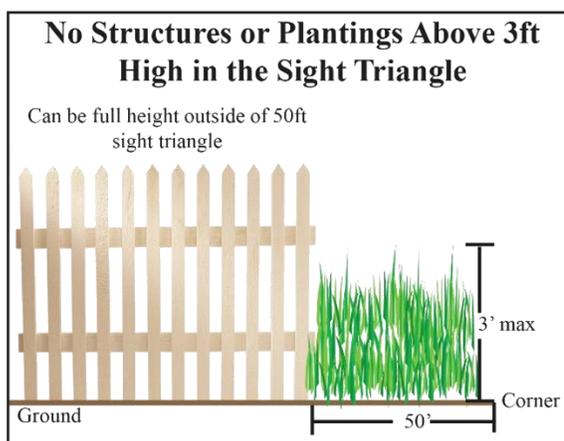
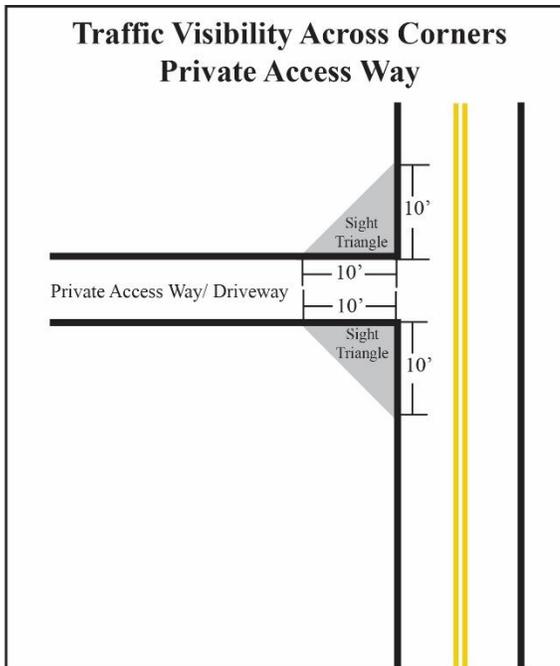
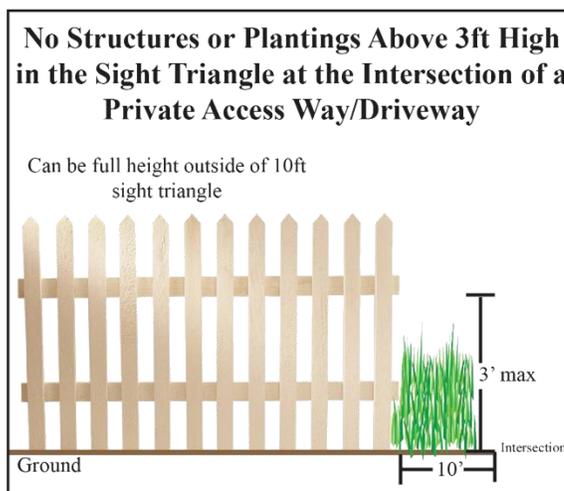


Figure 2: Height Restrictions in the Sight Triangle on a Corner Lot

2. Where a private access way intersects a public street, visual obstructions shall be limited to a height of not more than three (3) 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.



**Figure 3: How to Measure a Sight Triangle at a Driveway**



**Figure 4: Height Restrictions in the Sight Triangle at a Driveway**

- K. Design of Non-Residential Development. It is the objective of this Ordinance to encourage the orderly development of commercial, industrial, and other non-residential parcels in a manner which will provide for proper access and reduce traffic conflicts and provide for the health and, welfare of the population of the Town. This shall be accomplished as follows:
  1. The design of streets, service drives, and pedestrian ways shall provide for safe, convenient, and hazard free internal circulation of goods, persons, and vehicles.

2. Non-Residential parcels shall be limited to no more than two (2) driveway access points from the street or highway from which they derive their principal access and such driveway access points shall not be more than forty (40) feet wide and shall be designed in a manner which will minimize their interference with any traffic movements on the street or highway.
3. Non-Residential uses that utilize heavy machinery, tractor-trailers, or other large vehicles, as defined in the Town of Mentz Local Law #2 of 2018 Road Preservation Law, as may be amended, on public roads shall be subject to the requirements and provisions in said law as adopted or amended.
4. Where a number of individual parcels or buildings are being developed jointly, or where a parcel or building is being developed adjacent to another parcel used or suitable for non-residential development consideration should be given to the following:
  - a. The location and planning of driveway access points to permit their joint use by adjoining parcels so as to minimize the number of intersections with the street or highway from which they derive their access.
  - b. The development of parking and loading areas which permit convenient traffic circulation between adjoining parcels.
  - c. The development of pedestrian walkways between adjoining parking areas and buildings.
  - d. The provision of landscaping and other features which will enhance the usability, character, and attractiveness of the area.

### **Section 6.02 - Accessory Structures and Uses**

#### **A. Accessory Structures.**

1. Accessory structures attached to the principal building, except for fences (see Subsection 3, below) shall comply in all respects with the requirements of this Ordinance applicable to the principal building.
2. Accessory structures that are not attached to a principal structure may be erected in accordance with the following restrictions:
  - a. Accessory structures are not permitted in front setbacks with the exception of signs, off-street parking facilities, and farm stands.
  - b. Accessory structures shall meet the following setbacks:
    - i. A minimum of six (6) feet from a side lot line. Corner lots shall maintain safe sight triangles as required in Section 6.01, I of this Article.
    - ii. A minimum of five (5) feet from the rear lot line.
    - iii. A minimum of ten (10) feet from the principal structure.
  - c. The height of an unattached accessory structure shall not exceed twenty (20) feet from the peak of the structure to the highest point on the ground on the side nearest the street.

- d. An unattached accessory structure shall not be a building, structure, or other assemblage of materials designed for, or customarily used as, a principal structure allowed under this Ordinance.
3. Docks. Docks on ponds are permitted subject to NYS DEC and Army Corp of Engineer regulations and permits. As accessory structures on the Seneca River or the Owasco Outlet, docks shall meet the following additional conditions:
  - a. Side setbacks of ten (10) feet shall apply;
  - b. Only one dock is permitted per fifty (50) feet of shoreline;
  - c. Docks shall not exceed eight (8) feet in width;
  - d. No dock shall interfere with access to other docks;
  - e. Livery services, motorized equipment rentals, and commercial sales are not permitted; and
  - f. There shall be no sale of marine fuel from a dock.
  - g. In addition to Town approval, property owners shall be responsible for obtaining all necessary permits from any applicable state or federal agency.
4. Fences and Walls.
  - a. Unless specifically noted, the provisions of this Ordinance shall not apply to fences, terraces, or walls less than five (5) feet in height above the average natural grade, nor to terraces, steps, or other similar features not over three (3) feet high above the level of the floor of the ground story.
  - b. Fence heights are limited to six (6) feet, except that a height of eight (8) feet shall be permitted between adjacent commercial and residential uses to provide additional screening.
  - c. Fences are subject to the Traffic Visibility requirements found in Section 6.01, I of this Article.
  - d. The finished side of the fence shall face outward from the fence owner's lot line so that the nicest side of the fence faces neighboring properties or an adjacent street.
  - e. Agricultural fences. Agricultural fences shall be exempt from the requirements of this Section, listed in sub-sections a and b above.
5. Home Gardening, Nurseries, and Greenhouses. Home gardening, and accessory structures used for nurseries or as greenhouses, are permitted in residential areas, provided that they shall not include the outdoor storage of equipment and supplies.
6. Lampposts. Lampposts shall not exceed twenty-five (25) feet in height and the light emitted may not leave the property line. Lamp posts in Agricultural and Commercial Districts are exempt from this height limitation.
7. Swimming Pools. A single private outdoor swimming pool per dwelling unit is permitted as an Accessory Use provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests, subject to the following provisions:

- a. The edge of the swimming pool is not located closer than ten (10) feet to any property line and does not occupy more than 10 percent (10%) of the lot area.
  - b. Pools must meet the requirements of the New York State Uniform Fire Prevention and Building Code.
- B. Accessory Uses. Accessory uses are those customarily incidental and subordinate to the use of the principal building, and no permit shall be required unless specifically required elsewhere in this law.
1. Essential Services. The erection, construction, alteration or maintenance by public utility companies, the Town of Mentz, 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, traffic signals, hydrants and other similar equipment and accessories in connection therewith shall be allowed as reasonably necessary for the furnishing of adequate service by such public utility companies, the Town of Mentz, or other governmental agencies or for the public health or safety or general welfare, but not including buildings.
  2. Underground Storage Tanks. Underground storage tanks used for fuel, chemicals, or other substances other than drinking water or septic systems, whether for personal or commercial use, shall adhere to the permitting requirements from NYS DEC or any other involved state or federal agency. A copy of the permits acquired by the landowner for such underground storage tanks shall be provided to the Code Enforcement Officer. Failure to provide proper documentation to the Code Enforcement Officer shall constitute a violation under this Ordinance.

## **Article VII. Natural Resource Protection**

### **Section 7.01 - Floodplain Overlay District**

- A. Purpose. The purpose of the Floodplain Overlay District is to assist in controlling the alteration of natural floodplains and help minimize the potential for public and private losses due to flood conditions that can be attributable to the cumulative effect of obstruction in the floodplain causing increases in flood elevations and velocities, and by the present uses, which are inadequately elevated, flood proofed, or otherwise protected.
- B. Intent. The intent of the Floodplain Overlay District is to protect the public health, safety, and welfare from damage and other losses, to the extent practical, from future flooding damage within the flood hazard areas in the Town of Mentz as determined, mapped, and updated by the Federal Emergency Management Agency (FEMA). It is also the intent of the Town to ensure future development in this overlay district adheres to the requirements of the Federal Flood Insurance Program, especially where base flood elevations have been determined, by requiring site plan review for all future development. As an overlay district, this zone does not impact the underlying zoning district with regard to permitted uses, uses permitted by special permit, lot size, or dimensional requirements.
- C. Procedures for actions in floodplain areas.
  - 1. All activities undertaken in areas designated as a flood hazard area by the Federal Flood Insurance Program on maps prepared by the Federal Emergency Management Agency (FEMA), including any future revisions to said maps, shall comply with applicable regulations of the Town of Mentz Flood Damage Prevention Law adopted as Local Law No. 1 of 2007. Said law is on file with and available from the Town Clerk and the Code Enforcement Officer.
  - 2. The Code Enforcement Officer is hereby authorized and charged with the responsibility to determine if a subject property is within the Floodplain Overlay District and is also the individual responsible for assuring review of any development within the Floodplain Overlay Zoning District is in compliance with applicable local, state, and federal requirements.

### **Section 7.02 - Steep Slope Regulations**

- A. Purpose. The purpose of the steep slope regulations established in this section is to provide special controls over land development located in these sensitive environmental areas within the Town of Mentz. These regulations are designed to preserve, protect and manage sensitive steep slope features with grades of 15% or greater in order to minimize erosion, pollution and environmental damage; reduce soil, pavement and building subsidence; ensure proper emergency access; and preserve and enhance, to the extent practicable, public scenic views as identified in the Comprehensive Plan.
- B. Intent. These regulations are not intended to be substituted for zoning district provisions, but shall be considered as additional requirements to be met by the applicant prior to project approval. The purpose of the steep slope regulations is to provide the Town with an additional level of review and regulation that controls how land development permitted by the Town's

zoning districts should occur on slopes of 15% grade or greater and within a 50 foot zone at the top and bottom of such slopes.

- C. Definitions. As used in this section, the following terms shall have the meanings indicated, unless otherwise stated:
1. **Site Disturbance:** Any activity that removes the vegetative cover from the land surface.
  2. **Vegetative Cover:** Grasses, shrubs, trees, and other vegetation which holds and stabilizes soils.
  3. **Steep Slope:** A ground area with a 15% gradient or greater.
    - a. **15% slope:** A ground area with a 15% gradient (a ratio of 15 feet of vertical distance to every 100 feet of horizontal distance) for a vertical height of 35 feet or more and covering a minimum horizontal area of 500 square feet.
    - b. **25% slope:** A ground area with a 25% gradient (a ratio of 25 feet of vertical distance to every 100 feet of horizontal distance) for a vertical height of 35 feet or more and covering a minimum horizontal area of 500 square feet.
- D. Applicability. The steep slope regulations in Article VII, §7.02 shall apply to all steep slopes within the Town as defined in §7.02, C.; and shall also apply to a 50 foot zone along the top and bottom of such slopes. The Town has the authority to amend or add to these regulations as necessary. Field investigations and/or other environmental analyses may be required in order to determine whether a proposed regulated activity is included within the regulated area. Determination of the status of a particular activity in terms of its presence within or near a steep slope of 15% or greater shall be made by the Code Enforcement Officer. There are two categories of steep slopes that shall be subject to these regulations as follows:
1. Areas with steep slopes equal to or greater than 15% but less than 25% including a 50 foot zone along the top and bottom of such slopes.
  2. Areas with steep slopes that are equal to or greater than 25% including a 50 foot zone along the top and bottom of such slopes
- E. Map. Approximate boundaries of the areas with steep slopes as defined in §7.02, C. are shown on the Steep Slopes Map in Appendix II, which shall be used for reference purposes only and shall not be used to delineate exact boundaries.
- F. Steep Slope Permit. A Steep Slope Permit is required for any regulated activity as defined in Article VII, §7.02, G. Steep Slope Permits shall be issued by the Code Enforcement Officer.
1. If the site is subject to the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) permitting process, the applicant shall submit verification of compliance with those requirements before the Steep Slope Permit is granted.
- G. Regulated Activities and Exemptions.
1. No construction, grading, excavation or other activity that results in site disturbance is permitted on any land with a slope of 25% or greater, or within a 50 foot transition zone at the top and bottom of slopes with a 25% grade or greater, unless such activity is a non-

- structural and non-tillable farming activity or a timber harvesting activity using NYS Forestry Best Management Practices for Water Quality.
2. Any construction, grading, excavation, or other activity that results in site disturbance that takes place on a slope equal to or greater than 15% but less than 25% or within a 50 foot transition zone at the top and bottom of these slopes shall conform to these steep slope regulations, unless exempted by this section. The following activities are exempted by this section:
    - a. Any planting or installation of landscape materials which does not require disturbance of existing terrain;
    - b. Emergency situations, as determined by the Code Enforcement Officer, where the disturbance of steep slopes is required to protect persons or property from imminent danger;
    - c. Farming activities using sound management practices in accordance with the Sound Agricultural Practices Guidelines of the New York State (NYS) Department of Agriculture and Markets;
    - d. Timber harvesting using NYS Forestry Best Management Practices for Water Quality;
    - e. Routine repair and maintenance of an existing driveway, but not to include reconstruction;
    - f. Construction, maintenance, and repair of public utilities;
    - g. Routine and emergency construction, maintenance or repair of public highways by authorized municipal or New York State personnel;
    - h. Public water and sewer installations;
    - i. Site disturbance that totals an area of less than 300 square feet.
  3. No driveway, vehicular access lane, or private road may be constructed that exceeds a 15% slope for more than 5% of its total length.
- H. Erosion Sediment Control Plan. Applicants for Steep Slope Permits shall submit an Erosion and Sediment Control Plan (ESCP) that will enable the Planning Board to evaluate the appropriateness of the steep slope site design and the proposed erosion and sediment control measures.
1. Contents. The ESCP shall contain provisions to control erosion and sedimentation; and reduce the impacts of stormwater, stormwater infiltration, and runoff from the site during construction and post-construction based on best management practices. The objective of such practices is to minimize soil erosion and sedimentation and ensure slope stability. ESCP contents shall include:
    - a. A complete ESCP shall contain the following: A narrative that provides background information about the scope of the project, site characteristics such as location, type, and size of the project, and describes the plans and maps described in this section. The narrative should highlight the erosion and sedimentation control measures, and measures to maintain slope stability, and why they will be effective.

- b. A general location map that shows the proximity of the site to any surface water bodies, wetlands, roads, property boundaries, and other features, and shall include a USGS map as well as a map at a minimum 1:100 scale.
- c. An existing condition site plan that shows the grading features as they currently exist, soils, existing vegetation, drainage patterns and stormwater runoff, and the locations and names of the receiving waters.
- d. A grading plan and construction timetable that shows the proposed finished contours and drainage patterns, and addresses sequencing of the project and construction activities including clearing, grubbing, excavation, grading, utility and infrastructure installation and any other activity on the site that results in soil disturbance. The plan will also show locations of off-site material, waste, borrow or equipment storage areas, and locations of stormwater discharges. The timetable shall show how each phase of the project relates to the others and how the applicant has taken steps to minimize the amount of exposed soil at all times.
- e. A site plan and timetable that depicts the location of all erosion and sediment control measures and a timetable that charts the sequencing of control measures. The plan shall include:
  - i. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control, and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.
  - ii. The dimensions, material specifications, and installation details for all erosion and sediment control practices including the siting and sizing of any temporary sediment basins.
  - iii. Temporary practices that will be converted to permanent control measures.
  - iv. Description of the pollution prevention measures that will be used to control litter, construction chemicals, and construction debris from becoming a pollutant source in stormwater runoff.
  - v. An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.
  - vi. A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
  - vii. The names of the receiving waters of new drainage patterns.
  - viii. A description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
  - ix. The designation of responsibility for ESCP implementation for each part of the site and phase of the project.

- x. A description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
- xi. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- f. A plan prepared by a licensed professional engineer showing and certifying the following:
  - i. All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion, and water.
  - ii. The calculated volume of water run-off from slopes 15% or greater and from the lot in question, as unimproved and improved, during a 2 year, 24 hour storm event.
  - iii. The existence, location, and capacity of all natural and artificial drainage courses and facilities within 500 feet of the regulated activity, which are used, or will be used, to carry or contain the water runoff from slopes 15% or greater.
  - iv. A description of the effect of any increased water run-off on all adjacent properties and any other property which will be materially affected by increased water run-off and infiltration.
  - v. Subsurface geology and hydrology that would impact the proposed development, adjacent properties, or areas downstream of impacted water flows.
- g. Any additional provisions, methods, or procedures the Planning Board deems necessary in order to do a proper review of the regulated activity.
- I. Content Waiver. The Planning Board may waive any information requirements contained within §7.02, H. with respect to an application for a Steep Slope Permit, so long as a fully informed determination, consistent with the intent of this Section, can be made without the information.
- J. Technical Standards.
  - 1. For the purpose of these regulations, the following documents shall serve as the official guides and specifications for slope protection and erosion and sediment control:
    - a. New York State Department of Environmental Conservation “Blue Book” also known as the New York State Standards and Specifications for Erosion and Sediment Control (most current version or its successor).
    - b. The New York State Stormwater Management Design Manual by the New York State Department of Environmental Conservation (most current version or its successor, hereafter referred to as the Design Manual).
  - 2. Alternative methods that are not outlined within this section may be used with prior approval of the Town Board based upon a favorable recommendation from all of the following: Town Engineer and County Soil and Water Conservation District, where applicable.

K. Review Standards.

1. Considerations. In granting, denying or conditioning any application for a Steep Slope Permit, the Planning Board shall consider the following:
  - a. The effect that the proposed regulated activity will have on the public health, safety and welfare and on the protection or preservation of steep slope areas;
  - b. The compatibility of the proposed regulated activity with the preservation, protection and conservation of the steep slope and surrounding area; and
  - c. The degree to which the proposed activity conforms to the standards and criteria of the steep slope regulations, as noted elsewhere in §6.04.
2. Conditions. No permit to undertake a regulated activity within any area of steep slopes shall be issued unless the applicant can demonstrate that the following standards are met to the satisfaction of the Planning Board:
  - a. There is no reasonable alternative for the proposed regulated activity on that portion of the site not containing steep slopes;
  - b. There shall be no more than nominal degradation to or loss of steep slopes and surrounding areas;
  - c. Lot layouts are designed so that sanitary sewage disposal systems entirely avoid all areas classified as steep slopes and are in compliance with all standards and regulations of the Cayuga County Health Department;
  - d. Wherever possible, erosion shall be prevented by minimizing disturbance to the existing vegetative cover;
  - e. The planning, design and development of buildings and site improvements limits the rate of stormwater runoff to a zero increase with overflow to a municipal drain system where practicable and provides the maximum in structural safety, slope stability, and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain and aesthetic character;
  - f. The terracing of building sites is kept to a minimum;
  - g. Roads and driveways follow the natural topography to the greatest extent possible in order to minimize the potential for erosion, and they are consistent with other applicable regulations and current engineering practices;
  - h. Habitat is quantified and protected, no endangered species of flora or fauna are adversely impacted and any replanting shall be maintained by the applicant for two years and shall consist of indigenous vegetation that at a minimum replicates the original vegetation on the site, in kind;
  - i. Any re-grading blends in with the natural contours and undulations of the land;
  - j. Cuts and fills are rounded off to eliminate sharp angles at the top, bottom, and sides of re-graded slopes;
  - k. The angle of cut and fill slopes does not exceed a slope of one vertical to three horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Town Engineer are used;

- l. Disturbance of rock outcrops is by means of explosives only if labor and machines are not effective and only if rock blasting is conducted in accordance with all applicable regulations of the Town and the State of New York. The rock shall be effectively stabilized;
  - m. Disturbance of slopes is undertaken in workable units in which the disturbance can be completed and stabilized in one construction season so that areas are not left bare and exposed during the period from December 15 through April 15;
  - n. Disturbance of existing vegetative ground cover does not take place more than seven (7) calendar days prior to grading and construction;
  - o. Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, is applied to an area of disturbance within two (2) calendar days of establishing the final grade, and permanent stabilization is applied within seven (7) calendar days of establishing the final grade;
  - p. Soil stabilization is applied within two (2) calendar days of disturbance if the final grade is not expected to be established within 60 calendar days;
  - q. All proposed disturbance of slopes is undertaken with consideration of the soil limitation characteristics, in terms of recognizing the limitations of certain soil types on slopes for development and application of all mitigating measures, and as deemed necessary by the Planning Board or Town/Village Engineer;
  - r. Structures are designed to fit into the hillside rather than altering the hillside to fit the structure, employing methods such as reduced footprint design, step-down structures, stilt houses, and minimization of grading outside the building footprint;
  - s. Development is sited on that portion of the site least likely to impact the natural landforms, geological features, and vegetation;
  - t. The construction equipment has adequate access so as not to disturb anything outside the approved limit of disturbance that shall be shown on the plan drawings and, when approved, staked in the field.
- L. Review Process. To the extent practicable, Steep Slopes Permit reviews shall run concurrently and be coordinated with other local approvals.
- 1. Pre-application Erosion and Sediment Control Sketch Plan. The applicant is encouraged to present a sketch plan of the proposal to the Planning Board for informal review and discussion. The Planning Board is not authorized to and shall not take any formal action on sketch plans.
  - 2. Submissions. An application, an Erosion and Sediment Control Plan, and any requests to waive specific ESCP requirements shall be submitted to the Planning Board. All of these materials must be submitted before the application can be reviewed.
  - 3. External Review. The Planning Board may refer the ESCP to a qualified consultant and/or to the County Soil and Water Conservation District for professional advice concerning compliance of the plan.

4. Final Decision. Findings of fact shall be made by the Planning Board for all decisions to permit, not permit, or permit with conditions the regulated activity. "Findings" is a written description of facts relevant to and in support of the decision made and shall be made part of the public record. No Steep Slopes Permit shall be granted unless it is consistent with these regulations.
5. Provisions for Inspection. A Steep Slopes Permit may be approved only after physical inspections of the property have been made by the Town at the times and in the manner described below. The applicant shall arrange with the Town Code Enforcement Officer for scheduling of the following inspections:
  - a. An initial inspection prior to final approval of the requested Steep Slopes Permit.
  - b. An erosion control inspection to ensure erosion control practices are in accordance with the approved plan.
  - c. A burial inspection prior to backfilling of any underground drainage or stormwater conveyance structures.
  - d. A final inspection when all work, including construction of stormwater management facilities, has been completed.
  - e. The Code Enforcement Officer retains the right to inspect permanent post-construction stormwater facilities on an on-going basis and to request records of its maintenance.

M. Enforcement.

1. Appeals. Applicants may appeal the determination of steep slope boundaries in the same manner as appeals of Code Enforcement Officer interpretations under Article XXI.
2. Operation and Maintenance of Facilities. The owner or operator of permanent stormwater management practices installed in accordance with this Ordinance shall ensure they are operated and maintained to achieve the goals of this Ordinance. Proper operation and maintenance also includes, as a minimum, the following:
  - a. A preventative/corrective maintenance program for all critical facilities and systems of treatment and control, or related appurtenances, which are installed or used by the owner or operator to achieve the goals of this law.
  - b. Written procedures for operation and maintenance and training of new personnel, if applicable.
  - c. Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with state law.
3. Sureties.
  - a. Completion of Work. To ensure compliance with all requirements of an approved Steep Slopes Permit, the Town Board, at the recommendation of the Planning Board, may require the applicant to provide a performance guarantee or surety, prior to construction in the form of a performance bond, escrow account certification, or irrevocable letter of credit from an insured financial institution. The guarantee shall

- be for the full cost of all work to be performed on the property subject to the permit and shall be payable solely to the Town of Mentz. The Town Board shall determine the amount based on the final design plans and actual construction costs.
- b. Maintenance of Facilities. Where stormwater management and erosion control facilities are to be operated and maintained by the developer, or by a corporation that owns or manages the development, the Town Board, at the recommendation of the Planning Board, shall require the developer to provide the Town with a performance guarantee/surety in the form of a performance bond, escrow account certification, or irrevocable letter of credit from an insured financial institution, payable to the Town of Mentz to ensure maintenance of all stormwater management and erosion control facilities which have been approved for the Steep Slopes Permit during the life of the facility.
  - c. Duration. Sureties will remain in force until the Town releases the responsible party from liability. All accrued interest in any surety account shall be reinvested to the benefit of the account and may be applied only to the purposes originally established for the surety until the Town releases the responsible party from liability.
  - d. Failure to Comply. If the developer or owner fails to perform as required under the Steep Slopes Permit, the Town may draw any portion of the amount guaranteed for the purpose of work in default under the permit. If the developer, owner, or other named responsible party fails to maintain facilities as required, the Town may draw any portion of the amount guaranteed to pay the costs of operation and maintenance of permitted facilities.
4. Stop Work Orders.
- a. The Code Enforcement Officer shall issue, or cause to be issued, a stop work order for any regulated activity found ongoing without a Steep Slope Permit. Disregard of a stop work order shall subject the violator to the penalties described in Article XX of this Ordinance.
  - b. The Code Enforcement Officer shall issue, or cause to be issued, a stop work order for any steep slope development found non-compliant with the provisions of this law and/or the conditions of the Steep Slope Permit. Disregard of a stop work order shall subject the violator to the penalties described in Article XX of this Ordinance.
5. Certificate of Compliance.
- a. In areas with steep slopes it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Code Enforcement Officer stating that the building or land conforms to the requirements of §7.02.
  - b. A certificate of compliance shall be issued by the Code Enforcement Officer upon satisfactory completion of all development in areas with steep slopes.
  - c. Issuance of the certificate of compliance shall be based upon the inspections conducted as prescribed in §7.02, L, 5.

N. Fees. The application shall be accompanied by:

1. The applicant, at the time of application for a Steep Slopes Permit, shall pay to the appropriate Town Official the fee for said permit as established by the Town Board. The Town Board may, from time to time, amend the fee schedule. Fees shall be established by the Town Board by resolution.
2. Fees for services provided by site inspectors, engineers, planners, attorneys and outside agencies in an amount determined by the Town Board as sufficient to defray the estimated costs of such services rendered to the Town in connection with the application. The applicant shall deposit with the Town Clerk the amount estimated to reimburse the Town for such costs. Any amount remaining after payment for services rendered shall be returned to the applicant upon final approval or upon withdrawal if the application is withdrawn.

**Section 7.03 - Wetland Protection Regulations**

A. Purpose and intent.

1. The purpose of this Section is to promote the health, safety, and welfare of the residents of Mentz by preserving, protecting and conserving wetlands through careful regulation and control so that the multiple functions and benefits they provide may continue, thereby helping to protect property from damages caused by flooding and other losses due to wetlands destruction.
2. This Section is intended to regulate the dredging, filling, deposition or removal of materials; degradation of water quality; the diversion or obstruction of water flow; and the placement of structures in, and other uses of, wetlands in the Town in accordance with the New York State Freshwater Wetlands Act and Article 24 of the New York State Environmental Conservation Law and the Clean Water Act of the United States.

B. Procedures for development in designated wetlands

1. Development activities, including but not limited to, construction of structures, buildings, or utilities; dredging, grading, filling, draining; or discharging into or adjacent to wetlands shall comply with the following regulations:
  - a. All development activities undertaken in areas designated as a regulated wetlands by the New York State Department of Environmental Conservation (NYS DEC) shall comply with all applicable regulations of the NYS Freshwater Wetlands Permit Requirements (6NYCRR Part 663). A map of the New York State regulated wetlands in the Town of Mentz is provided in Appendix III.
  - b. All development activities undertaken in areas designated as a wetland under the Clean Water Act of the United States and mapped through the National Wetland Inventory (NWI) by the US Fish & Wildlife Service shall comply with all applicable regulations of said Act and may be required to obtain a permit for said activity from the US Army Corps of Engineers. A map of the NWI wetlands in the Town of Mentz is provided in Appendix III.

2. Permits. All required permits for development in and adjacent to a wetland; or for the otherwise disturbance of a wetland shall be secured by the landowner or their designated agent prior to the commencement of any development activity. Obtaining such approval or permits is the sole responsibility of the landowner. A copy of the approved permit and all associated paperwork, drawings, etc. shall be submitted to Planning Board as part of the required documents for Site Plan Review, Special Permit Review, and Subdivision Review.

#### **Section 7.04 - Stormwater Management Regulations**

##### **A. Purpose and intent.**

1. The purpose of this Section is to promote the health, safety, and welfare of the residents of Mentz and to implement the recommendations of the Town's adopted Comprehensive Plan by minimizing stormwater runoff from land development activities in order to reduce flooding, erosion, and pollution caused by stormwater runoff.
2. This Section is intended to require landowners and developers to comply with the New York State Department of State (NYS DEC) State Pollutant Discharge Elimination System (SPEDES) general permits as required for activities associated with stormwater discharges and the preparation of Stormwater Pollution Prevention Plans (SWPPPs) for land development activities.

##### **B. Procedures.**

1. Construction activities disturbing one or more acres of soil must be authorized under the General Permit for Stormwater Discharges from Construction Activities as administered and regulated by NYS DEC. In accordance with NYS DEC regulations, permittees are required to develop a SWPPP to prevent discharges of construction-related pollutants to surface waters.
2. SWPPPS and associated permits for disturbance are reviewed and approved by NYS DEC. Obtaining such approval or permits is the sole responsibility of the landowner. A copy of the draft SWPPP and any other required permit from NYS DEC along with all associated paperwork, drawings, etc. shall be submitted to Planning Board as part of the required documents for Site Plan Review, Special Permit Review, and Subdivision Review. A copy of the NYS DEC approved SWPPP shall be submitted by the applicant to the Town Planning Board upon approval from NYS DEC.

## **Article VIII. Wireless Telecommunications Facilities**

### **Section 8.01 - Purpose and Legislative Intent**

- A. The Telecommunications Act of 1996 affirmed the Town of Mentz's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The Town of Mentz finds that the improper siting, placement or construction of wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character, and environment of the Town and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. In order to ensure that the placement, construction, or modification of wireless telecommunications facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this Article is to minimize impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated comprehensive review of environmental impacts of such facilities, and protect the health, safety, and welfare of the Town of Mentz.

### **Section 8.02 - Title**

- A. This Article shall be known and cited as the "Wireless Telecommunications Facilities Siting Law for the Town of Mentz."

### **Section 8.03 - Severability**

- A. If any word, phrase, sentence, part, section, subsection, or other portion of this Article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- B. Any special use permit issued under this Article shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Town.

### **Section 8.04 - Definitions**

- A. For purposes of this Article, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

**Accessory Facility or Structure:** An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or

lot as the wireless telecommunications facilities, including, but not limited to, utility or transmission equipment storage sheds or cabinets.

**Applicant**: Any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.

**Application**: All necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

**Antenna**: A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

**Co-location**: The use of an existing tower or structure to support antennas for the provision of wireless services.

**Commercial Impracticability or Commercially Impracticable**: The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercially impracticable and shall not render an act or the terms of an agreement commercially impracticable.

**Completed Application**: An application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

**FAA**: The Federal Aviation Administration, or its duly designated and authorized successor agency.

**FCC**: The Federal Communications Commission, or its duly designated and authorized successor agency.

**Height**: When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

**Modification or Modify**: The addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

**NIER**: Nonionizing electromagnetic radiation.

**Person**: Any individual, corporation, estate, trust, partnership, jointstock company, association of two or more persons having a joint common interest, or any other entity.

**Personal Wireless Facility**: See definition for "wireless telecommunications facilities."

**Personal Wireless Services or PWS or Personal Telecommunications Service or PCS:** Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

**Repairs and Maintenance:** The replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

**Special Use Permit:** The official document or permit by which an applicant is allowed to file for a building permit to construct and use wireless telecommunications facilities as granted or issued by the Town.

**Stealth or Stealth Technology:** To minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

**State:** The State of New York.

**Substantially Change the Physical Dimensions:**

1. Any change to a tower or base station that meets any of the following criteria:
  - a. For towers outside of public rights-of-way, it increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for those towers in the rights-of-way and for all base stations, it increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater;
  - b. For towers outside of public rights-of-way, it protrudes from the edge of the tower more than 20 feet or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet;
  - c. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
  - d. It entails any excavation or deployment outside the current site of the tower or base station;
  - e. It would defeat the existing concealment elements of the tower or base station; or
  - f. It does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the noncompliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the thresholds identified above.
2. For purposes of the above, changes in height resulting from a modification should be measured from the original support structure in cases where the deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station inclusive

of originally approved appurtenances and any modifications that were previously approved.

**Telecommunications**: The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

**Telecommunications Site**: See definition for “wireless telecommunications facilities.”

**Telecommunications Structure**: A structure used in the provision of services described in the definition of "wireless telecommunications facilities."

**Temporary**: Temporary in relation to all aspects and components of this Article, something intended to, or that does, exist for fewer than 90 calendar days.

**Tower**: Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

**Wireless Telecommunications Facilities**: Means and includes a telecommunications site and personal wireless facility. It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures, including, but not limited to, buildings, church steeples, silos, water towers, signs, or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters, and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunications service not licensed by the FCC.

### **Section 8.05 - Policy and Goals for Special Use Permits**

- A. In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protect the Town's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Article, the Town hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:
1. Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility.
  2. Implementing an application process for a person(s) seeking a special use permit for wireless telecommunications facilities.
  3. Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent.
  4. Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
  5. Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land,

property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

6. That in granting a special use permit, the Town has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the Town.

#### **Section 8.06 - Exceptions from Special Use Permit Requirement**

- A. No person shall be permitted to site, place, build, construct, modify, or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this Article without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those noncommercial exceptions noted in Section 8.07.
- B. All legally permitted wireless telecommunications facilities, constructed as permitted, existing on, or before the effective date of this Article shall be allowed to continue as they presently exist; provided, however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Article.
- C. Any repair and maintenance of a wireless facility does not require the application for a special use permit.

#### **Section 8.07 - Exclusions**

- A. The following shall be exempt from this Article:
  1. The Town's fire, police, department of transportation, or other public service facilities owned and operated by the local government.
  2. Any facilities expressly exempt from the Town's siting, building and permitting authority.
  3. Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
  4. Facilities exclusively for private, noncommercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial telecommunications.
  5. Facilities exclusively for providing unlicensed spread spectrum technologies [such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth] where the facility does not require a new tower.

#### **Section 8.08 - Special Use Permit Application and Other Requirements**

- A. All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this Article. The Planning Board is the officially designated agency or body of the Town to whom applications for a special use permit for wireless telecommunications facilities must be made and that is

authorized to review, analyze, evaluate, and make decisions with respect to granting or not granting or revoking special use permits for wireless telecommunications facilities. The Town may, at its discretion, delegate or designate other official agencies or officials of the Town to accept, review, analyze, evaluate, and make recommendations to the Planning Board with respect to granting or not granting or revoking special use permits for wireless telecommunications facilities.

- B. The Planning Board may reject applications not meeting the requirements stated herein or which are otherwise incomplete.
- C. No wireless telecommunications facilities shall be installed, constructed, or modified until the application is reviewed and approved by the Planning Board and the special use permit has been issued.
- D. Any and all representations made by the applicant to the Planning Board on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Planning Board.
- E. An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.
- F. The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
- G. The applicant shall include a statement in writing:
  - 1. That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Planning Board or Zoning Board of Appeals, as applicable, in writing, as well as all applicable and permissible local codes, laws, and regulations, including any and all applicable Town, state and federal laws, rules, and regulations; and
  - 2. That the construction of the wireless telecommunications facilities is legally permissible, including but not limited to the fact that the applicant is authorized to do business in the state.
- H. Where a certification is called for in this Article, such certification shall bear the signature and seal of a professional engineer licensed in the state.
- I. In addition to all other required information as stated in this Article, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth:
  - 1. A descriptive statement of the objective(s) for the new facility or modification, including and expanding on a need such as coverage and/or capacity requirements;
  - 2. Documentation that demonstrates and proves the need for the wireless telecommunications facility to provide service primarily and essentially within the Town. Such documentation shall include propagation studies of the proposed site and all

adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or, if a capacity need, include an analysis of current and projected usage;

3. The name, address and phone number of the person preparing the report;
4. The name, address, and phone number of the property owner and applicant, and to include the legal name of the applicant. If the site is a tower and the owner is different than the applicant, provide name and address of the tower owner;
5. The postal address and Tax Map parcel number of the property;
6. The zoning district or designation in which the property is situated;
7. Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
8. The location of the nearest residential structure;
9. The location, size and height of all existing and proposed structures on the property which is the subject of the application;
10. The type, locations and dimensions of all proposed and existing landscaping, and fencing;
11. The azimuth, size and center-line height location of all proposed and existing antennas on the supporting structure;
12. The number, type and model of the antenna(s) proposed, with a copy of the specification sheet;
13. The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users;
14. A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting;
15. The frequency, modulation and class of service of radio or other transmitting equipment;
16. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
17. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless telecommunications facility with the proposed installation will be in full compliance with the current FCC RF emissions guidelines (NIER). If not categorically excluded, a complete RF emissions study is required to provide verification;
18. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
19. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;
20. A copy of the geotechnical subsurface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and, if an existing tower or water tank site, a copy of the installed foundation design.

- J. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.
- K. Application for new tower.
1. In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the Town. Copies of written requests and responses for shared use shall be provided to the Planning Board in the application, along with any letters of rejection stating the reason for rejection.
  2. In order to better inform the public, in the case of a new telecommunications tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test." The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven calendar days and 14 calendar days in advance of the first test date in a newspaper with a general circulation in the Town. The applicant shall inform the Planning Board, in writing, of the dates and times of the test, at least 14 calendar days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the application.
  3. The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
    - a. The foreseeable number of FCC licenses available for the area;
    - b. The kind of wireless telecommunications facilities site and structure proposed;
    - c. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
    - d. Available space on existing and approved towers.

4. Shared use.
  - a. The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
    - i. Respond within 60 calendar days to a request for information from a potential shared-use applicant;
    - ii. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
    - iii. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
  - b. Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit.
- L. The applicant shall provide certification with documentation (structural analysis), including calculations that the telecommunications facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, Town, state and federal structural requirements for loads, including wind and ice loads.
- M. If proposal is for a co-location or modification on an existing tower, the applicant is to provide signed documentation of the tower condition, such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three years for a guyed tower and five years for monopoles and self-supporting towers.
- N. All proposed wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible, given the facts and circumstances involved, and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.
- O. If a new tower, proposal for a new antenna attachment to an existing structure, or modification adding to a visual impact, the applicant shall furnish a visual impact assessment, which shall include:
  1. If a new tower or increasing the height of an existing structure is proposed, a computer-generated "Zone of Visibility Map" at a minimum of one-mile radius from the proposed structure, with and without foliage, shall be provided to illustrate locations from which the proposed installation may be seen.
  2. Pictorial representations of "before" and "after" (photo simulations) views from key viewpoints both inside and outside of the Town as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any

- other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites, at the pre-application meeting; provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
3. A written description of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- P. The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.
  - Q. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the Planning Board.
  - R. All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
  - S. At a telecommunications site, an access road, turnaround space, and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
  - T. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, state, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
  - U. A holder of a special use permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.
  - V. There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the Town's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.

- W. An applicant shall submit to the Planning Board the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
- X. The holder of a special use permit shall notify the Planning Board of any intended modification of a wireless telecommunications facility and shall apply to the Planning Board to modify, relocate, or rebuild a wireless telecommunications facility.
- Y. With respect to this application process, the Planning Board will normally seek to have lead agency status pursuant to SEQRA. The Planning Board shall conduct an environmental review of the proposed project pursuant to SEQRA in combination with its review of the application pursuant to this section.

**Section 8.09 - Location**

- A. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and seven (7) being the lowest priority.
  - 1. On existing towers or other structures on Town-owned properties.
  - 2. On existing towers or other structures on other property in the Town.
  - 3. A new tower on Town-owned properties.
  - 4. A new tower on properties in areas zoned for commercial use.
  - 5. A new tower on properties in areas zoned for low-density residential use.
  - 6. A new tower on properties in areas zoned for agricultural use.
  - 7. A new tower on properties in areas zoned for medium-density residential use.
- B. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
- C. An applicant may not bypass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the Planning Board why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- D. Notwithstanding the above, the Planning Board may approve any site located within an area in the above list of priorities, provided that the Planning Board finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

- E. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- F. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Board may disapprove an application for any of the following reasons:
  - 1. Conflict with safety and safety-related codes and requirements;
  - 2. Conflict with the historic nature or character of a neighborhood or historical district;
  - 3. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
  - 4. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers; or
  - 5. Conflicts with the provisions of this Article.

**Section 8.10 - Shared Use of Wireless Telecommunications Facilities and Other Structures**

- A. The Town shall prefer locating wireless telecommunications facilities on existing towers or other structures, without increasing the height, over the construction of a new tower. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.
- B. An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- C. To the extent practicable, the primary function of such shared use should be to provide service within the Town.

**Section 8.11 - Height**

- A. The applicant shall submit documentation justifying the total height of any tower, facility, and/or antenna requested and the basis therefor. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.
- B. No tower constructed after the effective date of this Article, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, Town, state, and/or any federal statute, law, local law, Town law, code, rule, or regulation.

**Section 8.12 - Visibility**

- A. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- B. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Article.
- C. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

**Section 8.13 - Security**

- A. All wireless telecommunications facilities and antennas shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access. Specifically:
  - 1. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
  - 2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

**Section 8.14 - Signage**

- A. Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as an emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule, or regulation requires lighting. No other signage, including advertising, shall be permitted.

**Section 8.15 - Lot Size and Setbacks**

- A. All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

**Section 8.16 - Retention of Expert Assistance and Reimbursement by Applicant**

- A. The Town may retain such consultants as it deems to be properly experienced, qualified, and necessary to assist the Planning Board in reviewing and evaluating any application for a wireless telecommunications facility received pursuant to this Article.

- B. Applications for such facilities shall contain a deposit intended to reimburse the Town for the reasonable anticipated costs of review and evaluation by such consultants, in the amounts described below. Such deposit is intended by the Town to bear a reasonable relation to the average cost needed to undertake the review deemed necessary pursuant to this Article in order to protect the health and safety of its citizens and the environment. That amount has been determined based upon prior applications within the Town, and based upon communications with consultants and other similarly situated municipalities. The total cost of the review may vary based upon the scope and complexity of the proposed project, the completeness of the application or certification or any other information as may be needed to complete the necessary review by the consultants.
- C. Applications for new towers shall include an initial deposit in the amount of \$5,000.
- D. Applications for modification of existing towers, including co-locations of facilities onto existing towers, shall include an initial deposit in the amount of \$2,000.
- E. The Town shall maintain a separate escrow account for all deposits received pursuant to this section. The Planning Board's consultants shall invoice the Town for its services in reviewing the application, and such invoices shall be paid out of the funds deposited into such accounts. In the event that the consultant determines that the review has or shall exceed the amount initially deposited into the escrow, the consultant shall provide a justification to the Planning Board and Town Board with the reasons such review shall exceed the amount of such escrow, including any unusual factors requiring further review. The Town Board, in consultation with the Planning Board, shall then determine in its reasonable discretion whether additional review is required and, if so, the amount of additional deposit that such additional review will require, and it shall notify the applicant that an additional deposit to the escrow fund is required, the reasons why the Town Board has determined that such additional review is necessary, and the amount of additional funds that must be deposited by the applicant. In such an event, further funds must be deposited by the applicant before any further action is taken on the application. Such justification by the consultant and determination by the Town Board, in consultation with the Planning Board, shall be required each time the escrow account is nearing depletion and it is determined that additional review is required by the consultant.
- F. In the event that funds remain in the escrow account at the conclusion of the review and invoicing by the Planning Board's consultant, any remaining balance shall be promptly refunded to the applicant.
- G. The Planning Board shall make every effort to communicate with its consultants to ensure that the breadth and scope of the review by its consultants is reasonable and necessary based upon the facts and circumstances of each particular application.
- H. The Town Board may reduce the amount of the initial deposit if it determines, in its reasonable discretion following administration of an adequate number of applications to make an informed determination, that the average cost needed to undertake the necessary review is less than the amount of the deposit required herein.

**Section 8.17 - Public Hearing and Notification Requirements**

- A. Prior to the approval of any application for a special use permit for new wireless telecommunications facilities, a public hearing shall be held by the Planning Board, notice of which shall be published in the official newspaper of the Town no less than five (5) calendar days prior to the scheduled date of the public hearing. In order that the Planning Board may notify nearby landowners, the application shall contain the names and addresses of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.
- B. No public hearing shall be held for an application to co-locate or modify an existing tower or other structure, provided that the application will not substantially change the physical dimensions of such tower or other structure as defined in this Article.
- C. The Planning Board shall schedule and conduct the public hearing referred to in Subsection A of this section within sixty-two (62) calendar days once it finds the application is complete; the Planning Board, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

**Section 8.18 - Action on Application for Special Use Permit**

- A. Action on application for modification of an existing wireless tower or base station including co-location.
  - 1. Within thirty (30) calendar days following receipt of an application from the applicant, the Planning Board shall provide written notice regarding the completeness of such application.
  - 2. The Planning Board may in its reasonable discretion require the applicant to demonstrate that the application for modification including co-location does not substantially change the physical dimensions of the existing wireless tower or base station, that it meets any required concealment elements of the existing tower or base stations, and/or that it complies with conditions associated with any previous approval of construction or modification of the existing tower or base station, unless the noncompliance results from: an increase in height; an increase in width; the addition of cabinets; or new excavation that does not exceed the thresholds identified in this Article.
  - 3. The Planning Board may in its reasonable discretion require the applicant to demonstrate that the application for co-location or modification conforms to generally applicable building, structural, electrical, and safety codes and to other laws codifying objective standards that are reasonably related to health and safety.
  - 4. Referral to the County Planning Board must be made at least ten (10) business days before the required public hearing by the Planning Board under provisions of Section 239-I, m & n of the New York State General Municipal Law.
  - 5. The Planning Board shall make a decision on the application within sixty-two (62) calendar days after such hearing and file said decision within five (5) business days after the day such decision was rendered 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 the Planning Board.

6. In taking final action, the Planning Board shall approve any application that does not substantially change the physical dimensions of the existing wireless tower or base station as defined herein, provided that the application conforms to generally applicable building, structural, electrical, and safety codes and to other laws codifying objective standards that are reasonably related to health and safety.
  7. In the event of denial of the application, the Planning Board shall inform the applicant of the basis for denial in writing.
  8. Following approval of an application for modification of an existing wireless tower or base station including co-location, no further permits or approvals from the Planning Board shall be required except for applicable building permits and certificates of compliance.
- B. Action on all other applications pursuant to this Article.
1. The Planning Board will undertake a review of an application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.
  2. The Planning Board may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.
  3. After the public hearing and after formally considering the application, the Planning Board may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the permit shall always be upon the applicant.
  4. If the Planning Board approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval, in writing, within five (5) business days of the Planning Board's action, and the special use permit shall be issued within thirty (30) calendar days after such approval. Except for necessary building permits and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the Planning Board, such as site plan or zoning approvals, shall be required by the Planning Board for the wireless telecommunications facilities covered by the special use permit.
  5. If the Planning Board denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within five (5) business days of the Planning Board's action.

#### **Section 8.19 - Extent and Parameters of Special Use Permit**

- A. The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:
1. Such special use permit shall not be assigned, transferred, or conveyed without the express prior written notification to the Planning Board.
  2. Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this Article after prior written notice to the holder of the special use permit.

**Section 8.20 - Application Fee**

- A. Together with submission of any application for a special use permit, all applicants shall pay a nonrefundable application fee in the following amounts:
  - 1. For construction of new wireless telecommunications facilities: \$2,500.
  - 2. For modification, including co-location of wireless telecommunications facilities on existing towers or structures: \$750.
- B. Such application fee is intended as a regulatory measure to recoup the costs associated with administration, including issuance, inspection, and enforcement of such special use permit by the Town.

**Section 8.21 - Performance Security**

- A. The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the Town a bond, or other form of security acceptable to the Town Board as to type of security and the form and manner of execution, in an amount of at least \$75,000 for a tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the Town Board to assure the faithful performance of the terms and conditions of this Article and conditions of any special use permit issued pursuant to this Article. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit.

**Section 8.22 - Reservation of Authority to Inspect Wireless Telecommunications Facilities**

- A. In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, and regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

**Section 8.23 - Liability Insurance**

- A. A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:
  - 1. Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
  - 2. Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
  - 3. Workers' compensation and disability: statutory amounts.

- B. For a wireless telecommunications facility on Town property, the commercial general liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional insureds.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 calendar days' prior written notice in advance of the cancellation of the insurance.
- E. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 calendar days before the expiration of the insurance that such policies are to renew or replace.
- F. Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 calendar days after the grant of the special use permit, the holder of the special use permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

#### **Section 8.24 - Indemnification**

- A. Any application for wireless telecommunications facilities that is proposed for Town property, pursuant to this Article, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.
- B. Notwithstanding the requirements noted in Subsection A of this section, an indemnification provision will not be required in those instances where the Town itself applies for and secures a special use permit for wireless telecommunications facilities.

#### **Section 8.25 - Fines**

- A. In the event of a violation of this Article or any special use permit issued pursuant to this Article, the Town may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the Town, fines, or penalties as set forth below.
- B. Violators of this Article or the holder of a special use permit's failure to comply with provisions of this Article shall constitute a violation and shall subject the applicant to be liable to a fine or penalty of twice the application fee for a new tower application or \$10,000; or if co-locating

on an existing tower, twice the application fee for co-locating on an existing tower or \$5,000. Each one week's continued violation shall constitute a separate additional violation.

**Section 8.26 - Default and/or Revocation**

- A. If a wireless telecommunications facility is repaired, rebuilt, placed, moved, relocated, modified, or maintained in a way that is inconsistent or not in compliance with the provisions of this Article or of the special use permit, then the Town shall notify the holder of the special use permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Section 8.25, and if a violation is not corrected to the satisfaction of the Town in a reasonable period of time the special use permit is subject to revocation.

**Section 8.27 - Removal**

- A. Under the following circumstances, the Town Board may determine that the health, safety, and welfare interests of the Town warrant and require the removal of wireless telecommunications facilities:
  - 1. Wireless telecommunications facilities with a permit have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive calendar days or a total of 180 calendar days in any period of 365 calendar days, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 calendar days;
  - 2. Permitted wireless telecommunications facilities fall into such a state of disrepair that they create a health or safety hazard;
  - 3. Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization and the special use permit may be revoked.
- B. If the Town Board makes such a determination as noted in Subsection A of this section, then the Town Board shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed; the Town Board may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.
- C. The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 calendar days of receipt of written notice from the Town. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Town Board.
- D. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 calendar days after the permit holder has received notice, then the Town Board may order officials or

representatives of the Town to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

- E. If, the Town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove them from the site to a lawful location within 10 calendar days, then the Town Board may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.
- F. Notwithstanding anything in this section to the contrary, the Town Board may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 calendar days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Town Board, and an agreement to such plan shall be executed by the holder of the special use permit and the Town. If such a plan is not developed, approved and executed within the ninety-day time period, then the Town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

#### **Section 8.28 - Relief**

- A. Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Article may request such at the pre-application meeting, provided that the relief or exemption is contained in the submitted application for either a special use permit or, in the case of an existing or previously granted special use permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver, or exemption is solely on the applicant. The applicant shall bear all costs of the Town in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety, and welfare of the Town, its residents and other service providers.

#### **Section 8.29 - Periodic Regulatory Review by Town**

- A. The Town Board may at any time conduct a review and examination of this entire Article.
- B. If, after such a periodic review and examination of this Article, the Town Board determines that one or more provisions of this Article should be amended, repealed, revised, clarified, or deleted, then the Town Board may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the Town, the Town Board may repeal this entire Article at any time.
- C. Notwithstanding the provisions of Subsections A and B of this section, the Town Board may at any time and in any manner (to the extent permitted by federal, state, or local law) amend, add, repeal, and/or delete one or more provisions of this Article.

**Section 8.30 - Adherence to State and/or Federal Rules and Regulations**

- A. To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B. To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security, are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

**Section 8.31 - Conflict with Other Laws**

- A. Where this Article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the Town, state or federal government, this Article shall apply.

**Section 8.32 - When Effective**

- A. This Article shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

**Section 8.33 - Authority**

- A. This Article is enacted pursuant to applicable authority granted by the state and federal governments.

## Article IX. Wind Energy Systems

### Section 9.01 - Purpose and Intent

- A. To promote the effective and efficient use of the Town's wind energy resources through wind energy conversion systems (WECS) and to regulate the placement of such WECS so that the public health, safety, and welfare are not jeopardized.
- B. Wind energy is an abundant, renewable, and nonpolluting energy resource and its conversion to electricity will reduce dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources.
- C. The generation of electricity from properly sited wind turbines can be cost effective, and in many cases, existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or on-site consumption can be reduced.
- D. This ordinance is designed to properly regulate and site wind energy facilities and thus deal with potential problems they can create including: aesthetic impacts, drainage problems, harm to farmlands, a risk to bird and bat populations, risks to the property values of adjoining properties, significant noise, traffic problems during construction, and electromagnetic interference with various types of communication.

### Section 9.02 - Definitions

- A. As used in this Article, the following terms shall have the meanings indicated:

**Accessory Facilities or Equipment**: Any structure other than a wind turbine, related to the use and purpose of deriving, collecting or distributing energy from such wind turbines located on or associated with a wind energy facility.

**Agricultural Land**: The land and on-farm buildings, equipment, manure processing, and handling facilities and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding operation, as defined in Subdivision 13 of New York Agriculture and Markets Law § 301, and timber processing, as defined in Subdivision 14 of New York Agriculture and Markets Law § 301. Such operations may consist of one or more parcels of owned or rented land which may be contiguous or noncontiguous to each other. The use of land for agricultural production purposes, including tilling of the soil, dairying, pasture, animal and poultry husbandry, apiculture, arboriculture, horticulture, floriculture, viticulture, and accessory uses for packing, storing, processing and retail sales of products, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural production activities.

**Environmental Assessment Form ("EAF")**: A form used in the environmental review process under the State Environmental Quality Review Act ("SEQRA") as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

**Large Wind Energy Conversion System**: A Wind Energy Conversion System ("WECS") consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity greater than 150 kilowatts and is intended to supply some portion of its produced electrical power for sale to a power grid. WECS with a rated capacity of 25 megawatts or more are governed by Article X of the New York State Public Service Law.

**Non-Participating Residence:** Any dwelling for habitation, either seasonally or permanently, by one or more persons that have not entered into any agreement with a wind energy developer to allow for a WECS on or near their property. A residence may be part of a multi-dwelling or multi-use building and shall include buildings such as hotels, hospitals, motels, dormitories, sanitariums, long term care facilities, schools or other buildings used for educational purposes, or correctional institutions.

**Overspeed Control:** A mechanism used to limit the speed of blade rotation to below the design limits of the WECS.

**Participating Residence:** Any dwelling for habitation, either seasonally or permanently, by one or more persons that has entered into an agreement with a wind energy developer to allow a WECS on or near their property. A residence may be single-family or may be part of a multi-dwelling or multi-use building and shall include buildings such as hotels, hospitals, motels, dormitories, sanitariums, long term care facilities, schools or other buildings used for educational purposes, or correctional institutions.

**Permanent Wind Measurement Tower:** A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction that is installed to permanently monitor wind conditions for the life of a project.

**Public Road:** Any federal, state, county, city, town or village road which is open to the public, or private road regularly used by multiple persons for access to separate off-site parcels of land, access to which is unrestricted by the owner(s) of said private road.

**Site:** The parcel(s) of land where the WECS is to be placed including related tower and transmission equipment. The site may be publicly or privately owned by an individual or group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements.

**Small Wind Energy Systems:** A WECS consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of greater than 10 kilowatts but not more than 150 kilowatts and a total height of greater than 50 feet but not more than 125 feet.

**State Environmental Quality Review Act ("SEQRA"):** The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

**Temporary Wind Measurement Tower:** A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction installed prior to construction of a WECS for wind site assessment which remains in place for a limited period of time. The data provided allows the developer to determine the economic viability of the project as well as to select the optimal type of turbine for the location.

**Total Height:** Height of WECS measured from ground elevation to top of tip of blade in vertical position.

**Tower:** Support structure, including guyed, monopole, and lattice types, upon which wind turbine or other mechanical device is mounted.

**Very Small Wind Energy Conversion System:** A WECS consisting of one wind turbine, one tower (or other mounting system), and associated control or conversion electronics which has a rated capacity of 10 kilowatts or less and a total height of 50 feet or less.

**Wind Energy Conversion System:** A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”). A WECS can be commercial or non-commercial. A WECS may include one or more wind turbines, towers, associated control or conversion electronics, transformers, and/or maintenance and control facilities or other components used in the system. The turbine or windmill may be on a horizontal or vertical axis, rotor, or propeller.

**Wind Energy Facility:** Any WECS or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures that are under common ownership or operating control.

### **Section 9.03 - Applicability**

- A. The substantive and procedural requirements of this section shall apply to all wind energy facilities that are not governed by Article X of the New York State Public Service Law which are proposed, operated, modified, or constructed after the effective date of this article. The substantive requirements of this section shall apply to all wind energy facilities proposed, operated, modified, or constructed after the effective date of this article to the extent not overridden by Article X.
- B. Wind energy facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this article shall not be required to meet the requirements of this section, however;
  - 1. Any such preexisting wind energy facility which does not provide energy for a continuous period of 12 months shall meet the requirements of this section prior to recommencing production of energy.
- C. No modification or alteration, excluding regular maintenance and repair, to an existing wind energy facility shall be allowed without full compliance with this section.

### **Section 9.04 - Permits Required**

- A. No wind energy facility shall be constructed, reconstructed, or modified in the Town of Mentz except in compliance with this article.
  - 1. Notwithstanding the preceding sentence, where a WECS has been granted necessary permits, variances or other land use authorizations, and has been built and is operating under such authorizations, such existing use(s) may be continued under the terms of such authorization so long as the use is not changed, extended, enlarged, or structurally altered.
- B. Very Small Wind Energy Conversion Systems
  - 1. Very Small WECS are permitted as accessory uses in the Agricultural (A), Low-Density Residential (LR), Medium-Density Residential (MR), and Commercial (C) Zoning Districts.
  - 2. Very Small WECS may be constructed, reconstructed, or modified without being issued a special use permit.

3. A building permit is required for the installation of all Very Small WECS.
4. Very Small WECS must comply with the following safety standards:
  - a. The minimum distance from the ground to the rotor blade tips shall not be less than 10 feet.
  - b. Each Very Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No Very Small WECS shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
5. Very Small WECS must otherwise comply with setback, nuisance, environmental and visual effects, and operation and maintenance standards described in Section 9.08, C through F herein and the enforcement and violations provisions of Section 9.13 herein.

C. Small Wind Energy Conversion Systems

1. Small WECS are permitted in the Agricultural (A), Low-Density Residential (LR), Medium-Density Residential (MR), and Commercial (C) Zoning Districts with a special use permit.
2. No Small WECS shall be constructed, reconstructed, or modified in the Town of Mentz except pursuant to special use permit and site plan approval from the Planning Board issued in accordance this article.
3. No Small WECS wind energy facility shall be constructed, reconstructed, or modified in except pursuant to a building permit from the Code Enforcement Officer.

D. Large Wind Energy Conversion Systems

1. Large WECS, as defined herein, are prohibited in all zoning districts in the Town of Mentz.

**Section 9.05 - Applications for a Small WECS**

- A. In addition to the requirements for Special Use Permits in Article XI of this Ordinance, an application for a special use permit for a Small WECS shall include the following:
1. Name, address, and telephone number of the applicant and land owner and affidavit of agreement between landowner and facility owner, if any.
  2. Address or other property identification of each proposed facility including tax map number, existing use and acreage of parcel, and zoning designation.
  3. A description of the facility and project including data pertaining to the tower's safety and stability, including safety results from test facilities and certification from the turbine manufacturer that the turbine is manufactured to operate at safe speeds, and the make, model, a picture, and manufacturing specifications including noise decibel data and maximum rated capacity.
  4. Vertical drawing of the WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between the ground and the lowest point of any blade, and the location of climbing pegs and access doors.

5. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly show the following:
  - a. Property lines, physical dimensions of the site, and the location, dimensions and types of existing structures and uses on the site.
  - b. Public roads and access roads.
  - c. Adjoining properties within 500 feet of the site including zoning designations, residences, schools, churches, hospitals, and libraries within 1,000 feet of each tower.
  - d. The proposed location, elevation, and total height of the WECS.
  - e. Above- and below-ground utility lines within a radius of 1.5 times the total height of the WECS.
  - f. Setback lines.
  - g. All other proposed facilities on the site including transformers, electrical lines, storage or maintenance units, ancillary equipment or structures, transmission lines, and fencing.
6. A full Environmental Assessment Form (“EAF”) and visual EAF addendum.
7. A copy of written notice of the application to the Federal Aviation Administration (“FAA”), microwave communications link operators, and electric utilities, including utility interconnection data and a proposed lighting plan to be reviewed by the FAA showing FAA required lighting, if applicable and other proposed lighting.
8. A detailed fire control and prevention and emergency response plan to coordinate with local emergency response providers.
9. A preliminary transportation plan describing ingress and egress to the proposed project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction.
10. A survey map showing federal, state, county or local parks, recognized historic or heritage sites, state-identified wetlands, or important bird areas within a radius of 5 miles, as identified in federal, state, county, local or New York Audubon’s GIS databases or other generally-available documentation.
11. A list of property owners, with their mailing addresses, within 500 feet of the outer boundaries of the proposed site.
12. Studies or reports on:
  - a. Visual impact. This shall include a computerized photographic simulation showing the site fully developed and demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The study shall also indicate the color treatment of the facility’s components and any visual screening incorporated into the project that is intended to lessen visual prominence.

- b. Noise. This shall include a description and map of the project's noise-producing features and the noise-sensitive environment, including the range of noise levels and the tonal and frequency characteristics expected. The report shall include noise levels at property lines, off-site residences, and any other sensitive noise-receptors, i.e. hospitals, libraries, schools, and places of worship, with identification of potential problem areas. The report shall cover low frequency, A-weighted, pure tone, and repetitive/impulsive noise. It shall also include a report prepared by a qualified professional that analyzes the preexisting ambient noise. The report shall describe the project's proposed noise-control features, including specific measures proposed to protect construction workers and mitigate noise impacts for sensitive receptors, consistent with levels in this article.
- c. Electromagnetic interference. This shall include an analysis of the potential for electromagnetic interference with microwave, radio, television, personal communication systems, 911, and other wireless communication.
- d. Avian impact. This shall include an analysis of bird and bat migration, nesting, and habitat that would be affected by the proposal. The applicant shall solicit input from the New York State Department of Environmental Conservation on such studies and shall follow any pertinent protocols established, adopted, or promulgated by the Department.
- e. Geotechnical impact. This shall at a minimum include an analysis of soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing, foundation design criteria for all proposed structures, slope stability analysis, grading criteria for ground preparation, cuts and fills, and soil compaction.
- f. Engineer's report. This shall be prepared by a professional engineer licensed in New York State and provide information regarding:
  - i. Ice throw. The report shall calculate the maximum distance that ice from the turbine blades could be thrown.
  - ii. Blade throw. The report shall calculate the maximum distance that pieces of the turbine blades could be thrown.
  - iii. Catastrophic tower failure. The report shall include a statement from the turbine manufacturer detailing the wind speed and conditions that the turbine is designed to withstand.
  - iv. Certification by a registered New York State professional engineer that the foundation and tower design are sufficient to withstand wind-loading requirements for structures as established by the New York State Uniform Construction Code.
- g. Shadow flicker. This shall identify locations where shadow flicker may interfere with off-site residences and roadways and the expected duration of the flicker. The study shall identify measures that shall be taken to eliminate or mitigate the problem.
- h. Land use and water impacts. This shall detail potentially impacted wetlands, surface water and groundwater resources, and the geology and land use of the site.

**Section 9.06 - Application Review Process for a Small WECS**

- A. Application. Applicants for a special use permit for a Small WECS must submit 4 copies of the application to the Code Enforcement Officer, who shall within 30 calendar days determine if all required information is included in the application. If the application is incomplete, the applicant will be provided with a written statement detailing the missing information. If the application is complete, the Code Enforcement Officer will forward the application to the Planning Board.
- B. Review Procedure. In addition to the requirements of this Article, the procedure and criteria for the Planning Board's review and approval of a Special Use Permit for a Small WECS shall be in accordance with the procedures in Article XI, Section 11.02 through Section 11.05.
- C. Findings. To grant the special use permit, the Planning Board must find that the wind energy facility will not unreasonably interfere with the Town's orderly land use and development plans, the benefits to the applicant and the public exceed the burdens, the project is not detrimental to the public health, safety, or general welfare of the community, and the project complies with all of the relevant provisions of the zoning ordinance or will comply with those requirements based on conditions that may be attached to the approval unless variances have been granted.
- D. Consultants. The Town reserves the right to hire any consultants and/or experts reasonably necessary to assist the Planning Board in reviewing and evaluating permit applications. All fees for such consultants shall be borne by the applicant in accordance with Article XIX, Section 19.05 of this Ordinance.

**Section 9.07 - Environmental Review for a Small WECS**

- A. Any applicant for a wind energy project of more than 10 kilowatts shall complete an Environmental Impact Statement (EIS) in accordance with SEQR or other state equivalent pursuant to 6 NYCRR Part 617.
- B. In addition to any other requirements mandated in 6 NYCRR Part 617, the EIS shall include the following:
  - 1. A detailed construction and installation plan for the wind energy facility including: a construction schedule, hours of operation, routes to be used by vehicles, gross weights and heights of vehicles, traffic impacts, drawings of access roads, adverse sound impacts, a detailed plan for disposal of debris, and the name and phone number of a contact person in the field.
  - 2. An operation and maintenance plan that provides for regular maintenance schedules for the Small WECS and any special maintenance requirements.
  - 3. A final transportation plan describing ingress and egress to the project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction.
  - 4. A decommissioning and site restoration plan as detailed in Section 9.09, B herein.

5. A landscaping plan showing the current vegetation, describing the area to be cleared, listing the specimens proposed to be added, and detailing regrading and restoration measures to be taken after construction according to New York State Agriculture and Markets and New York State Department of Environmental Conservation guidelines. The plan should also include details regarding how erosion and sediment control will be dealt with.
- C. Hearings. The Planning Board shall conduct at least one public hearing on the Draft EIS with notice given to the public in the accordance with 6 NYCRR Part 617.12(c)(2).

### **Section 9.08 - Criteria for Approval of a Small WECS**

#### **A. Safety Standards.**

1. The total height of each Small WECS shall not be more than 125 feet.
2. The minimum distance from the ground to the rotor blade tips shall not be less than 15 feet.
3. Small WECS shall not be climbable up to 10 feet above the ground. This can be achieved through anti-climbing devices or a fence around the tower with locking portals at least 6 feet high.
4. All access doors on towers or to electrical equipment shall be locked or fenced.
5. There shall be clearly visible signs on all Small WECS, electrical equipment warning of electrical shock or high voltage and harm from revolving machinery. Signage shall also include a 24 hour emergency contact number.
6. Small WECS shall comply with all applicable FAA requirements for air traffic warning lights.
7. No artificial lighting shall be allowed on Small WECS except to the extent required by the FAA or other air safety authority. Minimal ground level security lighting is permitted.
8. Each Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No Small WECS shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
9. The Planning Board may require a reasonable setback for ice throw based upon the report submitted pursuant to Section 9.05, A, 12, f, i herein.

#### **B. Siting and Installation.**

1. Road access to project site. Subject to the property owner's preference, entrances to access roads must be gated and kept locked. The applicant must only use designated traffic routes established in the application review process. Routes should be chosen to minimize traffic impacts taking into consideration wind energy facility related traffic during school bus times, wear and tear on local roads, and impacts on local businesses. Existing roads should be used to the extent possible or if new roads are needed they should minimize the amount of land used and the adverse environmental impacts. The applicant is responsible for remediation of any damaged roads due to siting and installation of the wind energy facility.

2. Power lines. Power lines between turbines and any other buildings or structures should be completely underground. Power lines for connection to the public utility company and transmission poles, towers, and lines may be aboveground.
3. Connection of transmission lines from the wind energy facility to local distribution lines.
  - a. No construction of any Small WECS shall be started until evidence is given of a signed interconnection agreement or letter of intent with an interconnecting utility company.
  - b. The wind energy facility shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities.
  - c. Transmission lines and points of connection to local distribution lines should be combined to the extent possible. The wind energy facility should be connected to existing substations if possible, or if new substations are needed, the number should be minimized.
4. Any construction on agricultural land should be conducted according to the New York State Department of Agriculture and Market "Guidelines for Agricultural Mitigation for Wind Power Projects."

C. Setbacks.

1. Each Small WECS shall be set back 1.5 times tower height from all existing residences, structures, and buildings on a non-participating landowner's property.
2. Each Small WECS shall be set back 1.5 times tower height from the nearest school, hospital, church, or public library.
3. Each Small WECS shall be set back 1.5 times tower height from all property lines, overhead utility or transmission lines, other towers, electrical substations, meteorological towers, and public roads.
4. Waivers. Setbacks may be waived by the Planning Board if there is written consent from the affected property owners at the beginning of construction stating that they are aware of the Small WECS and the setback limitations imposed by this article and that their consent is granted to allow reduced setbacks.
5. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement describing the benefited and burdened properties, must be recorded in the County Clerk's office. The easement shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of decommissioning of the benefitted Small WECS in accordance with this article, or the acquisition of the burdened parcel by the owner of the benefitted parcel. If written consent is not obtained, a variance from the Zoning Board of Appeals shall be required to waive setback requirements.

D. Nuisance.

1. Noise:
  - a. The noise level generated by a Small WECS shall not exceed 45 A-weighted decibels ("dBA") for more than six minutes out of any one-hour time period, or exceed 50 dBA

- for any time period, as measured at the site property line of a non-participating residence.
- b. The noise level generated by a Small WECS must also not increase ambient sound levels by more than 3 dBA at any sensitive noise receptors, including residences, hospitals, libraries, schools, and places of worship, within 2,500 feet of the site property line.
  - c. If the ambient noise level measured at the site property line exceeds the standard, the standard shall be equal to the ambient noise level plus 3 dBA.
  - d. Independent certification shall be required after construction demonstrating compliance with this requirement.
2. Interference with electromagnetic communications, radio signals, microwave and television signals. No wind energy facility shall be installed in any location where its proximity with microwave communications, fixed broadcast, retransmission or reception antenna for radio, wireless phone, or other personal communications systems would produce substantial electromagnetic interference with signal transmission or reception. Any interference with television signals shall be mitigated by the wind energy developer.
- E. Environmental and Visual Effects.
1. Advertising. No advertising shall be allowed on any part of the wind energy facility including the fencing and support structures. No lettering, company insignia, brand names, logo, or graphics shall be allowed on the tower or blades. Reasonable identification of the turbine manufacturer, facility owner, and facility operator is permitted.
  2. Colors and surfaces of Small WECS. Colors and surface treatment of all Small WECS shall minimize visual disruption by using white, beige, off-white, gray, or another non-reflective, unobtrusive color. Subject to the preceding sentence and all applicable FAA requirements other Small WECS components (excluding the tower and blades) shall make use of materials, textures, screening, and landscaping that blend the facility into the natural setting and existing environment to the extent practicable.
  3. Landscaping. Subject to the land-owner's preference, the landscaping of the wind energy facility should be appropriate to screen accessory structures from roads and adjacent residences. It should be designed to minimize the impacts of land clearing and loss of open space.
  4. Ecosystems and animals. Wind energy facilities may not cause any violations of the Endangered Species Act or of New York State's Endangered Species Regulations.
  5. Visual setbacks. Small WECS should be set back from the tops of visually prominent ridgelines and designed and located to minimize adverse visual impacts to neighboring residential areas. Small WECS shall not be installed in any location that would substantially detract from or block the view of all or a portion of a recognized scenic vista as viewed from any public viewing areas such as public parks, roads, trails, or open space.
  6. Shadow flicker. Small WECS shall be located in a manner that makes reasonable efforts to minimize shadow flicker to any occupied building, residences, or roadway on a non-participating landowner's property. Wind energy developers shall be required to

undertake reasonable mitigation measures for shadow flicker in accordance with the preferences of the land owner provided it allows the continued operation of the Small WECS. This mitigation obligation shall be incorporated into any special use permit approval.

F. Operation.

1. Maintenance. The owner of the Small WECS shall submit an annual report of operations and maintenance to the Code Enforcement Officer.
  - a. All Small WECS must be maintained in operational condition meeting all of the requirements of this article and other permit conditions at all times, subject to reasonable maintenance and repair outages. If the Small WECS becomes inoperative, damaged, unsafe, or violates a permit condition or standard, the owner/operator shall remedy the situation within 90 calendar days after written notice from the Code Enforcement Officer. The Code Enforcement Officer may extend the period by an additional 90 calendar days if good cause can be shown by the owner.
  - b. If the Small WECS is not repaired or brought into permit compliance within the timeframe stated above, the Planning Board may, after a public hearing, order remedial action or revoke the special use permit and order removal of the Small WECS within 90 calendar days.
2. Inspections. All wind energy facilities shall be inspected annually for structural and operational integrity by a New York State licensed professional engineer, who has been approved by the Town. The Town's Code Enforcement Officer and a New York State licensed engineer have the right to enter the premises of the wind energy facility at any reasonable time to inspect the Small WECS for the purpose of said annual inspection.

**Section 9.09 - Abatement, Decommissioning, Site Restoration Plan and Bond for a Small WECS**

A. Abatement and Decommissioning.

1. If the wind energy facility is not operated for a continuous period of 12 months, the Code Enforcement Officer will contact the applicant by registered mail and provide 45 calendar days for a response. The applicant is required to respond and set forth reasons for the stoppage and a timetable for action. If the Code Enforcement Officer has made all reasonable efforts to notify the applicant but the applicant does not satisfactorily respond, the Code Enforcement Officer can request the Town Board to contract for removal and restoration using the money in the decommissioning bond, after salvage value, and charge the applicant any difference in cost.

B. Decommissioning and Site Restoration Plan.

1. The plan shall include:
  - a. The anticipated life of the Small WECS;
  - b. Triggering events for decommissioning and removal;
  - c. The estimated decommissioning costs in current dollars;
  - d. How the estimate was determined;

- e. Provision for a re-estimate of such decommissioning costs every five years by a professional engineer licensed in New York State; and
- f. The manner in which the Small WECS will be decommissioned and the site restored including removal of all structures, turbines, cabling, electrical components, debris, and foundations to a depth of 36 inches, restoration of the soil and vegetation, and restoration of roads and driveways, less any fencing or residual minor improvements requested by the landowner.

C. Bond.

1. A decommissioning bond payable to the Town of Mentz in an amount to be determined by the Town Board for removal of nonfunctional Small WECS and restoration of the wind energy facility site shall be maintained by the applicant.
2. The bond, letter of credit, or other equivalent form of security must be confirmed to be sufficient to cover decommissioning and site restoration costs every 5 years.

**Section 9.10 - Liability Insurance**

- A. Prior to issuance of a building permit for a Small WECS, the applicant shall provide the Code Enforcement Officer with proof of a general liability insurance policy at a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury that might result from failure of any part of the WECS.

**Section 9.11 - Transfer and Replacement**

- A. If ownership of a Small WECS changes, the new owner must present full contact information and proof to the Code Enforcement Officer that all required bonds and insurance policies remain in full force 30 calendar days prior to the transfer of ownership.
- B. Any replacement of or modification or alteration to a Small WECS, excluding regular maintenance and repair, requires an amendment to the special use permit, which amendment shall not be unreasonably withheld.
- C. Replacement of a Small WECS may occur without Planning Board approval when there will be:
  1. No increase in the total height of the Small WECS,
  2. No change in the location of the Small WECS,
  3. No additional lighting on the Small WECS, except to the extent required by the FAA, and
  4. No increase in noise produced by the Small WECS.

**Section 9.12 - Requirements for Wind Measurement Towers**

- A. The Town Board acknowledges that prior to construction of a Small WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular sites. Installation of wind measurement towers, also known as anemometer towers, shall be permitted as a special use in the Agricultural (A), Low-Density Residential (LR), Medium-Density Residential (MR), and Commercial (C) Zoning Districts.

- B. Anyone seeking to build a temporary or permanent wind measurement tower must submit an application for a special use permit to the Planning Board. The special use permit for a temporary wind measurement tower is valid for up to 2 years and may be renewed.
  - 1. An application for a wind measurement tower shall include:
    - a. Name, address, and telephone number of the applicant.
    - b. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the application.
    - c. Address of each proposed tower site, including tax map section, block, and lot number.
    - d. Site plan.
    - e. Decommissioning plan, based on the criteria in this article for Small WECS, including a security bond or cash for removal.
- C. Wind measurement towers must be set back from property lines at least 1.5 times the total height of the tower.
- D. Removal.
  - 1. Temporary wind measurement towers shall be removed no later than date applicable special use permit expires.
  - 2. Subsequent to removal of temporary or permanent wind measurement towers, installation sites shall be restored to a condition substantially similar to the site's condition upon installation of wind measurement tower.

### **Section 9.13 - Enforcement and Violations**

- A. The Town Board shall appoint such Town staff, including the Code Enforcement Officer, or outside consultants as it sees fit to enforce this article.
- B. During construction, the Code Enforcement Officer may issue a stop work order at any time for violations of this ordinance, the special use permit, building permit, or site plan approval.
- C. Any person owning, controlling, or managing any building, structure, or land who undertakes a wind energy facility in violation of this article or in noncompliance with the terms and conditions of any permit issued pursuant to this article, or any order of the Code Enforcement Officer, and any person who assists in so doing, shall be guilty of a violation and subject to the fines, penalties, and procedures in Article XVIII of this Ordinance.
- D. In case of any violation or threatened violation of any of the provisions of this article, including any permits issued pursuant to this article, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation to prevent the illegal act in accordance with the provisions in Article XVIII of this Ordinance.

## Article X. Solar Energy Systems

### Section 10.01 - Applicability and Purpose

- A. The provisions of this Article apply to Non-Utility Scale Solar Energy System installations which are permitted subject to the conditions herein in; and to Utility Scale Solar Energy System installations which are prohibited in the Town of Mentz. The Code Enforcement Officer shall review and approve of all Non-Utility Scale Energy System installations.
- B. The purpose of this Article is to provide for the siting, development, and decommissioning of solar energy projects in the Town of Mentz, subject to reasonable conditions that promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources.

### Section 10.02 - Definitions

- A. As used in this Article, the following terms shall have the meanings indicated:

**Array**: Any number of electrically connected photovoltaic modules providing a single electrical output.

**Collective Solar**: Solar installations owned collectively through subdivision homeowner associations, "adopt-a-solar-panel" programs, or other similar arrangements.

**Free-Standing/Ground-Mounted**: A solar energy system that is installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of these regulations.

**Qualified Installer**: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

**Rooftop or Building-Mounted**: A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

**Solar Energy System**: Means a renewable energy project that either (a) generates electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy.

- 1. **Non-Utility Scale Solar Energy System**: Also referred to as Accessory Solar Energy Systems. An accessory use is defined as a secondary activity incidental to the primary use of the property. Non-utility solar energy systems are designed for a home, business, or agricultural use where the primary use of the property is either household living, a commercial activity, or an agricultural activity; and the energy produced by the solar

system provides electricity directly to the building or buildings on site for the principal use of the property. Non-utility solar energy systems have a rated capacity of anything under 25 kilowatts and are designed to meet the specific energy needs of the principal use. Non-utility scale solar energy systems may be rooftop installations, or freestanding installations that are either ground- or pole-mounted. Non-utility scale solar energy systems must meet at least one of the following criteria:

- a. Has a disturbance zone equal to or less than two acres;
  - b. Is mounted on or over a building, parking lot, or other previously-disturbed area; or
  - c. Utilizes integrated PV only.
2. **Utility Scale Solar Energy System:** Considered a public utility and developed as a primary land use. Utility scale solar energy systems are typically freestanding, and the principal economic function of the land hosting a utility scale solar energy system is producing solar power for off-site consumption. Utility scale solar energy systems have a minimum rated capacity of 25 kilowatts, but are usually multiple megawatts, and may cover anywhere from tens to thousands of acres of land. These installations primarily supply power for offsite consumption through the electrical grid. Also referred to as a “solar farm”.

### **Section 10.03 - Non-Utility Scale Solar Energy System Requirements**

- A. Non-Utility scale roof-top and building-mounted solar collectors are permitted in the Agricultural, Low-Density Residential, Medium-Density Residential, and Commercial Districts in the Town in accordance with the provisions herein; and in accordance with Article V, Section 5.06 for the Public Park and Conservation Districts. Building permits shall be required for installation of roof-top and building-mounted solar collectors.
- B. Non-Utility scale ground-mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts in the Town except in the Public Park and Conservation Districts where they are prohibited, subject to the following requirements:
  1. The location of the solar collectors meets all applicable setback requirements of the zone in which they are located.
  2. The height of the solar collectors and any mounts shall not exceed the height restrictions of the zone when oriented at maximum tilt.
  3. The solar collectors are located in the side or rear yard.
  4. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any roads and inhabited buildings on adjacent properties.
    - a. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of all proposed solar collectors.
    - b. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer’s installation instructions, and industry standards, and prior to operation the electrical connections must be

- inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town.
- c. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Cayuga County and other applicable laws and regulations.
  - d. If a solar collector ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than 90 calendar days after the end of the twelve-month period.

#### **Section 10.04 - Utility Scale Solar Energy Systems**

- A. In addition to the procedures and requirements of Site Plan Review as detailed in Article XVI, Utility Scale Solar Energy Systems are subject to the following provisions:
  1. Roof-top and building-mounted solar collectors. Building permits shall be required for installation of roof-top and building-mounted solar collectors.
  2. Ground-mounted and freestanding solar collectors. Ground-mounted and freestanding solar collectors are subject to the following requirements:
    - a. Design Standards.
      - i. Setback. The minimum setback from all property lines shall be of 85 feet.
      - ii. Height. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed fifteen (15) feet in height above the ground.
      - iii. Screening. Based on site-specific conditions, including topography adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving and/or enhancing natural vegetation, and providing landscape screening to abutting properties and roads, but should not result in shading solar power facilities.
      - iv. Glare. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings and adjacent properties and roads.
      - v. Fencing. All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six (6) foot high fence with a self-locking gate and provided with landscape screening. Barbed wire shall not be utilized.
      - vi. Signage. A sign not to exceed eight (8) square feet shall be displayed on or near the main access point and shall list the facility name, owner, and twenty-four-hour emergency contact phone number.

- b. In addition to the procedures and requirements of Site Plan Review as detailed in Article XVI, the following information is required to be submitted as part of the site plan application:
  - i. Utility notification. Submission of documentation from the utility company that operates the electrical grid where the installation is to be located acknowledging the solar power facility will be connected to the grid. Off-grid facilities shall be exempt from this requirement.
  - ii. Safety. The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the appropriate Fire Chief.
  - iii. Decommissioning Plan.
    - (A) In the event the solar power facility is not completed and functioning within 18 months of the issuance of the initial building permit, the Town may notify the operator and/or owner to complete construction and installation of the facility within 180 calendar days of the date of notification. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan.
    - (B) If a solar power facility ceases to perform its originally intended function for more than 12 consecutive months, the owner and/or operator shall implement the decommissioning plan, to include, but not limited to:
      - (1) Removal of aboveground and below-ground equipment, structures, and foundations.
      - (2) Restoration of the surface grade and soil after removal of equipment.
      - (3) Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.
      - (4) A timeframe for the completion of site restoration work.
    - (C) If the owner and/or operator fail to fully implement the decommissioning plan within 180 calendar days, then in addition to other remedies provided by this section or chapter, by New York Town Law § 268, or by law or equity, the Town may utilize the following procedure to remove a solar power facility and/or implement a decommissioning plan:
      - (1) The Code Enforcement Officer may order removal of such solar power facility and/or implementation of the decommissioning plan by written notice to the owner or person, company, or other entity having control of the facility, or to the owner of the lot on which such facility is located. The notice shall set forth a deadline by which such removal and/or plan implementation must be completed. Said notice shall further advise that, should the violator fail to so act within the established deadline, the removal and/or plan implementation may be performed by a designated governmental agency or a contractor, with the expense thereof to be charged to the violator and/or to become a lien against the premises.

- (2) If the solar power facility is not removed and/or the actions in the decommissioning plan are not completed within the period set forth in the Town's notice or Town Board's decision after any appeal thereof pursuant to Subsection 10.04, A, 2, b, iii, (C), (4) below, the Town may enter the premises to remove the facility, cause the removal to be performed, and/or implement the decommissioning plan. The Town's entry onto such premises shall be pursuant to an agreement between the Town and landowner. If no agreement exists or can be obtained in a timely manner, the Town may seek a warrant from a court of competent jurisdiction for access to the premises and/or may seek a court order requiring or authorizing all actions reasonably necessary to remove the facility and/or implement the decommissioning plan, with the costs of such actions the sole responsibility of the violator.
- (3) The Town shall present the landowner with a bill for all costs and expenses incurred by the Town in connection with the solar power facility removal and/or decommissioning plan implementation. If the landowner shall fail to pay such costs and expenses within fifteen (15) calendar days after the demand for same, or within thirty (30) calendar days of the final decision on any administrative or judicial contest the landowner may pursue, then such unpaid costs, expenses, and interest (at the statutory interest rate for money judgments in New York State courts) incurred from the date of the system removal and/or completion of the decommissioning plan shall constitute a lien upon the land on which such removal was undertaken. A legal action or proceeding may be brought to collect such costs, expenses, interest, and recoverable attorney's fees, or to foreclose such lien. As an alternative to the maintenance of any such action, the Town may file a certificate with the Cayuga County Department of Assessment stating the costs and expenses incurred and interest accruing as aforesaid, together with a statement identifying the property and landowner. The Cayuga County Department of Assessment shall, in the preparation of the next assessment roll, assess such unpaid costs, expenses, and interest upon such property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by the law for collection and enforcement of real property taxes in the Town of Mentz. The assessment of such costs, expenses, and interest shall be effective even if the property would otherwise be exempt from real estate taxation.
- (4) Appeals of notices and Town bills. Any person receiving notice to remove a solar power facility and/or implement a decommissioning plan, or a bill for Town costs and expenses, may appeal to the Town Board by, within fifteen (15) calendar days of receipt of such notice or bill, delivering to the Town Clerk at the Town offices an appeal requesting a reconsideration and administrative hearing before the Town Board. Such appeal shall state the

basis for the request for reconsideration and shall be accompanied by any supporting materials. Failure to serve such an appeal within fifteen (15) calendar days shall be deemed a waiver of any claim or defense that the notice or bill is not justified, and the violator shall comply with the requirements of the notice or pay the bill. If the appeal is timely filed, the Town Board shall, within forty-two (42) calendar days of the filing, hold a hearing and, based upon any relevant materials presented by the Town and the appellant, shall issue a resolution deciding the appeal within thirty (30) calendar days after the hearing. Such resolution shall be filed with the Town Clerk, who shall arrange for delivery of a copy of the decision to the appellant within five (5) business days after such filing, at the address for such person designated in the appeal or at such other addresses as the appellant may thereafter designate in writing to the Town Clerk. The Town Board's decision after the hearing shall constitute a final agency action.

## **Article XI. Special Use Permits**

### **Section 11.01 - Purpose and Intent**

- A. The purpose of this Article is to set forth supplemental regulations, procedures, and conditions which shall apply to specially permitted land use activities in the Town of Mentz. Special uses are those uses that will have a special impact or unique form which requires a case-by-case review to determine the uses compatibility with the surrounding properties and to mitigate adverse impacts to the harmony of the neighborhood and the environment. In reaching a determination on a Special Use Permit application, the Planning Board shall take into consideration such concerns as the specific location, design, configuration, and impact to others, together with the criteria set forth below.

### **Section 11.02 - Applicability**

- A. No Zoning Permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Article V as requiring a Special Use Permit (SP) until the Planning Board has approved the Special Use Permit application. The Planning Board shall approve applications for Special Use Permits only when satisfied that all applicable requirements, as set forth in this Section, have been complied with, in addition to all other requirements of this Ordinance. All fees as established by Town Board in a fee schedule shall be paid.

### **Section 11.03 - Procedure for Obtaining a Special Use Permit**

- A. The Planning Board shall hear and decide upon any application for a Special Use Permit as listed in Article V. Applicants shall have the burden of proof in establishing his/her right to a Special Use Permit.
- B. As part of a Special Use Permit application, Site Plan Review in accordance with the requirements listed in Article XVII is required. The following additional materials must also be provided by the applicant:
1. A Special Use Permit Application with all information required therein.
  2. A narrative statement with any 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 Ordinance.
  3. All completed forms and supplemental information as required by Article 8 of the New York State Environmental Conservation Law, known as the State Environmental Quality Review Act, and regulations at NYCRR Part 617 adopted thereunder (collectively, "SEQRA").
- C. Public Hearing and Planning Board Action on Special Use Permits.
1. Within sixty-two (62) calendar days of the receipt of a complete application for Special Use Permit, the Planning Board shall conduct a public hearing.
  2. The Planning Board shall publish a notice in the Town's official newspaper, post the notice on the Town's website, and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior to the date fixed for public hearing.

3. The Planning Board shall send by certified mail a copy of the public notice to all owners of parcels that are immediately adjacent to and extending 500 feet therefrom, or of that directly opposite thereto, extending 500 feet from the street frontage of the parcel(s) of land included in the application for the Special Use Permit at least ten (10) business days prior to the date of such public hearing.
  4. The Planning Board shall make a decision on the application within sixty-two (62) calendar days after such hearing and file said decision within five (5) business days after the day such decision was rendered 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 the Planning Board.
- D. Referral to the County Planning Board must be made at least ten (10) business days before the required public hearing by the Planning Board under provisions of Section 239-l, m & n of the New York State General Municipal Law.

#### **Section 11.04 - General Requirements and Standards**

- A. The Planning Board shall grant a Special Use Permit only if the proposed use will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. A proposed use:
1. Must be in the best interest of the Town, the convenience of the community, the public welfare, and be a substantial improvement to property in the immediate vicinity;
  2. Will not have an undue adverse effect upon adjacent property, the character of the neighborhood and surrounding areas, traffic conditions, parking, utility facilities, or other matters affecting the public health, safety, welfare, or convenience of the public;
  3. Will not create operations or uses that will be considered objectionable to nearby properties by reason of noise, fumes, vibrations, illumination or other outward effects on others in the zone;
  4. Will be serviced adequately (as determined by the Planning Board) by essential public facilities and services, including, but not limited to, highways, streets, parking spaces, public transportation, police, ambulance and fire protection, drainage structures, solid waste management and refuse disposal, water and sewers, groundwater protection, schools, energy conservation, and any other services the Planning Board deems appropriate;
  5. Will not have an adverse effect on the environment; and
  6. Will be in conformance with all applicable requirements of this Ordinance.
- B. In granting a Special Use Permit, the Planning Board may impose conditions regarding layout, circulation, and performance it deems necessary to ensure that any proposed development will secure substantially the objectives of these Regulations. These conditions may include but are not limited to the following:
1. Increasing the required lot size or yard dimensions.
  2. Limiting the height, size, or location of buildings.
  3. Controlling the location and number of vehicle access points.

4. Increasing the number of required off-street parking spaces.
5. Limiting the number, size, location, and lighting of signs.
6. Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
7. Designating areas for open space.

#### **Section 11.05 - Expiration and Revocation of Special Use Permits**

##### **A. Expiration of Permits.**

1. An applicant granted a Special Use Permit shall be given six months in which to begin to put into effect the use permitted by the granted Special Use Permit. The Planning Board may increase this period from six months to a year at its discretion upon request from the permit holder.
2. A Special Use Permit shall expire if the special permit use or uses cease for more than 24 consecutive months.

- B. Revocation of Special Use Permit:** The Planning Board may revoke a Special Use Permit upon reasonable cause should the permittee violate the conditions of the Special Use Permit and fails to terminate such violation within 30 calendar days of receiving a notice of violation; engages in any activity not authorized by the Special Use Permit; or fails to comply with any other provision of this Ordinance. Before a permit may be revoked, a public hearing shall be held by the Planning Board. Notice of the hearing shall be made in the official newspaper at least ten (10) business days prior to the date thereof. The permit holder shall be notified of the hearing by certified mail at least ten (10) business days prior to the hearing. At the hearing, the Planning Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the Special Use Permit. If the Planning Board decides to revoke a Special Use Permit, the reasons for such revocation shall be stated in the public hearing minutes. The permit holder shall be immediately notified of the revocation by certified mail.

#### **Section 11.06 - Requirements for Defined Special Uses**

- A.** In addition to the procedures, requirements, and standards listed elsewhere in this Article, the following uses have specific criteria that must be met by the applicant for a Special Use Permit.

##### **1. Accessory Dwelling Unit**

- a. Accessory dwelling units shall be subordinate in area to the principal dwelling unit. The accessory dwelling unit shall not exceed a maximum of fifteen hundred (1,500) square feet.
- b. A maximum of one accessory dwelling unit shall be allowed on any one lot.
- c. No accessory dwelling unit shall contain more than two (2) bedrooms.
- d. Accessory dwelling units shall utilize common water and septic facilities with the primary dwelling unit, unless otherwise approved by the Cayuga County Health Department.

- e. All accessory dwelling units 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.

2. Adult Oriented Business

a. Purpose/Findings.

- i. The Town Board recognizes that buildings and establishments operated as adult oriented businesses 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 Mentz.
- ii. The Town Board finds the objectionable characteristics of adult oriented businesses and the adverse effects of such uses increase when such uses are spread throughout the community.
- iii. The Town Board finds that, based upon common knowledge, 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), that the adult oriented businesses 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.
- iv. The location of adult oriented businesses in regard to areas where youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town.
- v. 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 Mentz, and surrounding villages and towns.
- ii. Special regulation of adult oriented businesses is necessary to ensure that deleterious secondary effects will not contribute to the blighting or downgrading of surrounding neighborhoods or land uses.
- iii. 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.

- i. Adult oriented businesses are permitted only in the Commercial (C) District, and only upon issuance of a special permit with site plan approval. All adult oriented businesses shall comply with the applicable provisions of this Ordinance, including those relating to structures and uses permitted in a Commercial (C) District.

- ii. In addition, no person shall construct, establish, operate, maintain, or be issued a certificate of occupancy for any adult oriented business within the Town unless such use meets the following standards:
    - (A) No more than one (1) adult oriented business shall be allowed or permitted in any one (1) lot. No mixed uses involving an adult oriented business shall be allowed.
    - (B) No adult oriented businesses shall be allowed or permitted on a lot that is closer than five-hundred (500) feet to:
      - (1) A lot which has another adult oriented business.
      - (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, daycare facility, 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 Ordinance, 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 from the Zoning Board of Appeals.
    - (E) No adult oriented business 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.
3. Airports or Airstrips
- a. The establishment of or improvement to privately-owned airports and airstrips shall be reviewed and approved subject to the following state and federal procedures:
    - i. Establishment of privately-owned airports or airstrips in NYS is subject to the provisions of NYS General Business Law, Article 14, Section 249. The legislation applies to airports and airstrips established after January 1, 1970. In accordance with this legislation, the applicant must request authorization to establish the private airport or airstrip, or improvement to an existing airport or airstrip from the Town of Mentz Planning Board. Under the same law, the Planning Board, before granting authorization, must request from the NYS DOT Commissioner of Transportation, a determination as to whether or not the establishment of such a privately-owned airport or airstrip, or improvement complies with standards. The NYS DOT Commissioner of Transportation must make findings of fact (1) that operations of such airport or airstrip will not conflict with or affect the safety of public buildings or facilities, or operations on public highways or waterways; and (2) that the volume, character and direction of traffic at such airport or airstrip will

not constitute a menace to the safety of operations at other airports or airstrips in the vicinity. The standards prescribed and documents required for investigation of airport or airstrip sites are published in the NYS Official Compilation of Codes, Rules and Regulations, Title 17, Transportation, Volume A, Part 75, Approval of Privately Owned Airports. Landing areas shall be designed to comply with the Airport Design Guide of the FAA and any State requirements

- ii. In order for the NYS DOT Commissioner of Transportation to issue a determination to the Planning Board, the Commissioner must receive documents that are described in paragraph 75.3 of Part 75 of the NYS Official Compilation of Codes, Rules and Regulations cited above including the following items:
    - (A) Municipal Resolution requesting determination
    - (B) Topographical Map showing site
    - (C) Site Plan
    - (D) FAA Airport Space Determination
    - (E) Proponents Letter of Request to Municipality
    - (F) Municipal Statement of Owner Consent
  - iii. One of the required documents is a favorable airspace determination issued by the Federal Aviation Administration (FAA). FAA's airspace determination is governed by Federal Aviation Regulation Part 157. An airspace analysis by the Federal Aviation Administration (FAA) for operation under visual flight rules shall be submitted with the application for a special use permit.
  - iv. Once the NYS DOT has received the request for a determination from the Planning Board and all required documents, an inspection of the proposed airport will be conducted with the proponent and the Code Enforcement Officer. The Commissioner's finding may include reasonable conditions for the establishment of the proposed airport or improvement such as the requirement to create a displaced landing threshold to provide needed clearances over roads. Waivers to standards may be considered on a case by case basis.
  - v. The NYS DOT Commissioner of Transportation will send a letter to the Town with the determination as to whether the proposal meets Department standards. This determination should not be construed to mean State approval of the physical development of the site as the law does not give such authority to the State. Upon receipt of favorable determination, the Planning Board may complete their actions notifying the State as to their final decision.
- b. Additional requirements and standards that shall be met for Airports include:
- i. A minimum of 50 acres is required.
  - ii. There shall be a no-disturbance buffer of 500 feet from all property lines which are adjacent to existing developed residential properties.
  - iii. A site plan shall be provided to the Planning Board illustrating the runways, location of overhead utilities, lighting, parking areas, and accessory buildings.

- iv. Each landing, takeoff, and utility area used by self-powered aircraft shall be provided with a dust proof surface.
  - v. The Planning Board may apply conditions related to noise, hours of operation, maximum number of planes to be stored on the premises, and an identification and proof of permits required from outside agencies.
  - vi. There shall be a finding by the Planning Board that such airport shall not cause a hazard to, or be detrimental to nearby properties and buildings, both in the Town and adjacent municipalities, considering the location of buildings in the vicinity of the airport and take-off patterns and lights.
- c. Additional requirements and standards that shall be met for Airstrips include:
- i. A minimum of 20 acres is required.
  - ii. There shall be a no-disturbance buffer of 50 feet from all property lines which are adjacent to existing developed residential properties.
  - iii. A site plan shall be provided to the Planning Board illustrating the runways, location of overhead utilities, lighting, parking areas, and accessory buildings.
  - iv. The Planning Board may apply conditions related to noise, hours of operation, maximum number of planes to be stored on the premises, and an identification and proof of permits required from outside agencies.
  - v. There shall be a finding by the Planning Board that such airstrip shall not cause a hazard to, or be detrimental to nearby properties and buildings, both in the Town and adjacent municipalities, considering the location of buildings in the vicinity of the take-off patterns and lights.
4. Bulk Storage of Petroleum Products and Chemicals
- a. Storage of any hazardous liquid, including but not limited to, petroleum, kerosene, gasoline, etc. in aboveground tanks with a capacity greater than 550 gallons shall be prohibited in all districts, unless such tanks up to and including 10,000 gallon capacity are placed not less than 80 feet from all property lines; and unless all such tanks of more than 10,000 gallon capacity are placed not less than 200 feet from all property lines.
  - b. Owners of all tanks having a capacity greater than 1,100 gallons shall obtain all necessary permits and inspections from NYS DEC. Copies of these permits shall be provided to the Planning Board as part of the Special Use Permit application.
  - c. Owners shall maintain a safe facility, make every effort possible to prevent spills, contain, and clean up any spills that do occur; and comply with all rules, regulations, and orders from NYS DEC. If the applicant does not comply, the Planning Board, in consultation with NYS DEC, may revoke the special use permit.
5. Daycare Facility. In addition to the requirements set by New York State, daycare facilities shall meet the following standards:
- a. Any facility accommodating more than 10 children or adults shall have a minimum lot area of 1 acre.
  - b. Outdoor play areas shall be sufficiently screened and sound insulated as to protect the neighborhood from inappropriate noise and other disturbance.

6. Extractive Industry/Mining. All extraction or mining activities undertaken in the Town of Mentz shall be in compliance with the following regulations which shall govern the location of all mining and excavation activity.
  - a. All extractive industry or mining uses shall have a minimum lot size of 20 acres.
  - b. No extractive industry or mining use shall emit dust, noise, or vibration beyond the geographical limits of the use.
  - c. The exterior bounds of the property shall be posted, and fences at least six feet in height shall be maintained, with suitable locking gates, across each roadway or other means of vehicular access to the property.
  - d. The applicant shall give assurance of proper construction and maintenance practices and financial responsibility to protect citizens and properties from injury or damage from fire or other safety air, ground or water pollution, soil erosion or sedimentation, trespass and use of town highways.
  - e. **For extractive industries or mines subject to New York State Department of Environmental Conservation (DEC) permitting and regulation, as set forth in the New York Environmental Conservation Law §23-2711** (excavation of more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within 12 successive calendar months; or over 100 cubic yards of minerals from or adjacent to any body of water) **the following requirements apply:**
    - i. Local Town roads that are used to ingress and egress from the site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.
    - ii. The applicant shall be required to furnish a performance bond in an amount determined by the Town Engineer, approved by the Planning Board and the Town Board; and to be held by the Town Clerk to be sufficient to guarantee the restoration of the Town road to its original condition.
    - iii. The Planning Board may set conditions or restrictions regarding access at their discretion based on actual on-site conditions of roadway.
    - iv. The application shall contain the following information for the Planning Board to review and consider:
      - (A) a map, at a scale of one inch equals no more than 100 feet, showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners. Such map shall also show the present topography at five-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy and source.
      - (B) There shall be a 100 foot buffer area from the area of operation and adjoining streets or property lines.
      - (C) Appropriate barriers that may be needed to restrict access to the site.
      - (D) Hours of operation shall not exceed 6am to 7pm EST Monday thru Saturday.

- (E) Measures that will be implemented to control fugitive dust from migrating off-site.
  - (F) Measures to mitigate any other impact that may arise as a result of the extractive or mining operation in accordance with the Town of Mentz Local Law #2 of 2018 Road Preservation Law, as may be amended.
  - (G) Copies of all documentation between the applicant and NYS DEC, specifically including but not limited to: the application, plan, reclamation plan, reclamation bond(s), environmental impact statement(s), engineering reports, and renewal application(s).
  - (H) An erosion and sediment control plan consistent with Article VII, Section 7.04 of this Ordinance.
  - (I) Any other information deemed relevant in the consideration process by the Planning Board.
- v. At all times, the applicant shall maintain a valid, in force NYS DEC Permit. Any expirations, renewals, modifications, or changes to the NYS DEC Permit are subject to further review and renewal of the Special Exception permit by the Planning Board.
  - vi. At all times, the applicant shall be required to operate in compliance with the NYS DEC Permit.
  - vii. At all times, the applicant shall be required to possess and maintain a valid, in force reclamation bond as required by NYS DEC.
  - viii. The Code Enforcement Officer shall have the right to inspect all or any part of the extractive industry or mining operation.
- f. **For extractive industry or mining operations not subject to New York State Department of Environmental Conservation (NYS DEC) permitting and regulation, the following requirements apply:**
- i. Local Town roads that are used to ingress and egress from the mine site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.
  - ii. The applicant shall be required to furnish a performance bond in an amount determined by the Town Engineer, approved by the Planning Board and the Town Board; and to be held by the Town Clerk to be sufficient to guarantee the restoration of the Town road to its original condition.
  - iii. The Planning Board may set conditions and restrictions regarding access at their discretion based on actual on-site conditions of roadway.
  - iv. The application shall contain the following information for the Planning Board to review and consider:
    - (A) a map, at a scale of one inch equals no more than 100 feet, showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers

and names of the landowners. Such map shall also show the present topography at five-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy and source.

- (B) There shall be a 100 foot buffer area from the area of operation and adjoining streets or property lines.
  - (C) Appropriate barriers that may be needed to restrict access to the site.
  - (D) Hours of operation shall not exceed 6am to 7pm EST Monday thru Saturday.
  - (E) Measures that will be implemented to control fugitive dust from migrating off-site.
  - (F) Measures to mitigate any other impact that may arise as a result of the extractive or mining operation in accordance with the Town of Mentz Local Law #2 of 2018 Road Preservation Law, as may be amended.
  - (G) A plan setting forth in reasonable detail the proposed site, length of operation and type and quantity of materials to be removed.
  - (H) A reclamation plan to provide for restoration of the proposed site.
  - (I) A reclamation bond or other suitable financial security in an amount determined suitable in the discretion of the Town Board to ensure compliance with the reclamation plan.
  - (J) An erosion and sediment control plan consistent with Article VII, Section 7.04 of this Ordinance.
  - (K) Any other information deemed relevant in the consideration process by the Planning Board.
- v. The Code Enforcement Officer shall have the right to inspect all or any part of the extractive industry or mining operation.

#### 7. Junkyard

- i. A junkyard shall have a minimum lot size of twenty (20) acres.
- ii. A junkyard or any part thereof, shall not be located closer than five hundred (500) feet from a residential property.
- iii. No storage area shall be located within:
  - i. One hundred (100) feet of any adjoining property line;
  - ii. One thousand (1,000) feet of any public park, church, educational facility, nursing home, public building, or place of public gathering;
  - iii. One thousand (1,000) feet of any stream, lake, pond, NYS DEC or Federal wetland, or other body of water; or
  - iv. One hundred (100) feet from the right-of-way of any public highway.
- iv. Fencing: A junkyard shall be completely surrounded by a fence eight (8) feet in height which screens the contents from view; such fence must have a gate closed and locked except during working hours. No portion of the fence shall be closer than fifty (50)

- feet to any street or road or body of water. In cases where the applicant can furnish proof that the natural topography or growth of timber or other such natural features are sufficient to accomplish the same results as the required fence, the Planning Board may waive part or all of the fence requirement, provided such substituted natural features are effectively maintained at all times. Storage of any items or materials shall not be visible from outside the fenced area.
- v. Screening: Where a junkyard is or would be visible from a public street or from neighboring properties, the fence provided in Section 11.06, (6), e. shall be of wood or other opaque materials sufficient to screen the junkyard from view.
  - vi. All wrecking and other operations of a junkyard shall be conducted completely within the fenced area.
  - vii. Burning: No materials or items shall be burned in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR Part 215).
  - viii. Burying: No materials or items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR Part 360).
  - ix. Approved Junkyard Items: No items shall be stored in any storage area other than those items specified on a Special Use Permit approved by the Planning Board pursuant to this Ordinance (e.g. scrap metal, automobiles, equipment, etc.). The applicant shall clearly list all types of materials that they wish to accept, process, and store on the property in their Special Use Permit application; and shall provide the Planning Board with a copy of all required licenses and permits from any NYS agency.
8. Manufactured Home Park
- a. Applications for a Special Use Permit shall include proposed methods of providing sanitary waste collection and disposal (as approved by the Cayuga County Health Department); potable water supply (as approved by the Cayuga County Health Department); fire protection; refuse collection; adequate drainage including a Storm Water Pollution Prevention Plan (if required); electrical service; mail delivery; snow removal; and any additional items the Planning Board may deem necessary.
  - b. Construction and Design Standards:
    - i. Size. A Manufactured Home Park shall comprise an area of not less than ten (10) acres.
    - ii. Setbacks. No Manufactured Home Park office or service building shall be closer than one hundred (100) feet from any property line. Each residential unit shall have a minimum front setback (measured from the edge of the road within the park) of twenty (20) feet and a minimum rear setback of fifteen (15) feet.
    - iii. Spacing. There shall be a minimum spacing of thirty-five (35) feet between residential units.
    - iv. Density. The number of residential units shall not exceed six (6) per gross acre of the Manufactured Home Park.
    - v. Screening. Manufactured Home Parks shall be screened from neighboring properties as specified in Article X.

- vi. Streets. Whether public or private, all streets in a Manufactured Home Park shall be constructed to meet the Town's standards for public streets.
  - vii. Layout. The layout and design of individual sites, streets, and recreation areas must preserve, as much as practical, the existing topography to include features such as mature trees, rock outcroppings, or other significant and beneficial aesthetic features.
  - viii. Ground Cover. Exposed ground surfaces shall be protected with grass, plant material, or any other material approved by the Planning Board for the prevention of erosion and the elimination of dust.
  - c. Zoning Permit Required. There shall be no construction or installation of a manufactured home without first securing a Zoning Permit from the Code Enforcement Officer, after prior approval has been granted by the Planning Board for a Special Use Permit to the Manufactured Home Park owner or operator.
9. Multi-Family Dwelling. Development applications for newly constructed multi-family dwelling units shall meet the following:
- a. All dwelling units and structures shall comply with the standards set forth in the NYS Uniform Fire Prevention and Building Code. Said standards shall take precedence to this Zoning Code should there be a conflict.
  - b. There may not be less than two and not more than eight units in a single- or two-family attached dwelling group.
  - c. No driveway or parking lot should be closer than twenty-five (25) feet to the front of any building or ten (10) feet to the side or rear of any building.
  - d. In the case of an enclosed garage or carport provided as a portion to the main structure, distance requirements for driveways providing access to these accommodations shall not apply.
  - e. Buildings shall not have large or long continuous wall or roof planes. Varied roof heights, projecting bays, gables, recesses, porches, and other architectural design elements shall be used to visually divide larger buildings. To prevent an out-of-scale, monolithic appearance, buildings shall be visually divided into smaller sections no longer than fifty (50) feet in length by gaps, recesses, or other architectural devices in such a way that adjacent buildings and facades define a continuous street wall and pedestrian-friendly streetscape.
  - f. Accessory structures, such as clubhouses, pools, pool buildings, storage buildings, and trash enclosures, shall be located in a manner that does not disturb or encroach upon the streetscape (pedestrian walkways, roadways, etc.) or adjacent residential neighborhoods.
  - g. Parking areas may be located in any setback other than the front setback, but no closer than twenty (20) feet from any property line and shall comply with all other regulations of the district in which the use is located.

10. Nursing and Convalescent Home. In the Low-Density Residential (L-R) and Medium-Density Residential (M-R) districts the following criteria shall be met:
  - a. In addition to the requirements set by New York State, Nursing/Convalescent Homes shall meet the following standards:
    - i. The minimum lot area shall be 3 acres.
    - ii. All buildings shall not be less than 100 feet from any lot line.
11. Outdoor Storage. The following requirements shall apply to all non-residential uses:
  - a. Outdoor storage shall not be allowed in the front setback;
  - b. Outdoor storage shall not occupy more than 15% of the entire lot area;
  - c. All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way, or adjacent residential districts or uses;
  - d. Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public access ways; and
  - e. All screening shall be maintained in such a manner as to present a neat and orderly appearance at all times.
12. Radio/Television Studio
  - a. All dimensional requirements as provided in Article VI for the district in which the proposed use is located shall apply to all proposed buildings and structures.
  - b. All proposed antennae, towers, and transmission equipment shall meet the requirements set forth in Article XV for Telecommunications Facilities.
13. Recreation- Outdoor. In the Conservation (CS) district the following criteria shall be met:
  - a. No new structures shall be built unless the building is a replacement in-kind of an existing building that will be demolished for the project. In such case, the building footprint shall not be enlarged and the structure must be elevated above the Base Flood Elevation determined by FEMA as indicated on the Flood Insurance Rate Map (FIRM) for all areas in the Special Flood Hazard Areas designated as Zone AE.
  - b. Floodway Areas in Zone AE, as indicated on the FIRM map, shall be kept free of all encroachments by any structures as required by FEMA.
  - c. Outdoor recreational activities and facilities shall be permitted only where it can be demonstrated that the use will not require removal of existing vegetation or regrading of the property which would lead to an increase in stormwater runoff from the site or an increase in flooding potential. The Planning Board will require the applicant to provide a Storm Water Pollution Prevention Plan (SWPPP) prepared by a licensed engineer in the State of New York if any grading of the site is proposed, regardless of overall disturbance area.
  - d. Every attempt shall be made by the applicant to maintain the subject property in its natural state to the fullest extent possible in order to prevent future flooding or degradation of the landscape.

- e. The Planning Board shall consider proposed outdoor recreational uses in the Conservation District on a case by case basis. All proposed uses, if approved by the Planning Board, shall meet the purpose and intent of the District as described in Article 4, Section 4.01, 6.
14. Recreational Vehicle Park/ Campground. Recreational Vehicle Parks or Campgrounds shall meet the following standards:
- a. Campgrounds shall comply with New York State laws governing health. In particular, a safe supply of water and adequate disposal of human wastes and garbage shall be provided and approved by the Cayuga County Health Department.
  - b. No part of any camp shall be closer than 500 feet to any residence.
  - c. Such use shall have a minimum of twenty (20) acres.
  - d. Such uses shall not produce noise levels incompatible with the neighborhood community in which they are to be located.
  - e. Suitable landscaping shall be provided along all property lines and shall be subject to the approval of the Town Planning Board.
  - f. Suitable off-street parking, in accordance with this Ordinance and any special considerations as stipulated by the Town Planning Board, shall be provided.
  - g. Activities shall not be carried on, or building located, within fifty (50) feet of any property line, except for vehicle ingress and egress to the site.
  - h. Adequate provision shall be made for refuse disposal, sanitary facilities and operation, water supply and sewage facilities, and shall be subject to approval by the Cayuga County or other Health Department having jurisdiction.
  - i. Any customary commercial activity or use, such as the sale of food and drink, shall be clearly accessory to the principal use, both in the amount of area utilized and the intent of the use.
  - j. Lighting shall be arranged so as to avoid any undue glare onto adjacent or nearby properties.
  - k. Plans shall be submitted to the Planning Board showing the size, type and location of buildings and other structures on or to be constructed on the premises, and such plans shall show the proposed location and type of use.
15. Solar Energy System, Utility Scale.
- a. All Utility Scale Solar Energy Systems shall meet the requirements of Article X, Section 10.04.
16. Solid Waste Transfer Station. Solid Waste Transfer Stations shall meet the following requirements:
- a. General Requirements:
    - i. Location: Solid waste transfer stations may be located only in the Agriculture (A) Zoning District.

- ii. Lot Size: Minimum lot size shall be 20 acres. The Planning Board may require a larger minimum lot area and road frontage if necessary to safely accommodate the nature and scale of the proposed use.
  - iii. Other Agency Approvals: The applicant, prior to applying for a special use permit under this Ordinance, shall have applied for and satisfied all required federal, state and county permits. The applicant shall have been issued all permits required by federal, state and county governments for the processing of solid waste at the site prior to the issuance of a special use permit pursuant to this Ordinance.
  - iv. Setbacks and buffers: Buildings shall be located no closer than fifty (50) feet from any property line where the adjacent property is a non-residential use. Buildings shall be located no closer than five hundred (500) feet from any property line where the adjacent property is a residential use. Adequate and reasonable natural buffer areas and/or screening shall be provided to protect adjacent properties from possible detrimental impacts. Screening may include year-round opaque vegetation, constructed fencing, or a combination thereof. The type, location, and dimensions of the buffer or screening shall be determined by the Planning Board.
  - v. Traffic: Access to the facility shall be adequate for the estimated traffic from public streets so as to ensure the public safety and to avoid traffic congestion. The operator of the facility shall also provide a plan to mitigate any other impacts that may arise as a result of the solid waste transfer station operation in accordance with the Town of Mentz Local Law #2 of 2018 Road Preservation Law, as may be amended.
- b. Conditions:
- i. The operator of the solid waste transfer station shall at all times be in compliance with all federal, state, county and town laws, provisions of use permits, ordinances, rules and regulations, storage, processing and disposal of solid waste.
  - ii. The applicant shall provide a description of all material to be transferred, stored and processed on the site, in addition to providing a general operating plan as part of the site plan review.
  - iii. The applicant shall provide the Planning Board with a copy of all required licenses and permits from any New York State agency.
  - iv. No solid waste will be maintained permanently on site.
  - v. Tipping and processing of solid waste shall only occur in enclosed structures.
    - (A) Outdoor storage of solid waste and/or processing of solid waste is prohibited.
    - (B) Process residue may be stored in secured containers for which the size and location has been approved by the Town.
    - (C) All containers shall be weather- and waterproof and covered at all times.
  - vi. No outdoor storage area shall be located within:
    - (A) One hundred (100) feet of any adjoining property line;

(B) One thousand (1,000) feet of any public park, church, educational facility, nursing home, public building, or place of public gathering;

(C) One thousand (1,000) feet of any stream, lake, pond, NYS DEC or Federal wetland, or other body of water; or

(D) One hundred (100) feet from the right-of-way of any public highway.

vii. The Planning Board may limit hours per day of operation upon a finding that such a limit is necessary.

viii. Adequate provision shall be made for the collection and disposal of stormwater runoff, sewage, refuse and other liquid, solid or gaseous waste which the proposed use will generate.

ix. The Planning Board may impose such other reasonable conditions and restrictions as it shall deem appropriate.

c. Restrictions:

i. None of the following types of refuse may be deposited at the solid waste transfer station: chemicals which are of a caustic or toxic nature or which are harmful to human health, explosives, flammable liquids, radioactive materials, septage, motor vehicles or any single part thereof exceeding 100 pounds in weight.

(A) For the purposes of this Section, refuse shall mean anything intended to be deposited at any site with the solid waste transfer station.

(B) For the purposes of this Section, septage shall mean the contents of a septic tank, cesspool or other individual sewage treatment facility, which received domestic or commercial sewage, wastes.

ii. The daily operation schedule shall be determined so as to not to interfere with private sector home life in the immediate vicinity of the site.

#### 17. Wind Energy Systems

a. All Wind Energy Systems shall meet the requirements of Article IX.

#### 18. Wireless Telecommunication Facility

a. All Wireless Telecommunications Facilities shall meet the requirements of Article VII.

## **Article XII. Non-Conformities**

### **Section 12.01 - Continuation**

- A. The lawful use of any structure or land existing at the effective time of this Ordinance may be continued although such use does not conform with the provisions of this Ordinance except as otherwise provided in this Article.

### **Section 12.02 - Alteration or Extension**

- A. A use of land or structure which does not conform to the regulations of this Ordinance shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:
1. Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became non-conforming.
  2. Any increase in volume, area, or extent of the non-conforming use shall not exceed an aggregate of more than fifty (50) percent of the area allocated to a non-conforming use during the life of the non-conformity.
  3. Any increase in volume, area, or extent of the non-conforming use shall be in accordance with the other provisions of this Ordinance.
  4. For the purposes of this Section "volume" does not mean volume of business but rather an increase of cubic volume within a structure or on a parcel of land.
- B. A structure which does not conform to the regulations of this Ordinance shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:
1. Such alteration or extension shall be permitted only upon the same lot as in existence at the date the structure became non-conforming.
  2. Any increase in volume or area of the non-conforming structure shall not exceed an aggregate of more than fifty (50) percent of the volume or area of the structure from the date it became non-conforming.
  3. Any increase in volume or area of the non-conforming use shall be in accordance with the other provisions of this Ordinance.
  4. For the purposes of this Section "volume" means cubic volume within a structure.
- C. A conforming use or structure shall not be altered or extended so that it becomes a non-conforming use or structure.

### **Section 12.03 - Restoration**

- A. No structure damaged by fire or other causes to the extent of more than seventy-five (75) percent of its fair market value shall be repaired, reconstructed or used except in conformity with the regulations of this Ordinance. Structure with damage to the extent of seventy-five (75) percent or less of the fair market value may be reconstructed, repaired or used for the same non-conforming use subject to the following provisions:

1. The reconstructed structure shall not exceed the height, area or volume of the damaged structure except as provided by Section 12.02 above.
2. Reconstruction shall begin within one year from the date of the damage and shall be carried on without interruption. Site clearing shall be completed within 60 calendar days from the date of damage.

**Section 12.04 - Abandonment**

- A. Whenever a non-conforming use has been discontinued for a period of eighteen (18) consecutive months, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

**Section 12.05 - Changes**

- A. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to another non-conforming use only under the following conditions:
  1. Such change shall be permitted only by Special Use Permit, under the provisions of Article XII.
  2. The applicant shall show that the non-conforming use cannot reasonably be changed to a permitted use in the district where such non-conforming use is located. The burden of proof is on the owner of the use or applicant for the Special Use Permit being sought.
  3. The applicant shall show that the proposed change will be less objectionable in external effects than the existing non-conforming use with respect to:
    - a. Traffic generation and congestion including truck, passenger car, and pedestrian traffic; noise, smoke, dust, noxious matter, heat, glare, vibration; storage and waste disposal; and appearance.

**Section 12.06 - Displacement**

- A. No non-conforming use shall be extended to displace a conforming use.

**Section 12.07 - District Changes**

- A. 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 non-conforming uses or structures existing or created therein.

**Section 12.08 - Zoning Permit Required**

- A. Zoning permits shall be issued by the Code Enforcement Officer for all lawful non-conforming uses existing at the effective date of this Ordinance. The zoning permit shall include a statement that the use is non-conforming 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. The burden of seeking out and securing a Zoning Permit for a non-conforming use is that of the property owner and not the Code Enforcement Officer.

## **Article XIII. Landscaping, Screening, and Buffering Requirements**

### **Section 13.01 - Purpose and Intent**

- A. The following standards are intended to implement the goals and policies of the Comprehensive Plan by assuring an acceptable extent of buffering between land uses, particularly between residential and non-residential uses, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community, and encouraging preservation of existing natural features. Specifically, these regulations are intended to:
1. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands;
  2. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas;
  3. Provide natural buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors, and other significant environmental features;
  4. Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces, and creating natural wind breaks; and
  5. Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

### **Section 13.02 - Applicability**

- A. These landscaping regulations shall apply to all uses in all districts. More specifically, requirements and procedures shall be as follows:
1. Building permits for construction of new one-family or two-family dwellings in major subdivisions shall require preservation of existing vegetation or planting to provide two shade trees of two-inch caliper at the time of planting for each dwelling. Such tree(s) shall be located outside the public right-of-way in the front yard.
  2. Major residential subdivisions shall be required to submit landscaping plans in accordance with Article XVII of this Ordinance indicating appropriate landscaping of entrances, common open spaces, recreation areas; and perimeter buffer areas.
  3. Development activities requiring site plan approval shall submit, as part of such approval, a landscaping plan in accordance with Article XVI of this Ordinance.
  4. Buffer screening shall be provided along the boundaries of any light industrial or commercial use or off-street parking lot which abuts a residential use; and shall be provided for any Special Use where such screening is required.

**Section 13.03 - General Requirements**

- A. Existing site vegetation and unique site features, such as stonewalls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.
- B. Issuance of a Certificate of Occupancy shall require completion of lot grading, seeding, and required landscaping or posting of a performance guaranty acceptable to the Code Officer if the applicant cannot perform the work due to seasonal impracticalities.
- C. All required landscaping shall be of healthy stock, planted according to accepted horticultural practices. Landscaping plans shall clearly indicate who is responsible for plant maintenance during the first 12 months after planting, and a performance guaranty shall be posted for assuring replacement in kinds of plants, which die or become diseased with in that time.
- D. All required landscaping shall be maintained in healthy condition. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this article shall constitute a violation of these regulations.
- E. All plant material adjacent to parking areas, loading areas and driveways shall be protected by barriers, curbs or other means by damage from vehicles or from stormwater runoff.
- F. Where existing conditions make compliance with these regulations not feasible, the Planning Board, at its discretion, may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.
- G. In cases where the edge of pavement within a public right-of-way does not coincide with the front lot line, the property owner shall landscape the area between the front lot line and the edge of the street pavement.
- H. Trees for screening shall be of species and stock that will provide a visual screen from the ground up, at least 5 feet in height.
- I. Required buffer screening shall consist of a visual screen or obstruction of suitable shrubs, hedges, fences, or wall at least six feet high and shall be maintained in good condition.
- J. Shrubs, hedges, fences, or walls less than six feet tall, along with trees or other plant material designed to enhance the livability and attractiveness of any lot may be located in any yard or court and shall be maintained in good condition.

**Section 13.04 - Landscaping Plan**

- A. Based on the scale and location of the project, the Planning Board shall determine whether the landscaping plan must be prepared by a professional such as a licensed landscape architect or landscape designer. All landscaping plans shall contain the following information:
  - 1. A title block with the name of the project, then name of the person preparing the plan, a scale, north arrow, and date.
  - 2. All existing significant plant materials on the site.
  - 3. Existing and proposed structures.
  - 4. Topographical contours at two-foot intervals.

5. Parking areas.
  6. Access aisles.
  7. Drainage patterns.
  8. Location, size, and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be removed.
  9. Other information as may be required by the Code Enforcement Officer and/or the Planning Board.
- B. Alternative landscaping plans may be submitted, provided that they meet the purpose and intent of these regulations.

## Article XIV. Off-Street Parking and Loading

### Section 14.01 - Intent

- A. The intent of this article is to prevent or alleviate congestion on public streets and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces.

### Section 14.02 - Applicability

- A. In all districts, every use shall provide, at the time of any change of use or when any building or structure is erected, enlarged or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations, especially site plan approval in accordance with Article XVII and landscaping with Article XIII.
- B. Loading spaces shall be provided and maintained on the same premises with every building or structure erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles of material or merchandise. No such activity shall use public right-of-way or parking area for standing, loading, and unloading services.

### Section 14.03 - Location of Required Spaces

- A. Parking and loading spaces shall be located in accordance with the following:
1. For single-family and two-family dwelling units off-street parking shall be provided on the same lot with the building it serves.
  2. For multi-family dwellings, required off-street parking shall be located as close to the use as possible, given site conditions, and in no case more than 200 feet from the building it is required to serve.
  3. The location, dimensions, and signage of handicapped parking shall meet the requirements of the New York State Uniform Fire Prevention and Building Code.

### Section 14.04 - Required Off-Street Parking and Loading Spaces

- A. Parking Space. The following off-street parking provisions, provided in Section 14.04, Table 3, shall constitute the minimum space required for the following buildings and uses hereafter erected, converted, or otherwise established in any district.

Table 3: Town of Mentz Zoning Required Parking	
Use Types	Number of Spaces
Agriculture	No public parking required. Spaces for workers, as necessary shall be provided.
Animal Care Facility	1 space per 150 square feet of gross floor area.
Apartment	1 space per dwelling unit.
Automobile Service Station	1 space per 150 square feet of gross floor area.
Bed and Breakfast	1 space per guest bedroom, plus one additional space per employee on the premises at one time.

<b>Table 3: Town of Mentz Zoning Required Parking</b>	
<b>Use Types</b>	<b>Number of Spaces</b>
Cultural Establishment	1 space per 4 fixed seats.
Day Care Facility	1 space for every 6 children/adults, plus 1 additional space per employee on the premises at one time.
Farm Stand	A sufficient number of off-street parking spaces to accommodate the maximum number of stopping vehicles at any one time, but in no case fewer than three (3) such spaces.
Gasoline Station	1 space or every 500 square feet of store and business office space. Each pump station may be considered as a parking space.
Home Occupation	2 spaces in addition to the requirements for the dwelling.
Hotel or Motel	1 space per room, plus 1 space per employee on the premises at one time.
Light Industrial Uses, including Food Processing	1 space per 1,000 square feet of gross floor area, plus 1 additional space per employee on the premises at one time.
Manufactured Home Park	1.5 spaces per dwelling unit.
Multi-Family Dwelling	1.5 spaces per dwelling unit.
Nursing or Convalescent Home	1 space for every 4 patient beds.
Personal Service Shop	1 space per fixed seat, plus 1 additional space per employee on the premises at one time.
Recreation- Camp	1 space per dwelling or campsite, plus 1 space per 250 square feet of gross floor area of public or common area buildings, plus 1 additional space per employee on the premises at one time.
Recreation- Indoor	1 space per 200 square feet of public use area, plus 1 additional space per employee on the premises at one time.
Recreation- Outdoor	6 spaces per gross acre, plus 1 space per 250 square feet of gross floor area, plus 1 additional space per employee on the premises at one time.
Religious Institution	1 space per 4 fixed seats.
Restaurant or Drinking Establishment	1 space for each 50 square feet of floor area devoted to customer uses, plus 1 additional space for each employee on the premises at one time.
Retail Business Establishment	1 space per 150 square feet of gross floor area.
School, Public or Private	5 spaces per classroom, plus 1 additional space per office.
Single-Family Dwelling	2 spaces per dwelling unit.
Shopping Center	4.5 spaces per 1,000 square feet of gross floor area.
Two-Family Dwelling	2 spaces per dwelling unit.
Other Uses	1 space per 500 square feet of gross floor area devoted to public/patron use; plus one space per employee on the premises at one time.

B. 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 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 14.05 - Alternate Parking**

- A. The collective provision of off-street parking areas for two or more buildings or uses located on adjacent lots is permitted. Unless it has been demonstrated that joint use is appropriate in accordance with Subsection C below, the total of such off-street parking facilities shall not be less than the sum required for the various buildings or uses computed separately. Furthermore, the land upon which the collective facilities are located must be owned or leased by one or more of the collective users.
- B. Off-site parking. Off-site parking meeting the location requirements of Section 14.04 may be used to meet the requirements of this Section. Such off-site parking shall be subject to deed, lease or contract restrictions acceptable to the Municipal Attorney binding the owner, heirs or assigns to maintain the required number of spaces available throughout the life of such use.
- C. Joint use. The off-street parking requirement of two or more use, structures, or parcels of land may be shown by the owners or operators of the uses, structures, or parcels that their operations and parking needs do not overlap at any point in time. If the uses, structures, or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract, or other appropriate written document to establish the joint use.

**Section 14.06 - Non-Conforming Parking and Loading**

- A. Neither building or lot alterations, nor change of use shall be allowed which would increase the degree of non-conformity with the off-street parking and loading regulations of this Article.

**Section 14.07 - Design Standards for Off-Street Parking**

- 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. Each space shall have an all-weather surface, which may consist of gravel, crushed stone, concrete, or black top.
- B. Driveways and parking areas for nonresidential uses except home occupations shall include, within the property lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto the street.
- C. All illumination on parking lots shall be shielded so as not to produce a strong dazzling light upon abutting properties.
- D. The size of standard perpendicular off-street parking spaces shall be a minimum of ten feet wide by 20 feet long.
- E. Off-street parking areas shall include landscaping in accordance with Article XIII.

- F. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures, or fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.
- G. All off-street parking areas of more than 20 spaces shall provide a snow-storage area independent of required parking and loading areas.
- H. No driveway to an off-street parking area shall be located closer than 50 feet to the intersection of any two streets or within 20 feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway. The distances from the driveway to the intersection shall be measured by extending the curb-line of the intersecting street until it intersects the curb-line, extending if necessary of the driveway in question.
- I. Driveways shall be designed to provide for the safe and efficient movement of traffic between the roadway and the site, to eliminate the potential for stacking of vehicles along the public right-of-way and to minimize interference with pedestrians and vehicles using the site and the public right-of-way.
- J. Curb cuts for ingress and egress onto existing roadways shall be a maximum of 20 feet for residential uses and 35 feet for non-residential uses. The location and distance between curb cuts and to intersections shall be in accordance with NYS Department of Transportation design standards.

**Section 14.08 - Design Standards for Loading Facilities**

- A. Required loading spaces shall be 12 feet by 35 feet, with a fourteen-foot height clearance. If tractor-trailer deliveries are expected, at least one loading space 12 feet by 55 feet shall be provided.
- B. All required loading areas shall be independent of required of required emergency access lanes, parking areas and drive-in queuing lanes.

## Article XV. Sign Regulations

### Section 15.01 - Administration

- A. Signs requiring a permit. Unless otherwise provided by this Article, all signs regulated herein shall require a permit. All signs must comply with all the regulations contained herein, irrespective of whether a permit is required. Any sign erected without securing a required permit and approval of such shall be considered an illegal sign for the purposes of this Ordinance.
- B. Signs not requiring a permit. The following signs are allowed without a permit, provided they conform to any applicable standards herein provided for the specific type of sign:
1. Decorative banner.
  2. Sandwich board sign.
  3. Flags.
  4. Sign spinner person.
  5. Traffic control device on private property.
  6. Sign on vehicle.
  7. Yard sign.

### Section 15.02 - Definitions

- A. As used in this Article, the following terms shall have the meanings indicated:

**Advertising Sign**: Any sign designed to direct attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.

**Business Sign**: A sign which directs attention to a business or profession conducted or to products sold upon the same lot. A "for sale" sign or a "to let" sign relating to the lot on which it is displayed shall be deemed a "business sign."

**Decorative Banner**: The term defining a banner(s) that is typically within a parking lot or along a public or private thoroughfare or street with a noncommercial copy decorative display, for example, seasons of the year or holidays for appearance and appeal to the public.

**Digital Sign**: The term defining an electronic message board used as a sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means that meets the sign regulations of this Ordinance.

**Flag**: The term defining any fabric, banner or bunting containing distinctive colors, patterns or symbols, which is mounted on a pole, and used as a symbol of government, political subdivision, institution, cause, event, group, activity, business or other similar entity. This definition does not include the use of flags for advertising such as, but not limited to, pennants, streamers and air induced figures.

**Flashing Sign**: Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity or color at all times when in use.

**Illuminated Sign:** Any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

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

**On-Premises Sign:** A sign which directs attention to a person, business, home occupation, or activity conducted on the same lot.

**Projecting Sign:** The term defining any sign affixed to any building or wall whose leading edge extends more than 12 inches beyond such building or wall, regardless if the sign can be read from one side or both sides.

**Sandwich Board:** The term defining a sign located in front of a business and advertising such business, which is two sided, movable and not secured or attached to the surface upon which it is located and constructed in such a manner to form an "A" with a message or copy permitted on both sides. This term also includes "A-frame sign."

**Sign:** Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is to be in the nature of an announcement, direction or advertisement. A "sign" includes any billboard. A "sign" does not include temporary real estate "for sale", A-shaped signs, political campaign signs, or paper posters announcing temporary events, provided that such are not in excess of four square feet (length by width).

**Sign Appurtenances:** The term defining items such as, but not limited to, balloons, flags, or streamers used to draw attention to a temporary sign.

**Temporary Sign:** The term defining an attached or freestanding sign, banner, pennant or advertising display on the premises of what the sign is advertising as required and limited to be displayed as regulated by this Ordinance, for display, sales, specials, special events, promotions, holidays, auctions, business grand openings, and signs advertising the lease or vacancy of commercial space or residential units. Symbols, figures, balloons and other similar items shall be interpreted as temporary signs.

### **Section 15.03 - Sign Area**

- A. The area of a sign shall be construed 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 and 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, building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- D. In computing square foot area of a double-faced sign, only one side shall be considered, provided that both faces are identical.

**Section 15.04 - Permitted Signs**

A. No sign or other advertising device shall be permitted except as follows:

B. On-premises signs.

1. Agricultural tourism and seasonal agricultural uses seasonal signs may be erected for a limited period of time during the year when retailing activities for a particular farm product are available to the public. Signs for uses no longer being offered to the public shall be removed within 30 calendar days of the cessation of the activity.
2. Bulletin or announcement boards 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 32 square feet and not more than one such sign shall be placed on property held in single and separate ownership, unless such property fronts on more than one street, in which case, one such sign may be erected on each street frontage.
3. Identification signs for a housing development or apartment house, provided that the area of any such sign shall not exceed 32 square feet and not more than one such sign shall be erected for any one project, unless such project fronts on more than one street, in which case one such sign may be erected on each street frontage.
4. 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, and further provided that not more than one such sign shall be placed on property held in single and separate ownership, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
5. Memorial signs or tablets.
6. Official traffic signs and other official federal, state, county or Town government signs.
7. 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 16 square feet and not more than two such signs shall be placed on property held in single ownership, unless such property fronts on more than one street, in which case two such signs may be erected on each street frontage.
8. Signs advertising the sale or rental of property, provided that the area of any such sign shall not exceed six square feet and not more than one such sign shall be placed on property held in single and separate ownership, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage. Such signs shall be removed upon final settlement or renting a property.
9. Signs denoting membership in agricultural associations, cooperatives or indicating specialization in a particular breed of cattle, hogs, etc., or in particular hybrids or strains of plants. Such signs may also include the name of the farm or owner.
10. Signs displaying the name and address of the occupant of a dwelling, provided that the area of any such sign shall not exceed three square feet and not more than one such sign shall be erected for each dwelling unit, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.

11. Trespassing signs, signs indicating the private nature of a road, driveway or premises and signs controlling fishing or hunting on the premises, provided that the area of any such sign shall not exceed four square feet.

C. Off-premises signs.

1. Off-premises signs which are used for directing patrons, members or audiences to service clubs, churches or other nonprofit organizations, 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 such sign shall be erected prior to each intersection turning movement necessary to reach such facility.
  - c. Signs shall not exceed four square feet in area, except for cooperative displays by more than one organization, in which case the maximum size shall be 16 square feet.
2. Signs directing patrons, members or audiences to temporary exhibits, shows or events and signs erected in conjunction with a political election, subject to the following requirements:
  - a. No such sign shall exceed 16 square feet in area.
  - b. Signs shall be removed within one week after the date of the exhibit, show, event, or election.
  - c. No such sign shall be posted earlier than one 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.
4. Off-premises advertising signs shall be permitted in the Commercial (C) and Agricultural (A) Districts, subject to the following requirements:
  - a. Location. Off-premise advertising signs may be allowed on NYS Route 31, NYS Route 38, and the NYS Thruway provided that provisions of this ordinance are met; and any necessary permits from NYS DOT are obtained by the applicant.
  - b. Size.
    - i. The areas of any off-premise advertising sign shall not exceed one square foot for each linear foot of lot frontage; however, in no case shall the area of any sign exceed 200 square feet.
    - ii. A maximum of two (2) faces per sign structure is allowed, positioned either back-to-back or v-shaped, such that only one (1) face is allowed per side. Both sides of a double-faced or v-shaped sign shall be of equal size. In no case shall there be more than one face per directional flow of traffic.
  - c. Height. No off-premise advertising sign shall exceed twenty-five (25) feet in height, measured from the top of the sign to the finished grade below the sign.
  - d. Setbacks. Minimum setback distances for off-premise advertising signs shall be as follows:
    - i. Ten (10) feet from the edge of any road right-of-way.

- ii. Twenty (20) feet from the edge of the pavement of a road if no right-of-way exists.
  - iii. Twenty-five (25) feet from property lines other than as provide in i. or ii. Above.
  - iv. In all cases, all signs shall be located outside of all sight visibility triangles in accordance with Article VI, Section 6.01, J of this ordinance.
  - e. Not more than one (1) off-premise advertising sign shall be placed on any one property held in single and separate ownership, unless such property has frontage on more than one road, in which case one (1) off-premise advertising sign may be placed on each road frontage.
5. Off-premises signs which are used for directing persons to principal uses in the Town may be erected in the Commercial (C) and Agricultural (A) Districts in accordance with the following requirements:
- a. A sign shall indicate only the name and direction of the principal use.
  - b. Only one such sign shall be erected prior to each intersection turning movement necessary to reach such principal use and not less than 50 feet from such intersection.
  - c. No more than four directional signs shall be erected in the Town for any one principal use.
  - d. Signs shall not exceed 32 square feet in area.
  - e. Signs shall be no closer than 15 feet to a side lot line and shall not be located within the street line.
  - f. Signs shall not exceed 20 feet in height.

#### **Section 15.05 - Temporary Signs**

- A. A temporary sign may be permitted, where displayed for a limited period of time, in accordance with the standards of this Article.
- 1. General standards.
    - a. Temporary use only. No permitted temporary sign shall be used as a permanent sign.
    - b. Maximum duration. No frame, structure, or device intended solely for the purpose of display of a temporary sign shall be in place for longer than the maximum duration of display permitted by this section.
  - 2. Banner sign. A banner sign is permitted in accordance with the following standards:
    - a. Material. Banners shall be of canvas, nylon, or flexible plastic material.
    - b. Sign surface area. The maximum size of a banner shall be 32 square feet in total area.
    - c. Setback. A freestanding banner sign shall be placed no closer than ten feet from the back of curb or edge of pavement, unless anchored to a building or structure wall or otherwise provided by this Article.
    - d. Duration of display. A banner sign shall be displayed for a maximum duration of 14 calendar days. Any extension beyond the permitted 14 calendar days may be considered by written request to the Town Manager or his/her designee. Such

- extensions shall be made to a date certain or for a specific number of up to 30 calendar days. No more than five temporary sign permits for banners at the same business or service shall be permitted in a single calendar year, with a minimum of 30 calendar days between the display of approved banner signs.
- e. Anchoring. A banner sign shall be temporarily secured to prevent such sign from creating a hazard due to high winds or storms. It is the responsibility of the business owner to secure such sign.
  - f. Maximum quantity. No more than one banner sign shall be permitted at any time.
3. Construction sign. A construction sign to provide information about a site or subdivision development under construction, on the property on which the sign is located, shall be permitted in accordance with the following standards:
- a. Sign surface area. A construction sign shall not exceed 32 square feet per side. Where a site or subdivision development under construction is enclosed within a temporary construction fence, signage may be utilized as a fence wrap. Such signage shall be exempt from the maximum square footage requirement of this section.
  - b. Maximum height. The maximum height of a construction sign shall be ten feet.
  - c. Duration of display. Erection of construction signs shall be permitted after issuance of the required sign permit and no sooner than the date of the site plan or building plan submittal for the project. Such signs shall be removed within 30 calendar days of the issuance of the certificate of occupancy for a site or for the last structure in a subdivision development.
  - d. Maximum quantity. No more than two freestanding construction signs shall be permitted at any time.
  - e. Applicability. This section is intended to regulate signs visible from the public right-of-way and does not include informational signs interior to the site.
4. Sandwich board sign. A sandwich board sign is permitted in accordance with the following standards:
- a. Sign surface area. A sandwich board sign shall not exceed six square feet per side and a total aggregate of 12 square feet.
  - b. Maximum height. Such signs shall not exceed 42 inches in height.
  - c. Clearance. The location of a sandwich board sign shall not interfere with pedestrian movement.
  - d. Duration of display. Such signs shall be displayed during business hours only and shall be removed and placed inside the premises during hours when the business is not in operation.
  - e. Anchoring. A sandwich board sign shall be temporarily secured to prevent such sign from creating a hazard due to high winds or storms. It is the responsibility of the business owner to secure such sign.
  - f. Maximum quantity. One sandwich board sign is permitted per business or establishment.

5. Sign on vehicle. The use of vehicles and/or trailers, as defined in Article II of this Ordinance, for the display of advertising signs is permitted in accordance with the following standards:
  - a. Off-Street Parking Requirements. When a vehicle and/or trailer is used for the display of advertising signs, such vehicle or trailer shall be located on an improved off-street parking lot in accordance with the following standards: A. Location on same property. A vehicle or trailer used for the display of advertising signage shall be located on the same property as the business or service use for which the signage is intended. B. Distance from public right-of-way. No vehicle or trailer used for the display of advertising signage and parked for a period exceeding eight consecutive hours shall not be located within 50 feet of a public right-of-way.
  - b. Signs not intended for vehicle use prohibited. In no case shall banners or other similar signs not intended for vehicle use be placed on, secured to, or otherwise attached to a vehicle or trailer.
  - c. General business & service use vehicle exemption. Vehicles with and/or trailers operating on public rights-of-way, at construction or service sites, performing pickups and deliveries, parking at business locations and other similar activities associated with a business or service and used in the daily operation of the business or service are not subject to these regulations.
6. Sign spinner. A sign spinner, holding an advertising or similar promotional sign for a business and using movement, including but not limited to holding, rotating, spinning or walking, to attract attention to the general public, may be permitted in accordance with the following standards, unless otherwise regulated by this Article.
  - a. Location. The sign spinner shall be clearly located on private property and in front of the business for which the sign is advertising, and shall not interfere with required vehicular or pedestrian travel ways on such private property.
  - b. Prohibited in public right-of-way. A sign spinner is prohibited in a public right-of-way. Public right-of-way includes the thoroughfare or street and the public sidewalk.
  - c. Violation. If sign spinner, and/or business utilizing a sign spinner, is found to be in violation of the provisions of this subsection, notice may be provide by personal notice to the sign spinner or business owner, or by first-class mail to the business owner, requiring an immediate cease of advertising using the sign spinner.
7. Temporary sign with appurtenances. Appurtenances, balloons or streamers used to draw attention, associated with temporary signs are permitted in accordance with the following standards:
  - a. Surface area & size. Balloons used as appurtenances shall be no larger than 12 inches in diameter or one cubic foot. Streamers used as appurtenances shall not exceed a length of three feet in any direction or a maximum of four square feet.
  - b. Maximum height. Appurtenances shall be displayed such that no portion of such features exceeds a height of eight feet above the finished grade on which the temporary sign is located.

- c. Setback. Appurtenances shall be set back a minimum of seven feet from the back of curb or edge of pavement, whether or not the associated temporary sign is permitted to have a smaller setback.
  - d. Duration of display. Appurtenances shall be displayed during business hours only, shall be removed during hours when the business is not in operation and shall not include any message or copy.
  - e. Maximum duration. Appurtenances shall be permitted for a maximum duration of 14 calendar days, whether or not the associated temporary sign is permitted for a longer period of time.
  - f. Anchoring. Appurtenances shall be temporarily secured to prevent creating a hazard due to high winds, storms or otherwise. It is the responsibility of the business owner to secure such sign in a manner that creates a safe environment of vehicular and pedestrian movement and does not create an obstruction on a sidewalk.
  - g. Maximum quantity. There shall be no more than four appurtenances total per temporary sign.
8. Yard sign. Yard signs shall be permitted in accordance with the standards provided herein, and typically include but are not limited to yard sale signs, political signs and real estate signs.
- a. Sign surface area. The total aggregate sign surface area of all yard signs on a zoning lot or parcel shall not exceed 12 square feet.
  - b. Maximum height. The maximum height of a yard sign shall be 42 inches, measured from the finished grade to the top of the sign.
  - c. Duration of display. A yard sign(s) shall be removed within 14 calendar days of the termination of the event.

**Section 15.06 - On-Premises Signs in the Commercial District**

- A. On-premises signs permitted in the Commercial (C) District identifying a business or industry shall be as follows:
- 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 two square feet in area for each one linear foot of front building wall.
  - 2. One freestanding sign for each street frontage of a lot, provided that the total area of such sign shall not exceed one square foot for each linear foot of lot frontage up to a maximum of 50 square feet.
  - 3. Special temporary promotional devices, signs, or displays such as banners and pennants.

**Section 15.07 - Restrictions**

A. The following requirements shall apply to all signs:

1. Sign illumination. Illumination of signs is determined based on the specific type of sign proposed. Where permitted in accordance with the sign type proposed, whether illuminated internally or externally, the following standards shall be met:
  - a. Shielding. External lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine or provide glare directly into the public right-of-way or onto adjacent property.
  - b. Wiring. All wiring for signs and lighting equipment signage shall be installed underground and internally for free standing signs and internally from building walls for attached signs.
  - c. Flashing or intermittent lighting. No sign shall contain or be illuminated by flashing or intermittent light, or by lights of changing degrees or intensity, regardless of the type of sign for which it is intended. This shall not apply to digital signage, as otherwise regulated by this Article.
2. Changeable copy & digital signage. Changeable letters or messages on a sign are permitted by manual attachment and removal or digitally.
  - a. Manual changeable letters. A sign using manual changeable letters/message shall not exceed 25 percent of the permitted sign surface area.
  - b. Digital display. The use of digital display, or changeable letters or message, shall be permitted on freestanding signs only and shall be in accordance with the following provisions:
    - i. Supplemental use. Digital display is permitted as a supplemental means of conveying a message using LED lighting or equal on permanent freestanding signs.
    - ii. Maximum surface area. The property on which the sign is located shall be limited to one digital display area, which shall not exceed 25 percent of the freestanding sign surface area whether a single-sided or double sided sign.
    - iii. Message or copy cycle. The message or copy changes or alteration shall operate at not less than a 90-minute cycle. Movement of any image, scrolling, flashing, change of light intensity and the like shall only occurring during message change cycle, which shall be limited to five seconds.
    - iv. Off-premises signage. The provisions for digital display cannot be utilized for the purpose of off-premises signage, as permitted by this Article, except where provided for the purpose of public safety or public information by a governmental entity.
3. No sign shall project more than 12 inches out from the wall to which it is attached. Signs not exceeding two square feet in area may be attached perpendicular to a building face if attached to and below a canopy projection from said building.
4. No sign shall be located within 10 feet of any property line except signs permitted in Section 15.04, B, 6 and 10; or Section 15.04, C, 3 herein.

5. No sign shall be located in the street lines except signs permitted in Section 15.04, B, 6 or Section 15.04, C, 3 herein.
6. Signs shall not project above the height limit permitted in any district in which they are located.
7. All signs except temporary signs shall be constructed of durable material and kept in good condition.
8. Nonconforming signs, once removed, shall be replaced only with conforming signs; however, nonconforming signs may be repainted or repaired, provided that such repainting or repair does not exceed the dimensions of the existing sign.

**Section 15.08 - Prohibited Signs**

- A. Prohibited signs are signs that have been erected that do not meet the standards of this Article, signs that are not maintained or have been abandoned, signs that are determined to be dangerous and cause distractions by the passing motorist and/or any other unsafe condition that a sign may create affecting the public safety and welfare of the Town. Additionally, the following signs are expressly prohibited within the Town of Mentz:
1. Abandoned sign. Any sign not utilized or advertising a business not in operation for a period exceeding 90 calendar days shall be considered abandoned and therefore prohibited.
  2. Flashing & moving sign or device. Except as specifically permitted and approved in accordance with this Article, any moving sign or device designed or used to attract attention, which may or may not including flashing or movement, or devices displaying flashing, intermittent or changing degree of intensity lighting, creating a special effect, beacon, flutter, rotation or other movement, set in motion by movement of the atmosphere or by mechanical, electrical or any other means, shall be prohibited. This includes but is not limited to pennants, propellers, streamers, balloons or other inflatables, banners or discs, spotlights, searchlights and high intensity illuminated signs, except as specifically permitted and approved in accordance with this Article.
  3. Imitation of official sign. Any sign which is a copy or imitation of an official sign, or which purports to have official status is prohibited.
  4. Materials not intended for use as a sign. Any material not intended for use as a sign, including but not limited to tires, shall be prohibited for purposes of signage or advertising, unless expressly provided by this Article.

## **Article XVI. Site Plan Review and Approval**

### **Section 16.01 - Applicability**

- A. Prior to the issuance of a building or zoning permit for any use noted in Section 5.06, Table 1 as requiring site plan review, the Planning Board shall require the preparation and submittal of a site plan for its review and approval in accordance with the standards and procedures set forth in this Ordinance.

### **Section 16.02 - Sketch Plan Conference**

- A. Sketch Plan Conference Required. All applicants for Site Plan Review shall meet with the Code Enforcement Officer and the Planning Board Chair at a regular Planning Board meeting to conduct a Sketch Plan Review, the purpose of which is to review the basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Comprehensive Plan, the requirements in the Zoning Ordinance, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detail plans are made.
- B. Required Data. Information to be included on the sketch plan is as follows:
  - 1. An area map showing the parcel under consideration for Site Plan Review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof, or at the discretion of the Planning Board.
  - 2. A map of site topography at no more than five-foot contour intervals, or at the discretion of the Planning Board, shall be provided. If general site grades exceed 5% or if portions of the site have susceptibility to erosion, flooding, or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.
  - 3. General identification of all existing natural features and utilities on the site and in the area.
  - 4. The location of all existing and proposed structures on the site and designated uses for each.
  - 5. Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site

### **Section 16.03 - Preliminary Site Plan Application**

- A. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Code Enforcement Officer and the Planning Board at a regular Planning Board meeting for the sketch plan conference. All site plan information and building designs shall be prepared by a licensed New York State architect, engineer, surveyor, or landscape architect.

- B. Preliminary site plan checklist. It is important for the Planning Board to have appropriate information tailored to the plan for site development. To accomplish this, a preliminary sketch plan review is conducted to determine those items from the comprehensive list below which will be required for site plan approval. Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist available from the Code Enforcement Officer. The preliminary site plan may include:
1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
  2. North arrow, graphic scale, and date.
  3. Boundaries of the property, plotted to scale.
  4. The location of existing property lines, easements, structures, subdivisions, streets, driveways, permanent open space and natural features (subject to other state or federal regulations which may restrict development) within 200 feet of the proposed site or at the discretion of the Planning Board.
  5. Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project storm water quantities and the resultant peak flow conditions.
  6. Location, proposed use, and height of all buildings.
  7. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
  8. Number, location, design, and construction materials of all parking and loading areas, showing access and egress. Location of reserved parking areas as required by the off-street parking regulations of Article XIV.
  9. Provision for pedestrian access.
  10. Location, dimensions, and vehicle capacity of drive-in facilities and related queuing lanes.
  11. Building elevation(s) showing building massing, window and door spacing and treatments and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
  12. Location, purpose, and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
  13. Location, size, and type of material for any proposed outdoor storage.
  14. Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences.
  15. Description of the type and quantity of sewage expected; the method of sewage disposal and the location, design, and construction materials of such facilities.
  16. Description of the type and quantity of water supply needed; the method of securing water supply, and the location, design, and construction materials of such facilities.
  17. Location of fire and other emergency zones, including the location of fire hydrants.
  18. Location, size, design, and construction materials of all proposed signs.
  19. Location of proposed buffer areas, including existing vegetative cover.

20. Location, design, and construction material of all energy-distribution facilities, including electrical, gas, wind power, solar energy, and other public utility facilities, such as cable or phone service.
  21. Location, type, height, brightness, and control of outdoor lighting facilities.
  22. Identification of permanent open space or other amenities provided.
  23. A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
  24. A landscaping plan and planting schedule in accordance with Article XII.
  25. Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
  26. All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
  27. An agricultural data statement if the proposed use is located on or within 500 feet of a farm operation in the Cayuga County Agricultural District.
  28. For all developments disturbing more than one acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. The owner is required to comply with the NYSDEC's "SPEDES General Permit for Storm Water Discharge from Construction Activity" Permit #GP-02-01 (or as may be revised).
- C. Required fee.
1. The fee schedule will be established by the Town Board and said fee shall be paid when the application is made.

#### **Section 16.04 - Planning Board Review of Preliminary Site Plan**

- A. The Planning Board shall review all preliminary site plans. The Planning Board's review shall include, as appropriate, but is not limited to, general consideration of the following:
1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities.
  2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience. In general sidewalks shall be required along all dedicated roads on lots within 1,000 feet of a school, park, or residential concentration.
  3. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
  4. Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs, and landscaping.

5. Adequacy of storm water calculation methodology and storm water and drainage facilities to eliminate off-site runoff and maintain water quality.
  6. Adequacy of water supply and sewage disposal facilities.
  7. Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering; and to provide required recreation areas.
  8. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
  9. Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
  10. Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television, and phone service.
  11. Making provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof.
  12. In accordance with the Town of Mentz Comprehensive Plan and other planning studies.
  13. Conformance with density, lot size, height, yard and lot coverage and all other requirements of the zoning regulations contained in this Ordinance.
- B. Applicant to attend Planning Board meeting.
1. The applicant and/or their duly authorized representative shall attend the meeting of the Planning Board where the preliminary site plan is reviewed.
- C. Consultant review. The Planning Board may consult with the Town Board, Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.
- D. Public hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Town of Mentz at least ten (10), but not more than thirty (30) calendar days before the public hearing.

#### **Section 16.05 - Planning Board Action on Preliminary Site Plan**

- A. Within sixty-two (62) calendar days after Public Hearing or within sixty-two (62) calendar days after the complete application was filed if no Public Hearing was held, the Planning Board shall act on the application for preliminary site plan approval. This time may be extended by mutual consent of the applicant and the Planning Board. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, or approved with modifications.

- B. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

**Section 16.06 - Final Site Plan Approval Procedure**

- A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- B. The following additional information shall accompany an application for final site plan approval:
  - 1. Record of application for and approval status of all necessary permits from local, state, and county officials.
  - 2. An estimated project construction schedule.
  - 3. A legal description of all areas proposed for municipal dedication.
  - 4. A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created.
- C. If no building permit is issued within one calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

**Section 16.07 - Referral to County Planning Board**

- A. Prior to taking action on the final site plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with Section 239-l, m & n of the New York State General Municipal Law.

**Section 16.08 - Planning Board Action on Final Site Plan**

- A. Within sixty-two (62) calendar days of receipt of the application for final site plan approval, the Planning Board shall make its final decision to either approve or disapprove of the final site plan. This time may be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall submit a written copy of its decision to the Town Clerk, the Code Enforcement Officer, and the applicant within five (5) business days of the Planning Board's decision.

- B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and a copy shall be provided to the applicant.
- C. Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. These notifications shall comply with the time frames in sub-section A. above.

**Section 16.09 - Reimbursable Costs**

- A. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the Planning Board.

**Section 16.10 - Surety**

- A. No Certificate of Occupancy shall be issued until all improvements shown on the site plan are installed or an irrevocable letter of credit, or other form of surety deemed acceptable by the Town Board, has been posted for improvements not yet completed. The form of surety shall be approved as to form by the Town Attorney and as to amount by the Town Engineer. The member of the Planning Board designated to sign approved site plans shall not sign an approved plan until a surety, if required, has been received by the Code Enforcement Officer and approved by the Town Board.

**Section 16.11 - Inspection of Improvements**

- A. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvement. The fees for consultant inspection services shall be paid by the applicant in accordance with Section 16.09.

**Section 16.12 - Integration of Procedures**

- A. Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure pursuant to Article XI of this Ordinance, or the requirements for the subdivision of land in Article XVII of this Ordinance, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this Article with the procedural and submission requirements for such other compliance.

## **Article XVII. Subdivision Regulations**

### **Section 17.01 - Authority for Plat Approval and Compliance with Policy**

- A. Approval of Plats. By the authority of the New York State Town Law, Article 16, §276, §277, §278, and §279; and the resolution of the Town Board of the Town of Mentz, the Planning Board is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to approve preliminary plats within the code enforcement of the Town of Mentz .
- B. Authority to approve cluster development. The Planning Board of the Town of Mentz is further authorized to approve cluster development simultaneously with the approval of a plat or plats and to modify area requirements specified in the Town of Mentz Zoning Ordinance, in accordance with New York State Town Law, Article 16, §278.
- C. Authority to require a reservation land for recreational use. The Planning Board of the Town of Mentz is further authorized simultaneously with the approval of a plat or plats to require the applicant to reserve open space for parks, playgrounds, or other recreational purposes in accordance with the provisions of Article XVII, Section 17.22, K of this Ordinance.
- D. It is the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town of Mentz. This means, among other things that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements.
- E. All proposed lots shall be laid out and of such a size so as to be in harmony with the development pattern of neighboring properties, so that the proposed streets shall compose a convenient system conforming to the Official Map of the Town of Mentz. Lot layout shall also be properly related to the proposals shown on the Comprehensive Plan; and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection, and to provide access of firefighting equipment to buildings. Proper provisions shall also be made for open spaces for parks, playgrounds, or for natural resource protection.
- F. In order that land subdivisions may be made in accordance with this policy, these regulations shall be known as the "Town of Mentz Subdivision Regulations." Failure to notify the Code Enforcement Officer of any conveyance by subdivision shall be a violation of this law and will be enforced by both civil action and financial penalties inclusive of injunctive relief to the effect of terminating such conveyances.

### **Section 17.02 - Applicability and Legal Effects**

- A. Applicability of These Regulations.
  - 1. Any division of a lot into two (2) or more lots, whether new streets, public facilities, or municipal utility extensions are involved or not.
  - 2. Any other land transaction which requires filing of a plat with the Cayuga County Clerk.

3. Note: Consolidation of lots for tax purposes as initiated by land owners and approved by the Cayuga County Real Property Office shall not be considered a Subdivision but shall be required to be registered with the Code Enforcement Officer.

B. Legal Effect: Land-Use Regulations.

1. Whenever any subdivision of land is proposed to be made, and before any site modifications are made, and before any permit for the erection of a structure in such proposed subdivision is granted, the applicant or a duly authorized agent must apply for in writing and receive approval of the proposed subdivision in accordance with these regulations.

C. Legal Effect: Filing Plats with County Clerk.

1. Before any plat or licensed survey map of land in the Town of Mentz is filed with the County Clerk, the plat or licensed survey map must be approved by the Planning Board Chair or the entire Planning Board, as applicable, in accordance with the procedures of this Ordinance and the New York State Town Law, Article 16, §276.

D. Plat Void if Revised After Approval.

1. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat or licensed survey map after approval has been given by the Planning Board Chair or the entire Planning Board and endorsed in writing on the plat or licensed survey map, unless the plat or licensed survey map is first resubmitted to the Planning Board and the Board approves any modifications.
2. In the event that any such Subdivision Plat or licensed survey map is recorded without complying with this requirement, it shall be considered null and void, and the Code Enforcement Officer may institute proceedings to have the plat or licensed survey map stricken from the records of the County Clerk.

**Section 17.03 - Types of Subdivisions and Procedures**

A. General description. The following is a list of key considerations governing the subdivision of land:

1. Subdivision. Subdivisions proposed for the Town of Mentz will be considered either as simple, minor, or major subdivisions.
2. Re-subdivisions. Any change to an existing plat is considered a re-subdivision and thus requires approval of the Town Planning Board in accordance with the procedures of this Article.
3. Surety. The Town Planning Board may require that appropriate surety be posted to assure the project is constructed as designed or to assure that conditions of approval are met.
4. Clustering. The Town Planning Board will consider any proposal for a clustered project, but the Planning Board reserves the right to require clustering to protect environmentally sensitive areas or to preserve open space.
5. SEQR. All proposals require appropriate environmental reviews in accordance with the State Environmental Quality Review procedures.

- B. These regulations recognize three (3) types of subdivisions, which are subject to three (3) different review and approval procedures:
1. Simple Subdivision- Review includes two required submissions by the applicant, review by the Planning Board, and approval by the Planning Board Chair.
  2. Minor Subdivision- Review includes two required submissions by the applicant, may include a public hearing if considered desirable by the Planning Board, and approval by the Planning Board.
  3. Major Subdivision- Review includes three required submissions by the applicant, at least one (1) public hearing by the Planning Board, and approval by the Planning Board.

#### **Section 17.04 - Coordination with County Health Department**

- A. The provisions of the Cayuga County Sanitary Code are in addition to these Subdivision Regulations.

#### **Section 17.05 - Consultation and Reimbursable Costs**

- A. The Planning Board may choose at any point in a subdivision review process to request consultants for review, comment, and advice on any aspect of the approval process, subdivision design, engineering specifications, or other pertinent matters.
- B. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed subdivision or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary subdivision approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the Planning Board.

#### **Section 17.06 - Plat Review of Uncompleted Subdivisions**

- A. The Planning Board may, on direction of the Town Board, review, for the purposes of revision or granting an exemption, any plat within the Town municipal boundaries, already on file with the County Clerk as authorized under the New York State Town Law, Article 16, §276.

#### **Section 17.07 - Definitions**

- A. As used in this Article, the following terms shall have the meanings indicated:

**Applicant**: Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either personally or on behalf of ownership, lessee or building development, and shall include re-subdivision.

**Collector Street**: A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

**Date of Submission:** The date on which a complete subdivision application is considered submitted to the Planning Board. A subdivision application shall not be considered complete until a negative declaration or a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a plat shall begin upon the filing of such negative declaration or such notice of completion, provided that all other required application documentation and information has been submitted to the Planning Board prior to the filing of such negative declaration or such notice of completion.

**Dead-End Street or Cul-de-sac:** A street or portion of a street with only one vehicular traffic outlet.

**Drainage Right-of-Way:** The lands required for the installation of stormwater sewers or drainage ditches or field tiles are required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

**Major Street:** A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

**Major Subdivision:** Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots or any sized subdivision requiring a new street or extension of municipal facilities.

**Minor Street:** A street intended to serve primary access to abutting properties.

**Minor Subdivision:** Any subdivision which contains not more than four (4) lots fronting on an existing street; does not include any new street or road; does not require the extension of municipal facilities; does not adversely affect adjacent properties; and is not in conflict with any provision of the Comprehensive Plan and Official Zoning Map of the Town of Mentz, or these regulations.

**Official Map:** A map, adopted by a legislative body through a resolution or ordinance, showing existing streets and approved proposed streets, parks, and other public places.

**Preliminary Plat:** A drawing or drawings, clearly marked ‘preliminary plat,’ showing the significant features of a proposed subdivision, as specified in Section 17.11 of this Article, submitted to the Planning Board for the purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**Re-Subdivision:** Revision of all or part of an existing filed plat.

**Simple Subdivision:** Any Subdivision not classified as Minor or Major where no new lots are created but where lot lines are rearranged.

**Street Pavement:** The wearing or exposed surface of the roadway used by vehicular traffic.

**Street Width:** The width of the right-of-way, measured at right angles to the centerline of the street.

**Subdivision**: The legal division of any tract of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and shall include re-subdivision.

**Subdivision Plat or Final Plat**: A drawing, in final form, showing a proposed subdivision, containing all information or details required by law and by these regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

**Surveyor**: A person licensed as a land surveyor by the State of New York.

**Town Engineer**: The designated engineer of the Town of Mentz.

**Undeveloped Plats**: Those plats existing at the time of the enactment of this chapter that have been filed in the office of the County Clerk, where 20% or more of the lots within the plat are unimproved.

### **Section 17.08 - Subdivision Procedures**

- A. Classification of Subdivision. The first stage of subdivision is classification. Classification requires that an applicant schedule and attend a pre-application conference with the Code Enforcement Officer and Planning Board at a regular Planning Board meeting. For this conference the applicant shall submit a Sketch Plat of the proposed subdivision to the Code Enforcement Officer that provides sufficient detail to classify the action as to the type of review required.
- B. Pre-application conferences. A pre-application conference with the Code Enforcement Officer and the Planning Board at a regular Planning Board meeting is required before any subdivision is reviewed or approved by the Planning Board, or in the case of a Simple Subdivision reviewed by the Planning Board and approved by the Planning Board Chair. Pre-application conferences serve the following functions:
  1. To discuss the preliminary design of the project.
  2. To review application requirements and identify specific information that shall be provided on the preliminary plat.
  3. To set a probable timetable for review.
- C. The Sketch Plat initially submitted to the Code Enforcement Officer shall be based on tax map information or on some other similarly accurate base map at a scale of one-inch equals two-hundred feet (1" = 200'). A submitted Sketch Plat shall show the following information:
  1. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
  2. All existing structures, wooded areas, streams, wetlands, flood hazard areas and other significant physical features within the portion to be subdivided and within 200 feet thereof.
  3. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
  4. The tax map, block and lot numbers of all lots shown on the plat.

5. The names of the owner and of all adjoining property owners as disclosed by the current tax roll.
6. All the utilities available and all streets as they appear on the Official Map.
7. The proposed pattern of lots (with dimensions), street layout, recreation areas, systems of drainage, sewerage, and water supply within the subdivided area.
8. All existing restrictions on the use of land, including easements, covenants and zoning district boundary lines.

**Section 17.09 - Simple Subdivision Review Procedure**

- A. Review of a Simple Subdivision Plat is a two-step process consisting of a pre-application conference as required by Section 17.08 hereof and a plat review and approval. After a pre-application conference, the Planning Board Chair shall act, whether during a Planning Board meeting or not, to approve; conditionally approve with modifications; disapprove; or grant final approval. In any event, final approval cannot be granted until four (4) copies of an official survey map prepared by a surveyor licensed by New York State has been presented to the Code Enforcement Officer and Planning Board Chair, and such map indicates that all of the requirements of the Town of Mentz Zoning Ordinance have been satisfied. Final approval of the Simple Subdivision by the Planning Board Chair shall be indicated by the Chair's signature and date on the final survey map.

**Section 17.10 - Minor Subdivision Review Procedure**

- A. Review of a Minor Subdivision Plat is a two-step process consisting of a pre-application conference as required by Section 17.08 hereof and a plat review and approval. A Minor Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements and shall be conducted by the Planning Board.
  1. Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.
  2. The Planning Board will review the Minor Subdivision Plat taking into account staff reports and the comments of the Town Engineer and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.
- B. Submission of Application. Within six (6) months after the pre-application conference and the classification of a Sketch Plat as a Minor Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Minor Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code Enforcement Officer and Planning Board for reclassification. The Minor Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. The application shall also conform to the requirements listed in Section 17.10, C.

1. Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
  - a. A complete application form and at least four (4) copies of the Minor Subdivision Plat.
  - b. Supplemental information as required including SEQR documents.
  - c. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
- C. Requirements for Minor Subdivision Plat Review. A Minor Subdivision Plat Application shall include the following information:
  1. A copy of such covenants or deed restrictions that are intended to cover all or part of the tract.
  2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corner of each tract shall also be located on the ground and marked with an approved pin, pipe, or monument and shall be referred to and shown on the plat.
  3. The proposed lot lines with the approximate dimensions and area of each lot.
  4. All on-site sanitation and water supply facilities (if any) shall be designed to meet the specifications of the Cayuga County Health Department; approval shall be stated on the plat and signed by an officer of the Cayuga County Health Department.
  5. The proposed subdivision name (if any), and the names of the Town and County in which it is located.
  6. The date, a true-north arrow, the map scale, and the names, addresses, and phone numbers of all owners of record and the applicant.
  7. The Minor Subdivision Plat shall be a clear, legible reproduction that meets the standards for filing with the Cayuga County Clerk as prescribed by law.
- D. Applicant to Attend Planning Board Meeting on Minor Subdivision Plat. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board at which a Subdivision Plat is discussed.
- E. Public Hearing on Minor Subdivision Plat. If required by the Planning Board, a public hearing shall be held within 62 calendar days of the date of submission of required materials. The hearing shall be advertised in the official newspaper of the Town at least ten (10) business days before such hearing. If no public hearing is required, the Planning Board shall have 62 calendar days from the date of submission to make its decision. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage, provided by the Planning Board, and obtained from the Code Enforcement Officer. The applicant shall post this signage at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) business days prior to the public hearing.

F. Action on Minor Subdivision Plat.

1. The Planning Board shall, within 62 calendar days of the date of the public hearing, act to conditionally approve; conditionally approve with modification; disapprove; or grant final approval to and authorize the signing of the Final Subdivision Plat by the Planning Board Chair. This time may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the plat.
2. Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon compliance with such conditions and requirements as may be stated in the Board's resolution of conditional approval.
3. Within five (5) business days of the resolution granting conditional approval, the plat shall be certified by the Chair of the Planning Board as conditionally approved; a copy shall be filed in the Town Clerk's office; and a certified copy shall be mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved plat.
4. Upon completion of the requirements in the resolution of approval, the plat shall be signed by the Chair of the Planning Board. Conditional approval of the plat shall expire 180 calendar days after the date of the resolution granting such approval. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances. Such extension is not to exceed two additional periods of 90 calendar days each.

**Section 17.11 - Major Subdivision Preliminary Plat Review Procedure**

- A. Review of a Major Subdivision Plat is a three-step process consisting of a pre-application conference as required by Section 17.08 hereof, a preliminary plat review and approval, and a final plat review and approval. A Major Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements and shall be conducted by the Planning Board.
1. Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.
  2. The Planning Board will review the Major Subdivision Plat taking into account staff reports and the comments of the Town Engineer and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.
- B. Submission of Application. Within twelve (12) months after the pre-application conference and the classification of a Sketch Plat as a Major Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Major Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code

Enforcement Officer and Planning Board for reclassification. The Major Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. The application shall also conform to the requirements listed in Section 17.11, C.

1. Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
  - a. A complete application form, at least nine (9) copies of the Major Subdivision Plat printed full size, one (1) copy of the Major Subdivision Plat printed on 11"x17" paper, and a digital copy in .pdf format on a CD or other acceptable device. The applicant may be required to submit additional copies of the application if the Planning Board Chair determines that other officials, agencies, or consultants need to be informed about the project.
  - b. All copies of the Preliminary Plat shall be clearly marked with the words "Preliminary Subdivision Plat". The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of the New York State Town Law Article 16, §276 and Section 17.11, C of these regulations, except where a waiver may be specifically authorized by the Planning Board.
  - c. All documents showing construction details of proposed improvements, any supporting materials or engineering reports and a completed environmental assessment form or, if required, a draft environmental impact statement.
  - d. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
2. The date of submission of the Preliminary Plat shall be considered to be the date on which the Code Enforcement Officer, accepts as complete the Preliminary Plat and all data required by Section 17.11, C hereof. The Code Enforcement Officer shall note the date on the Preliminary Plat.

C. Requirements for Major Subdivision Preliminary Plat Review. Preliminary Plat maps shall include the following information:

1. The proposed subdivision name; the names of the Town and County in which it is located; the date; a true-north arrow; the map scale; and the names, addresses and phone numbers of all owners of record, the applicant, and the architect, engineer, or surveyor including license number(s) and seal(s).
2. The names of the owners of record of all adjacent properties.
3. The zoning district, including exact boundary of districts, where applicable.
4. All parcels of land proposed to be dedicated to public use and the condition of such dedication.
5. The locations of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, and wooded areas.

6. The locations of existing sewers, water mains, culverts, and drains on the property, with pipe sizes, grades, and direction of flow.
7. Contours with intervals of ten (10) feet or less as required by the Planning Board, including elevations on existing roads, and an approximate grading plan if natural contours are to be changed more than two (2) feet.
8. The width and location of any streets or public ways or places shown on the Official Map of the Town of Mentz within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
9. The approximate location and size of all proposed water lines, valves, hydrants, sewer lines, and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in standards established by the Cayuga County Health Department. Show profiles of all proposed water and sewer lines.
10. All requirements as specified in local laws of the Town of Mentz governing stormwater runoff; a stormwater management plan indicating the approximate location, construction and size of swales; and proposed lines and their profiles. Ramification of connections to existing or alternate means of disposal.
11. Plans and cross-sections showing the proposed new location and types of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and sub-base; the location of manholes, basins, and underground conduits. New features must comply with the Subdivision Design Standards found in Section 17.22 hereof.
12. Preliminary designs of any bridges or culverts which may be required.
13. The proposed lot lines with the approximate dimensions and area of each lot.
14. Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width, and which shall provide satisfactory access to an existing public highway or other public open space shown on the subdivision or the Official Map.
15. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked with an approved pin, pipe or monument as approved by the Town Board, and shall be referred to and shown on the plat.
16. If the application covers only a part of the applicant's holding, a map of the entire tract shall be submitted so that the part of the applicant's holding covered in the application can be considered in the light of the entire holding. This map shall be drawn at a scale of one-inch equals two-hundred feet (1" = 200') and shall show an outline of the platted area with its proposed streets, and an indication of any probable future street system with its grades and drainage in the remaining portion of the tract, and any probable future drainage layout of the entire tract.

17. A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.
- D. Applicant to Attend Planning Board Meeting. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.
- E. Study of Major Subdivision Preliminary Plat. The Planning Board shall study the practicability of a Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet un-subdivided, and the requirements of the Town of Mentz Comprehensive Plan, the Official Map, and Zoning Regulations.
- F. Public Hearing on Major Subdivision Preliminary Plat.
  1. Within 62 calendar days of the Date of Submission of a Preliminary Plat marked as complete by the Code Enforcement Officer, the Planning Board shall hold a public hearing. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage provided by the Planning Board by way of the Code Enforcement Officer and to post it at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) business days prior to the public hearing. The public hearing shall be advertised at least once in the official newspaper of the Town at least ten (10) business days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Preliminary Plat.
- G. Planning Board Approval of Preliminary Plat.
  1. Within 62 calendar days of the date of the public hearing, the Planning Board shall approve with or without modification, or disapprove the Preliminary Plat; and the grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Preliminary Plat.
  2. Conditional Approval of Preliminary Plat. When granting approval to a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to:
    - a. Modifications to the Preliminary Plat.
    - b. The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and welfare.
    - c. The required improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Final Subdivision Plat.
  3. Effect of Approval of Preliminary Plat. Approval of a Preliminary Plat shall not constitute approval of the Final Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Subdivision Plat, which will be submitted for approval of the Planning Board and

for recording upon fulfillment of the requirements of these regulations. When approving a Preliminary Plat, the Planning Board shall state in writing the modifications, if any, it deems necessary for submission of the plat in final form. Within five (5) business days of the approval of such Preliminary Plat, it shall be certified by the Planning Board Chair as having been granted preliminary approval, and a copy shall be filed with the Town Clerk, a certified copy shall be mailed to the owner, and a copy shall be forwarded to the Town Board. Prior to approval of the Final Subdivision Plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

### **Section 17.12 - Major Subdivision Final Plat Application**

- A. Purpose. This step provides for a refinement of information submitted in the Preliminary Plat review procedure through submission of additional information about site design and improvements. This information permits the Planning Board and the Town Engineer to make decisions concerning the appropriateness of the proposed Major Subdivision. Some important considerations include but are not limited to:
1. Conditions of the preliminary plat approval.
  2. Mitigating measures identified during the environmental review.
  3. Offers of dedication of land for open space and recreation, or of new public roads.
  4. Requirements of involved agencies.
  5. Drainage considerations.
  6. Water metering during construction.
  7. Phasing of the proposed project if the project is to be phased.
  8. Surety for improvements.
- B. Submission of Application. Within six (6) months after the approval of a Preliminary Plat, the applicant shall submit an application for approval of a Final Subdivision Plat in final form. If the Final Subdivision Plat is not submitted for approval within six (6) months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the Final Subdivision Plat and require resubmission of the Preliminary Plat.
1. Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
    - a. A complete application form; at least nine (9) copies of the Final Major Subdivision Plat printed full size; one (1) original paper copy with original signatures and professional seals in ink of the Final Major Subdivision Plat printed full size; one (1) copy of the Final Major Subdivision Plat printed on 11"x17" paper; the original and one (1) copy of all offers of cession, covenants and agreements; two (2) copies printed full size of all construction drawings; and a digital copy in .pdf format of all materials listed above on a CD or other acceptable device.
    - b. All copies of the Final Plat shall be clearly marked with the words "Final Subdivision Plat".

- c. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
2. Requirements for Major Subdivision Final Plat Review. Final Plat maps shall include the following information:
  - a. Proposed subdivision name or identifying title and the names of the Town and County in which the subdivision is located; the names and addresses of the owners of record and of the applicant; and the name, license number and seal of the New York State–licensed land surveyor.
  - b. Road lines, pedestrian ways, lots, reservations, easements, and areas to be dedicated to public use.
  - c. Data acceptable to the Code Enforcement Officer as sufficient to determine readily the location, bearing and length of every street line, lot line and boundary line and as sufficient to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State Plane Coordinate System, and in any event should be tied to reference points previously established by a public authority.
  - d. The length and bearing of all straight lines, radii, length of curves, central angles of curves, and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale, and true-north arrow.
  - e. The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces whose title is reserved by the developer. For any of the latter there shall be submitted with the Final Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.
  - f. All offers of cession and covenants governing the maintenance of un-ceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
  - g. Lots and blocks within a subdivision shall be numbered or lettered in alphabetical order in accordance with the prevailing Town practice.
  - h. Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of a licensed engineer or surveyor. When referred to the State Plane Coordinate System they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town and their location noted and referred to upon the Final Plat.
  - i. All lot corner markers shall be permanently located in a way satisfactory to a licensed engineer or surveyor.
  - j. Pins, pipes or monuments of a type approved by the Town Board shall be set at all corners and angle points of the boundaries of the original tract to be subdivided, and

at all street intersections, angle points in street lines, points of curve, and such intermediate points as shall be required by a licensed engineer or surveyor.

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

### **Section 17.13 - Endorsement of State and County Agencies**

- A. Applications for approval on plans for sewer or water facilities shall be filed by the applicant with all necessary Town, County, and State agencies. Endorsement and approval by said agencies shall be secured by the applicant prior to official submission of the Final Subdivision Plat for approval by the Planning Board.

### **Section 17.14 - Required Improvements**

- A. Surety. Before the Planning Board grants final approval of a Major Subdivision Final Plat, the applicant shall follow the procedure set forth in either Section 17.14, B or Section 17.14, C below.
- B. Full Cost Check or Bond. In an amount set by the Planning Board, the applicant shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the applicant shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of the New York State Town Law Article 16, §277, and further shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety. A period of one (1) year, or such other period as the Planning Board may determine appropriate, not to exceed three (3) years, shall be set forth in the bond as the time within which required improvements must be completed.
- C. Check or Bond for Completion. The applicant shall complete all required improvements to the satisfaction of the Code Enforcement Officer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the applicant shall file with the Town Clerk a bond or certified check covering the costs of such improvements. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.
- D. Underground Utilities Map. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by a licensed engineer or surveyor and a map satisfactory to the Code Enforcement Officer has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the applicant completes all required improvements according to Section 17.14, C hereof, then the map shall be submitted prior to endorsement of the plat by the Planning Board Chair. However, if the applicant elects to provide a bond or certified check for all required improvements as specified in Section 17.14, B hereof, such bond shall not be released until such a map is submitted.

**Section 17.15 - Public Hearing and Review of Final Plat**

- A. Within 62 calendar days of the date of submission of a Major Subdivision Final Plat in final form for approval, a public hearing shall be held by the Planning Board. This hearing shall be advertised at least once in the official newspaper of the Town and at least ten (10) business days before the hearing. If, however, the Planning Board deems the final plat to be in substantial agreement with a Preliminary Plat approved under Section 17.11, G hereof; or modified in accordance with the requirements of a conditional approval or approval with modifications, the Planning Board may waive the requirement for such a public hearing.

**Section 17.16 - Planning Board Action on Final Plat**

- A. Prescribed time for Action. The Planning Board action shall be by resolution to conditionally approve with or without modification; disapprove; or grant final approval to and authorize the signing of the plat by the Planning Board Chair. The action is to be taken within 62 calendar days of the public hearing, if one was held, and if no public hearing was held, within 62 calendar days of the date of submission. This time may be extended by written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Final Plat.
- B. Conditional Approval. Upon resolution of conditional approval of a Final Plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon completion of such requirements as may be stated in the resolution. Within five (5) business days of such resolution, the plat shall be certified by the Planning Board Chair as conditionally approved, and a copy filed in the Town Clerk's office, and a certified copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved Final Plat.
- C. Certification by Planning Board Chair. Upon completion of such requirements, the plat shall be signed by the Planning Board Chair.
- D. Expiration of Approval. Conditional approval of a Final Plat shall expire 180 calendar days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted by the circumstances; such extension is not to exceed two (2) additional periods of 90 calendar days each.

**Section 17.17 - Final Approval of Subdivision Plat**

- A. Signature of Planning Board Chair. Upon completion of the requirements in Sections 17.12 through 17.16 hereof and notation to that effect upon the Final Subdivision Plat, the Final Plat shall be deemed to have final approval and shall be properly signed by the Planning Board Chair. The approved Final Plat shall also be signed by the Cayuga County Health Department and the Cayuga County Real Property Office before it may be recorded with the Cayuga County Clerk.

- B. Prompt Filing. Any Subdivision Plat that is not filed or recorded within 30 calendar days of the date upon which the plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.
- C. Copies of Recorded Plat Submitted to the Town. The applicant shall provide the Town Clerk with three (3) paper copies printed full size and a digital copy in .pdf format on a CD or other acceptable device of the fully endorsed and recorded Final Plat within 30 calendar days of approval and signature by the Planning Board Chair. If the required paper and digital copies of the recorded final plat map(s) have not been submitted within the designated 30 calendar days, the Code Enforcement Officer will not review or issue a building permit until the Town has received the appropriate copies of the recorded final subdivision plat map(s).
- D. Plat Void if Altered After Approval. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is first resubmitted to the Planning Board and the Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

#### **Section 17.18 - Modification of Design Improvements**

- A. If, at any time during the construction of required improvements, it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary to modify the location or design of the required improvements, the Code Enforcement Officer may, upon approval by the Planning Board Chair, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Code Enforcement Officer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

#### **Section 17.19 - Inspection of Improvements**

- A. Inspection Fee. At least five (5) business days prior to commencing construction of required improvements, an applicant shall pay to the Town Clerk the inspection fee required by the Town and shall notify the Code Enforcement Officer in writing of the time when the applicant proposes to commence construction of the improvements, so that the Code Enforcement Officer may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- B. Proper Installation of Improvements. If the Town Engineer finds, upon inspection of the improvements performed before the expiration date of a performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, the engineer shall so report to the Code Enforcement Officer and Planning Board. The Town then shall notify the applicant and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No additional Subdivision Plat shall be approved by the Planning Board as long as the applicant is in default on a previously approved Subdivision Plat.

**Section 17.20 - Public Streets and Recreation Areas**

- A. Public Acceptance of Roads. The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on the Subdivision Plat.
- B. Ownership and Maintenance of Recreation Areas. When a park, playground, or other recreation area has been shown on a Subdivision Plat, approval of the plat shall not constitute an acceptance by the Town of the recreation area. The Planning Board shall require the plat or licensed survey map to be endorsed with approved and appropriate restrictions and disclaimers to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

**Section 17.21 - Cluster Subdivisions**

- A. Purpose. The Town Board of the Town of Mentz finds that the topography and environmental sensitivities of certain parcels in the Town do not lend themselves to the conventional development as designated by their current zoning. Therefore, the purpose of this Section is to enable and encourage flexibility of design in housing and the development of land in such manner as to permit the most appropriate use of land, to preserve the natural, scenic and ecological qualities of environmentally sensitive areas and to provide larger areas of open space, both for recreation and for environmental conservation purposes pursuant to the provisions of New York State Town Law Article 16, §278.
- B. Objectives. Among the objectives which should be achieved through the use of clustered housing are the following:
  - 1. The creative use of land so as to establish a more desirable living environment than would be possible through the strict application of certain Town zoning standards.
  - 2. The preservation of surface water, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography and glaciated features. Other areas to be preserved include areas of scenic and ecological values, including open spaces and other environmentally sensitive areas.
  - 3. To prevent soil erosion, minimize negative environmental impacts and control development in flood hazard areas.
  - 4. To encourage innovation through flexibility in design and layout of residential housing consistent with the intent of this Article by permitting housing units to be clustered without increasing overall site density.
  - 5. To permit housing developments that reflect the legislative intent of New York State Town Law Article 16, §278.
  - 6. To create housing development that is in harmony with the character of the area and the environmental sensitivities of the site.
- C. Statutory Authority and Conditions. In accordance with New York State Town Law Article 16, §278, the Town Board authorizes the Planning Board to approve Cluster Subdivisions simultaneously with the approval of a plat or plats in the Agricultural (A), Low-Density

Residential (LR), and Medium-Density Residential (MR) Zoning Districts of the Town of Mentz; and to grant variations to the dimensional standards (area) of the Zoning Ordinance, concurrent with the approval of plats for Cluster Subdivision subject to the conditions set forth in New York State Town Law Article 16, §278. The Planning Board is also authorized, at its discretion, to require the owner to submit an application for Cluster Subdivision subject to criteria established by this Article whether or not the owner makes application for a Cluster Subdivision project.

D. Conditions.

1. A Cluster Subdivision shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning regulations applicable to the district or districts in which such land is situated and conforming to all other applicable requirements; provided, however, that where the plat falls within two or more contiguous districts, the Planning Board may approve a Cluster Subdivision representing the cumulative density as derived from the summing of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts.
2. Project density shall be based only upon the amount of usable land which is available for development. In computing the usable or developable land any land situated in a flood hazard area; having slopes in excess of 20%; officially designated freshwater wetlands; lands occupied by public utilities, structures, drainage control areas or rights-of-way; or otherwise unsuitable for development shall not be considered part of the gross area.
3. The Planning Board as a condition of plat approval may establish such conditions on the ownership, use, and maintenance of such open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands. The Town Board may require that such conditions shall be approved by the Town Board before the plat may be approved for filing.
4. The plat showing the Cluster Subdivision shall include, in addition to information identified during a pre-application conference in accordance with Section 17.08 and Section 17.11, the areas within which structures may be located; the height and spacing of buildings; open spaces and their landscaping; off-street open and enclosed parking spaces; streets and driveways; and any other features required by the Planning Board. The dwelling units permitted may, at the discretion of the Planning Board, be in detached, semi-attached, or attached structures.

E. Maintenance of Open Lands.

1. Intent. Open spaces are an inherent part of Cluster Subdivisions, therefore the Town must take special measures for the protection and regulation of these areas and to provide for a system of their permanent maintenance.
2. Submission requirements. At the Preliminary Plat stage, the developer shall submit a detailed proposal for maintenance of common lands and/or open spaces. The Planning Board may approve or approve with conditions any plans for maintenance of common

- areas and/or open spaces. Any conditions imposed for maintenance of open space and/or common lands shall become part of the conditions for Final Plat approval.
3. Dedication of lands. If the open spaces are to be offered for dedication to the Town, the Planning Board shall refer such offers and related details to the Town Board for the necessary action prior to Final Plat approval.
  4. Property owners' association. If open spaces are not to be dedicated to the Town, the applicant must create a property owners' association and receive approval of the Office of the New York State Attorney General pursuant to state law.
- F. Alternative Means of Maintenance of Open Lands. The following methods will be considered alternate means to maintain open spaces:
1. In the case of single ownership of the Cluster Subdivision by a sole owner, partnership, corporation or other legal means, deed restrictions protecting open spaces from further development may be submitted to the Town Attorney for review and to the Town Board for acceptance.
  2. Any alternative methods for protection and preservation of open lands and common areas shall be submitted at the Preliminary Plat stage to the Planning Board for review and subsequent approval by the Town Board. All alternate proposals shall be submitted to the Town Attorney for review and comment. The Planning Board or Town Board may require any additional information it deems necessary to conduct an adequate review of the alternate proposals.
- G. Review Procedure. The review, approval process, and information requirements for a Cluster Subdivision shall be conducted pursuant to the Major Subdivision process procedures in Section 17.11 through Section 17.17 hereof.
1. Notice and public hearing. The proposed Cluster Subdivision shall be subject to review at a public hearing or hearings held pursuant to the requirements for Major Subdivision approval as set forth in Section 17.11 through Section 17.17 hereof.
  2. Filing of plat. The filing of an approved Cluster Subdivision plat shall be in accordance with Section 17.17 hereof.
  3. Effect. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Town of Mentz Zoning Ordinance or any Local Law applicable to such lands.

### **Section 17.22 - General Requirements and Design Standards**

- A. In considering applications for subdivision of land, the Planning Board shall be guided by the following principles and the standards set forth in Sections 17.22, B through 17.22, M hereof. These standards shall be considered minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Section 17.23 hereof. In addition, the following criterion shall be followed:
1. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.

2. Conformity with the Town of Mentz Official Map and Comprehensive Plan. Subdivisions shall conform to the Official Map of the Town of Mentz and shall be in harmony with the Town of Mentz Comprehensive Plan.
3. Specifications for Required Road Improvements. All required improvements shall be constructed or installed to conform to the Town of Mentz Highway and Drainage Standards. Further specifications and consultation may be obtained from the Town Highway Superintendent.

B. Road Considerations.

1. Statement of Acceptance. All roads that are to be dedicated as public roads must comply with the standards set forth in this document. All access roads that are not to be dedicated as public roads must comply with the New York State Town Law, Article 16, §280, §280a, and §281. Roads will be accepted only if they are free and clear of all liens, encumbrances, easements, and rights-of-way. A written statement of acceptance must be filed by the Town Highway Superintendent and the Town Attorney before any road shall be accepted by the Town Board. New curb-cuts (driveway or roadway openings) onto all County routes shall be reviewed by the Cayuga County Highway Superintendent and approved prior to installation and approval for acceptance by the Town.
2. Width, Location, and Construction. Roads shall be sufficiently wide, suitably located, and adequately constructed to conform to the Town of Mentz Official Map and to accommodate the prospective traffic and afford access for firefighting, snow removal, and other road-maintenance equipment. The arrangement of roads shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
3. Arrangement of Roads. The arrangement of roads in a subdivision shall provide for the continuation of principal streets of adjoining subdivisions; and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water lines, and drainage facilities. Subdivisions containing 20 lots or more shall have at least two (2) street connections with existing public streets, or streets shown on the Official Map, if such exist, or streets on an approved Subdivision Plat for which a bond has been filed. Where, in the determination of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified. The Planning Board may require the reservation of a 20-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street.
4. Minor Roads. Minor roads shall be laid out so that their use by through traffic will be discouraged.
5. Loop Residential Roads and Circle Drives. The creation of loop residential roads will be encouraged wherever the Planning Board finds that such roads are needed or desirable. Circle drives create problems for snow plowing and are discouraged.
6. Dimensions of Blocks. Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In

blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4)-foot-wide paved foot path be included.

- C. Road Design. All roads shall be designed and constructed in accordance with the Town of Mentz Highway and Drainage Standards.
- D. Further Road Improvements, Including Hydrants and Lighting. Roads may require curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions and in consultation with the Town Highway Superintendent or an Engineer designated to the project by the Town, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare.
  - 1. Fire hydrants shall conform to all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York and the Town of Mentz specifications or laws for public water service.
  - 2. Lighting facilities shall be in conformance with the Town of Mentz Outdoor Lighting Ordinance adopted as Appendix IV of this Zoning Ordinance. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Town representative designated as an electrical inspector.
- E. Utilities. The Planning Board shall require that utilities be placed in the road right-of-way between the paved roadway and road line to simplify location and repair of lines when they require attention. The applicant shall install service connections to the property line of each lot within the subdivision for such required utilities before the road is paved. Where topography is such as to make impractical the inclusion of utilities within the road rights-of-way, perpetual unobstructed easements at least twenty (20)-feet in width shall be otherwise provided with satisfactory access to the road. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- F. Watercourses. Where a watercourse separates a proposed road from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent or an Engineer designated to the project by the Town. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Highway Superintendent or an Engineer designated to the project by the Town, which in no case shall be less than twenty (20)-feet in width.
- G. Service Roads. Paved rear service roads of not less than twenty (20)-feet in width, or in lieu thereof adequate off-road loading space, surfaced with a suitable, dust-free material, shall be provided in connection with lots designed for commercial use.
- H. Road Names. All road names shown on a Preliminary Plat or Subdivision Plat shall be approved by the Planning Board. In general, roads shall have names and not numbers or letters. Proposed road names shall be substantially different so as not to be confused in sound or spelling with present names in this or nearby municipalities, except that roads that join or

are in alignment with roads of an abutting or neighboring property shall bear the same name. Generally, no road should change direction sharply or at a corner without a change in name. Before any road name is approved by the Town, the Town shall provide the proposed name to the Cayuga County 911 GIS Coordinator so that it can be checked against the list of names within the existing County database to ensure that there will be no confusion as to the unique identity and location of the proposed road name within the Town and nearby municipalities.

I. Considerations for Lots.

1. Lots shall be buildable. The lot arrangement shall be such that in constructing a building in compliance with the zoning regulations, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots approved in a subdivision cannot be further divided.
2. Side Lines. All side lines of lots shall be at right angles to straight road lines and radial to curved road lines, unless a variance from this rule will give a better road or lot plan.
3. Corner Lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site, and to avoid obstruction of free visibility at the roadway intersection.
4. Driveway Access. Driveway access and grades shall conform to the Town of Mentz Highway and Drainage Standards; and shall be approved by the Town Highway Superintendent or an Engineer designated to the project by the Town.
5. Access from Private Roads. Access from private roads shall be deemed acceptable only if such roads are designed and improved in accordance with these regulations.
6. Monuments and Lot Corner Markers. Monuments and lot corner markers shall be permanent monuments meeting specifications approved by the Town Board as to size, type and installation; they shall be set at such block corners, angle points, points of curves in streets and other points as the Town Highway Superintendent or an Engineer designated to the project by the Town may require; and their location shall be shown on the Subdivision Plat.

J. Drainage Improvements.

1. Drainage Design Standards. All subdivisions shall provide drainage improvements designed in accordance with the Town of Mentz Highway and Drainage Standards.
2. Stormwater Run-off. All subdivisions are subject to all New York State and local laws governing stormwater runoff.
3. Land subject to Flooding. Land subject to flooding shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation, or improved in a manner satisfactory to the Planning Board to remedy the hazardous conditions.

K. Parks, Open Spaces, and Natural Features.

1. Open Space to Be Shown on Plat. Where a proposed park, playground, or open space shown on the Official Map is located in whole or in part in a subdivision, the Planning Board shall require that such area or areas be shown on the plat in accordance with the

- requirements specified in Section 17.10, C, and Section 17.11, C hereof. Such area or areas may be dedicated to the town by the applicant if the Town Board approves such dedication.
2. Parks and Playgrounds not shown on Town Plans. The Planning Board shall require that a plat show sites of a character, extent, and location suitable for the development of a park, playground, or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat. The Board shall require that not less than two (2) acres of recreation space be provided for every fifty (50) dwelling units, or fraction thereof, shown on the plat. However, in no case shall the Board require more than ten (10) percent of the total area to be set aside in the subdivision. Such area or areas may be dedicated to the Town by the applicant if the Town Board approves such dedication.
  3. Information to be Submitted. In the event that an area to be used for a park or playground is required to be so shown, the applicant shall, prior to final approval, submit to the Planning Board at least nine (9) copies printed full size, one (1) copy printed on 11"x17" paper, and one digital copy in .pdf format on a CD or other acceptable device, showing, at a scale not smaller than 1:300, such area and the following features thereof:
    - a. The boundaries of the area, giving metes and bounds of all straight lines, radii, lengths, central angles and tangent distances of all curves.
    - b. Existing features such as brooks, ponds, clusters of trees, rock outcrops and structures.
    - c. Existing, and, if applicable, proposed changes in grade and contours of the area and of areas immediately adjacent.
- L. Reserve Strips. Reserve strips of land which might be used to control access from a proposed subdivision to any neighboring property, or to any land within the subdivision itself, shall be prohibited.
- M. Preservation of Natural Features. Wherever practical, natural features of the property being subdivided shall be preserved.
1. To the fullest extent practicable, all existing trees and shrubbery shall be preserved by the applicant. The subdivision should be designed with consideration being given to the preservation of natural features. Precautions shall be taken during the process of grading the lots and roads.
  2. Where any land other than that included in public rights-of-way is to be dedicated to the public use, the developer shall not remove any trees from the site without written Town Planning Board approval.
  3. Where a subdivision is traversed by natural surface water, the boundaries and alignment of the body of water shall be preserved unless the Planning Board finds that a change would be ecologically sound and would enhance the development and beauty of the project. All proposed changes in the boundaries of bodies of water shall be designed and approved in accordance with Article 15 of the New York State Environmental Conservation Law.

4. Every effort should be taken by the applicant in designing a project to preserve unique physical features, such as historic landmarks and sites, rock outcroppings, hilltop lookout, desirable natural contours, and similar natural features.

**Section 17.23 - Waiver of Certain Improvements**

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

## **Article XVIII. Administration**

### **Section 18.01 - Conformance Required**

- A. No building or land shall be used or occupied and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein set forth for the district in which it is located.

### **Section 18.02 - Code Enforcement Officer Powers and Duties**

- A. The provisions of this Ordinance shall be administered and enforced by the Code Enforcement Officer who shall be appointed by the Town Board. The Code Enforcement Officer shall have the duty and power to:
  - 1. Receive and examine all applications for Zoning and Building Permits.
  - 2. Receive and refer applications for Special Use Permits, Site Plans, and Subdivisions to the Planning Board for their review and approval.
  - 3. Issue zoning permits, Certificates of Compliance, and certification of occupancy only when there is compliance with the provisions of this Ordinance and with other Town Ordinances provided, however, the issuance of a Zoning Permit shall not be deemed a waiver of the requirements of any Town Ordinance.
  - 4. Following refusal of a permit, to receive applications for appeals from alleged error of the Code Enforcement Officer and variances and forward these applications to the Board of Appeals for action thereon.
  - 5. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance.
  - 6. Issue stop, cease, and desist orders, and order in writing correction of all conditions found to be in violation of the provisions of this Ordinance. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Code Enforcement Officer to be violating the terms of this Ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the Code Enforcement Officer, and any person violating any such order shall be guilty of a violation of this Ordinance.
  - 7. 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.
  - 8. Receive, review, and take action on zoning ordinance violation complaints submitted by residents; business owners or employees; or the Town Board, Planning Board, or Zoning Board of Appeals. All complaints shall be submitted in writing on the form provided by the Code Enforcement Officer available at Town Hall or on the Town's website.
  - 9. Revoke by order, a zoning permit issued under a mistake of fact or contrary to the law or the provisions of this Ordinance.

10. Maintain a map showing the current zoning classification of all land.
11. Upon the request of the Town Board, the Planning Board or the Zoning Board of Appeals, shall present to such bodies facts, records, or reports which they may request to assist them in making decisions.

**Section 18.03 - Zoning Permits**

- A. No structure shall be erected, constructed, extended, or moved and no land use or building occupancy change shall occur until a Zoning Permit has been secured from the Code Enforcement Officer. Upon completion or changes in use or construction, reconstruction, extension, or moving of structures, the applicant shall notify the Code Enforcement Officer of such completion.
- 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, building ponds, small storage sheds (144 sq. ft. or less), tilling the soil, raising animals, landscaping, or steps, and other similar features. However, all such activities shall abide by the requirements of this Law.
- D. Zoning Permits shall be issued with a one (1) year life, renewable for two (2) consecutive years, 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.
- E. Application Requirements for Zoning Permits.
  1. All applications for Zoning Permits shall be made in writing by the owner, tenant, vendee under contract for sale, or authorized agent on a form supplied by the Town, and shall be filed with the Code Enforcement Officer. The applicant shall:
    - a. Include a statement as to the proposed use of the building or land.
    - b. Include a site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses and any existing buildings in relation to property and street lines.
    - c. Include the number, location, and design of parking spaces and loading spaces if applicable.
    - d. Include the size, dimensions, location, and methods of illumination for signs, if applicable.
    - e. 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.
  2. A permit for any new use or construction which will involve the on-site disposal of sewage or waste, or a change in use or an alteration which will result in an increase in the number of bedrooms in a dwelling unit or an increased volume of sewage or waste to be disposed

of on the 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 Health Department.

F. Issuance of Zoning Permits.

1. Zoning Permits shall be granted or refused within twenty (20) business 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 the Zoning Permit, the holder of such permit shall notify the Code Enforcement Officer.
2. All applications with accompanying plans and documents shall become, and be preserved as, a public record, subject to disposition of the Town Board.

**Section 18.04 - Special Provisions for Issuance of Permits in Flood Hazard Areas**

- A. When reviewing applications for Zoning Permits in areas of any district designated as flood hazard areas by the National Flood Insurance Program, the Code Enforcement Officer shall, in addition to the regular duties, act as the Floodplain Administer, and determine if the proposed development is consistent with the need to minimize flood damage.
- B. The Code Enforcement Officer, in reviewing all applications for construction in flood hazard locations 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, including sewer, gas, electrical, and water systems, on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage.
  6. Provide a topographic survey showing the proposed structures and their elevations.

**Section 18.05 - Certification of Occupancy**

- A. 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 or certificate of completion has been issued by the Code Enforcement Officer stating that the building(s) or proposed use thereof complies with the provisions of this Law of the Town of Mentz.

**Section 18.06 - Fees**

- A. The applicant, at the time of application for a Zoning Permit, shall pay to the appropriate Town Official the fee for said permit as established by the Town Board by resolution. All fees are non-refundable. The Town Board may, from time to time, amend the fee schedule. Fees shall be established by the Town Board by resolution.

**Section 18.07 - Violations**

- A. In the case that any building or structure is erected, constructed, reconstructed, altered, or converted, or any building, structure; or land is used in violation of this Ordinance, the proper local authorities of the Town, in addition to other remedies agencies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, 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) business 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 18.08 - Fines and Penalties**

- A. For any and every violation of the provisions of these Regulations, the following shall be liable, upon conviction thereof, to a fine or penalty not to exceed \$250.00, or by imprisonment for a period not to exceed 15 calendar days or by both such fine and imprisonment:
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;
  3. The general agent, architect, building contractor, or any other person who knowingly commits, takes part, or assists in any such violation, or who maintains any building or premises in which any such violation shall exist.

## **Article XIX. Boards**

### **Section 19.01 - Planning Board**

#### **A. Establishment of a Planning Board.**

1. The Town Board authorizes the creation of a five-member Planning Board pursuant to § 271 of the New York State Town Law. The members of the Planning Board shall be appointed by the Town Board for terms of five years. Terms of all Planning Board members shall be staggered as required by law. The Town Board shall also appoint the Chairperson of the Planning Board or, on failure to do so, the Planning Board shall elect a Chairperson from its own members.
2. Two alternate members of the Planning Board shall be appointed by the Town Board for terms of five years. All provisions of state law relating to Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Planning Board.
3. The Chairperson of the Planning Board may designate one or more alternate members of the Planning Board to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member of the Planning Board is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Planning Board. When so designated, the alternate member of the Planning Board shall possess all the powers and responsibilities of a member of such Board.

#### **B. Removal of Members.**

1. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for noncompliance with minimum requirements relating to attendance and training as established by the Town Board by local law or ordinance.

#### **C. Rules, expenses, and required training.**

1. The Planning Board may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Planning Board.
2. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses, including the means for the Planning Board to maintain a written record of its meetings and public hearings.
3. The Town Board shall require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Planning Board members for appropriate expenses incurred in obtaining such training or continuing education.

D. Powers and Duties. The duties of the Planning Board are to:

1. Prepare, review and/or recommend revisions to the Comprehensive Plan for the development of the Town as provided under § 271 of New York State Town Law and/or Town Board resolution.
2. Review and comment on all proposed zoning amendments before referral to the County Planning Board.
3. Conduct site plan review as authorized by § 274-a of New York State Town Law and prescribed in Article XVI of this Ordinance.
4. Review and approve Special Use Permits as authorized by § 274-b of New York State Town Law and prescribed in Article VIII of this Ordinance.
5. Review and approve the subdivision of parcels as authorized by §§ 276, 277, 278, 279, 280 and 280-a of the New York State Town Law and prescribed in Article XVII of this Ordinance.
6. Render assistance to the Zoning Board of Appeals at its request.
7. Research and report on any matter referred to it by the Town Board.
8. Make investigations, maps, reports, and recommendations in any matter related to planning and development as it seems desirable providing expenditures of the Planning Board do not exceed the budget appropriations for the Planning Board.
9. All such powers and duties as are conferred upon the Planning Board and subject to the limitations set forth in §§ 271, 272-a, 273, 274-a, 276, 277 and 278 of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to town planning boards.

E. Meetings.

1. The Planning Board shall hold regularly scheduled monthly meetings, provided there are meeting agenda items for Planning Board consideration, and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three or more members.
2. The presence of three members of the Planning Board shall constitute a quorum which shall be necessary to act on any application for a site plan review, special use permit, or subdivision; and to decide upon any other matter brought before the Board unless otherwise stipulated in this Ordinance.
3. All votes of the Planning Board shall be taken by roll call. Planning Board decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 19.03 herein.
4. In accordance with § 74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Planning Board having a conflict of interest shall abstain from any discussion or voting on that matter.
5. The Planning Board may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.

6. The Planning Board may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
7. All meetings of the Planning Board shall be open to the public.
8. The Planning Board shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Secretary to the Planning Board.

F. Records and Decisions.

1. Minutes shall be recorded of all meetings and shall contain relevant information of every action considered together with the votes of each member and final decision of each proposed action. All decisions of the Planning Board shall be permanently filed within five (5) business days in the office of the Town Clerk. The Planning Board shall notify the Town Board and the Code Enforcement Officer of all decisions and resolutions.

**Section 19.02 - Zoning Board of Appeals**

A. Establishment of a Zoning Board of Appeals.

1. The Town Board authorizes the appointment of a five-member Zoning Board of Appeals pursuant to § 267 of New York State Town Law. The members of the Zoning Board of Appeals shall be appointed by the Town Board for terms of five years. Terms of all Zoning Board of Appeals members shall be staggered as required by law. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term. The Town Board shall also appoint the Chairperson of the Zoning Board of Appeals. In the absence of a Chairperson, the Zoning Board of Appeals may designate a member to serve as Acting Chairperson.
2. Two alternate members of the Zoning Board of Appeals may be appointed by the Town Board for terms of five years. All provisions of state law relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility in office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Zoning Board of Appeals.
3. The Chairperson of the Zoning Board of Appeals may designate an alternate member of the Zoning Board of Appeals to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Zoning Board of Appeals. When so designated, the alternate member of the Zoning Board of Appeals shall possess all the powers and responsibilities of a member of such Board.

B. Removal of Members.

1. The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for noncompliance with minimum requirements relating to attendance and training as established by the Town Board by local law or ordinance.

C. Rules, expenses, and required training.

1. The Zoning Board of Appeals may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by such Board.
2. The Town Board shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses, including the means for the Zoning Board of Appeals to maintain a written record of its meetings and public hearings.
3. The Town Board shall require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Zoning Board of Appeals members for appropriate expenses incurred in obtaining such training or continuing education.

D. Powers and Duties.

1. The Zoning Board of Appeals shall have appellate jurisdiction with regard to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. The Zoning Board of Appeals shall decide any question involving the interpretation of such provisions as more fully described in this section. Where a proposed site plan, special use permit, or subdivision contains one or more dimensional features which do not comply with the Town's Zoning Law, application may be made for an area variance without the necessity of an order, requirement, decision, interpretation, or determination by the Code Enforcement Officer. The duties of the Zoning Board of Appeals are to:
  - a. Reversing or affirming orders, requirements, decisions, interpretations, and determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify any 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 Code Enforcement Officer and to that end shall have all the powers of the Code Enforcement Officer.
  - b. Granting area or dimensional variances.
    - i. The Zoning Board of Appeals shall have the power, on appeal from a decision or determination of the Code Enforcement Officer, to grant area variances as defined herein. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination and in accordance with § 267-b of New York State Town Law, the Zoning Board of Appeals shall also consider:
      - (A) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
      - (B) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
      - (C) Whether the requested area variance is substantial;

- (D) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (E) Whether the alleged difficulty was self-created.
- ii. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- iii. The Zoning Board of Appeals shall, in the granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of this Ordinance, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- c. Granting use variances.
  - i. The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use variances as defined herein.
  - ii. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship and in accordance with § 267-b of New York State Town Law, the applicant shall demonstrate to the Zoning Board of Appeals that:
    - (A) Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
    - (B) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - (C) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - (D) The alleged hardship has not been self-created.
  - iii. The Zoning Board of Appeals, 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. If the review of an agricultural data statement was required pursuant to Article 25-AA, § 305-a, of the New York State Agriculture and Markets Law, the Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts on the functioning of farm operations in the agricultural district.

- iv. The Zoning Board of Appeals shall, in the granting of a use variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the zoning regulations contained in this Ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
2. Procedures for processing zoning appeal.
    - a. Each order, requirement, decision, interpretation, or determination of the Code Enforcement Officer shall be filed in the office of the Town Clerk within five (5) business days from the day it is rendered. An appeal shall be taken within 60 calendar days after the filing of any order, requirement, decisions interpretation, or determination of the Code Enforcement Officer and shall be filed at least ten (10) business days prior to the scheduled meeting of the Zoning Board of Appeals. All appeals shall be in writing, on forms established by the Zoning Board of Appeals, which shall be available from the Code Enforcement Officer and shall specify the grounds for the appeal and the relief sought. Any appeal for an area variance shall be accompanied by a site plan prepared in accordance with the site plan requirements specified in Article XVI of this Ordinance. Any appeal for a use variance for property within an Agricultural District containing a farm operation or for property with boundaries within 500 feet of a farm operation located in an Agricultural District, shall include an agricultural data statement with the application. If an agricultural data statement is required, the Zoning Board of Appeals shall mail, via registered mail, written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
    - b. Every appeal shall refer to the specific provision of the Zoning Article(s) involved and establish the details of why the order, requirement, decision, interpretation and/or determination of the Code Enforcement Officer should be reversed or why a variance should be granted and shall address the considerations described in Section 19.02, D, (1) herein if the appeal is for a variance.
    - c. Upon receipt of the completed appeal form and the agricultural data statement, if required, the Zoning Board of Appeals shall:
      - i. Schedule a public hearing.
      - ii. Arrange for publication of notice of the public hearing as described in Section 19.02, D, (3) herein.
      - iii. Refer the application to the County Planning Board in accord with Article 12-B, § 239-m, of the New York State General Municipal Law, if the subject property is within 500 feet of the boundary of any county, town, village, existing or proposed county or state park, any right-of-way of any county or state road or parkway, any stream or canal owned by the county, and existing or proposed county- or state-owned land on which a public building or institution is situated.

- iv. Determine whether a draft environmental impact statement should be required.
    - d. Within 62 calendar days following the public hearing, the Zoning Board of Appeals shall render a decision or, if the parties have agreed to a time extension, within such time extension.
3. Public hearing and Zoning Board of Appeals decision.
  - a. Public hearings shall be scheduled within 62 calendar days from the date that the Zoning Board of Appeals receives the appeal. Any such appeal shall be deemed received when the appeal is first presented at a duly called meeting of the Zoning Board of Appeals. Notice of the public hearing shall be published in the official newspaper of the Town at least ten (10) business days prior to the hearing. Such notice shall briefly describe the nature of the appeal and the time and place of the hearing. The cost of publication of the public hearing notice shall be borne by the appealing party. If the matter has been referred to the Cayuga County Planning Board pursuant to Article 12-B, § 239-m, of the New York State General Municipal Law, a notice of the public hearing shall also be mailed to the Cayuga County Planning Board at least ten (10) business days prior to such hearing along with the full statement of such action as defined in Article 12-B, § 239-m, of the New York State General Municipal Law.
  - b. A copy of the public notice may be sent to adjacent property owners within the Town, but failure to send such notice shall not affect the jurisdiction of the Zoning Board of Appeals or the legality of the decision of the Zoning Board of Appeals. The cost of mailing said notice shall be borne by the appealing party.
  - c. The Secretary to the Zoning Board of Appeals shall make a factual record of the public hearing. Public records shall be taken by stenographic and/or tape recorder means and shall be transcribed accurately into a narrative form which may or may not be a verbatim transcript.
  - d. The decision of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals findings and decision shall be sent to the County Planning Board.

E. Meetings.

1. The Zoning Board of Appeals shall hold regularly scheduled monthly meetings, provided there are meeting agenda items for Zoning Board of Appeals consideration, and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three or more members.
2. The presence of three members shall constitute a quorum for conducting business before the Zoning Board of Appeals, including acting on a zoning appeal or deciding upon any other matter brought before the Board, unless otherwise stipulated in this Ordinance.
3. All votes of the Zoning Board of Appeals shall be taken by roll call. Zoning Board of Appeals decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 19.03 herein.

4. In accordance with § 74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
5. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.
6. The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
7. All meetings of the Zoning Board of Appeals shall be open to the public.
8. The Zoning Board of Appeals shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Secretary to the Zoning Board of Appeals.

F. Records and Decisions.

1. Minutes shall be recorded of all meetings and shall contain relevant information of every action considered together with the votes of each member and final decision of each proposed action. All decisions of the Zoning Board of Appeals shall be permanently filed within five (5) business days in the office of the Town Clerk. The Planning Board shall notify the Town Board, Planning Board, and the Code Enforcement Officer of all decisions and resolutions.

**Section 19.03 - Referrals to County Planning Board**

- A. Proposed actions involving the adoption and/or amendment of a comprehensive plan, the adoption and/or the amendment of a zoning local law or ordinance, the approval of site plans, the issuance of special use permits, subdivision approval, and the granting of use and area variances shall be referred to the Cayuga County Planning Board, pursuant to §§ 239-l, 239-m, and 239-n of the General Municipal Law, if the property involved is within 500 feet of the boundary of any county, town, village; existing or proposed county or state park; any right-of-way of any county or state road or parkway; any stream or canal owned by the county; existing or proposed county- or state-owned land on which a public building or institution is situated; and the boundary of a farm operation located in an agricultural district, except that the following shall be exempt from such referral in accordance with the agreement between the Cayuga County Planning Board and the Mentz Town Board adopted on August 28, 2000:
1. Activities that, while within 500 feet of a state or county highway, are on a parcel that does not front on such state or county highway;
  2. Activities that, while within 500 feet of a municipal boundary, would be permitted within the area of the adjoining municipality abutting the parcel where the activity is proposed;
  3. Area variances;
  4. Amendments to a local zoning law or ordinance that are intended to clarify, redefine, expand, or modify words and/or terms that do not alter the dimensional or use standards of the regulation;
  5. Amendments to a local zoning law or ordinance that are intended to address procedural or administrative matters that do not alter the dimensional or use standards of the regulation;

6. Amendments to a local zoning law or ordinance that are intended to reduce the type or number of uses permitted within a particular zoning district;
  7. Amendments to a local zoning law or ordinance that are intended to reduce the intensity and/or density of development permitted within a particular zoning district;
  8. Any subdivision of land not required to be submitted to the Cayuga County Health Department for review under the definition of a subdivision set forth in Section 1115 of the Public Health Law of the State of New York; and
  9. Any activity subject to review by a local agency employing a municipal planner on a full time basis who will advise the referring agency concerning the referred matter.
- B. Effect of County Planning Board review.
1. If the Cayuga County Planning Board recommends the approval of a matter referred to it, the local board's decision is governed by a simple majority vote.
  2. If the Cayuga County Planning Board recommends approval subject to stated conditions or modifications, or recommends disapproval, the local board may override the County Planning Board recommendation only by a majority plus one vote.
  3. If the Cayuga County Planning Board fails to make a recommendation within 30 calendar days following the date on which the matter was referred to the Cayuga County Planning Board, the local board may take action on the matter after the expiration of such thirty-day period, and the local board's decision is governed by a simple majority vote.
- C. Report on final local action. Within 30 calendar days following a local board's final decision on a matter that was referred to the Cayuga County Planning Board, the local board shall provide a copy of its final decision to the County Planning Board. If the local board acted contrary to the Cayuga County Planning Board's recommendation, the local board shall also provide to the Cayuga County Planning Board its reasons for such decision.

#### **Section 19.04 - Agricultural Data Statements**

- A. Applicability. Any application for a special use permit, site plan approval, use variance or subdivision review and approval by the Planning Board, Zoning Board of Appeals or Town Board that would occur on property within an Agricultural District containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an Agricultural District, shall include an agricultural data statement. The Planning Board, Zoning Board of Appeals, or Town Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such Agricultural District.
- B. Notice to land owners. Upon the receipt of such application by the Planning Board, Zoning Board of Appeals or Town Board, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for said project. The cost of mailing said notice shall be borne by the applicant.

- C. Contents of an agricultural data statement. The agricultural data statement shall including the following information:
1. The name and address of the applicant;
  2. A description of the proposed project and its location;
  3. The name and address of any owner of land within the Agricultural District, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and
  4. A Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

**Section 19.05 - Fee Reimbursement**

- A. In connection with any application for a Special Use Permit, Site Plan approval, Major Subdivision or Cluster Subdivision approval, Zoning Amendment, or Variance, the reviewing board may require the applicant to pay in advance into an escrow fund established to cover the reasonable costs of reviewing such application. Such costs may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the reviewing board.

## **Article XX. Amendments**

### **Section 20.01 - Procedure**

- A. The Town Board may from time to time, on its own motion or on petition or on recommendation of the Planning Board, the Zoning Board of Appeals, or a member of the public, amend, supplement or repeal the regulations and provisions of this Ordinance including changing the Zoning District classification of a particular parcel of land, often referred to as a re-zoning, after public notice and hearing.
- B. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:
1. By publishing a notice of the time and place of the hearing at least ten (10) business days prior to the date of such hearing in a paper of general circulation in the Town.
  2. A written notice of any proposed change or amendment affecting land included in such proposed change or of that immediately adjacent, extending 100 feet therefrom, or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land at least ten (10) business days prior to the date of such public hearing.
  3. A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law of New York State, as such area is shown on an approved zoning map filed with the Zoning Officer, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least ten (10) business days prior to the date of such hearing.
  4. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commissioner having jurisdiction over such state park or parkway at least ten (10) business days prior to the date of such public hearing.
  5. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, town, or county shall be given to the Clerk of such municipality and to the Clerk of the County Legislature at least ten (10) business days prior to the date of such hearing.
  6. In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of that immediately adjacent, extending 100 feet therefrom, or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

## **Article XXI. Severability, Repealer, and Effective Date**

### **Section 21.01 - Severability**

A. It is hereby declared to be the legislative intent that:

1. 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.
2. Should the court 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 person, property or situations shall not be affected.

### **Section 21.02 - Repealer**

A. The Law adopted in 1969 and entitled and cited as the "1969 Zoning Ordinance of the Town of Mentz" and all supplements and amendments thereto, are hereby repealed. Provided, however, if the present Law is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective as aforesaid, then in that event the Law entitled cited as the "1969 Zoning Ordinance of the Town of Mentz" together with its supplements and amendments, would necessarily remain in full force and effect. In addition to the supplements and amendments mentioned above, the following Laws and their supplements and amendments are hereby repealed:

1. Local Law # 1 of 1966 entitled "Mobile Home and Mobile Home Court Law of the Town of Mentz".
2. Local Law of 1966 entitled "The Town of Mentz Subdivision Regulations".
3. Local Law # 1 of 1965 entitled "A Local Law Providing for the Regulation of Junk Yards, the Licensing of the Operators Thereof and Defining the Places and Areas in Which Abandoned Automobiles May be Stored or Kept".
4. Local Law # 3 of 2013 entitled "Wireless Telecommunications Facilities Siting Law".

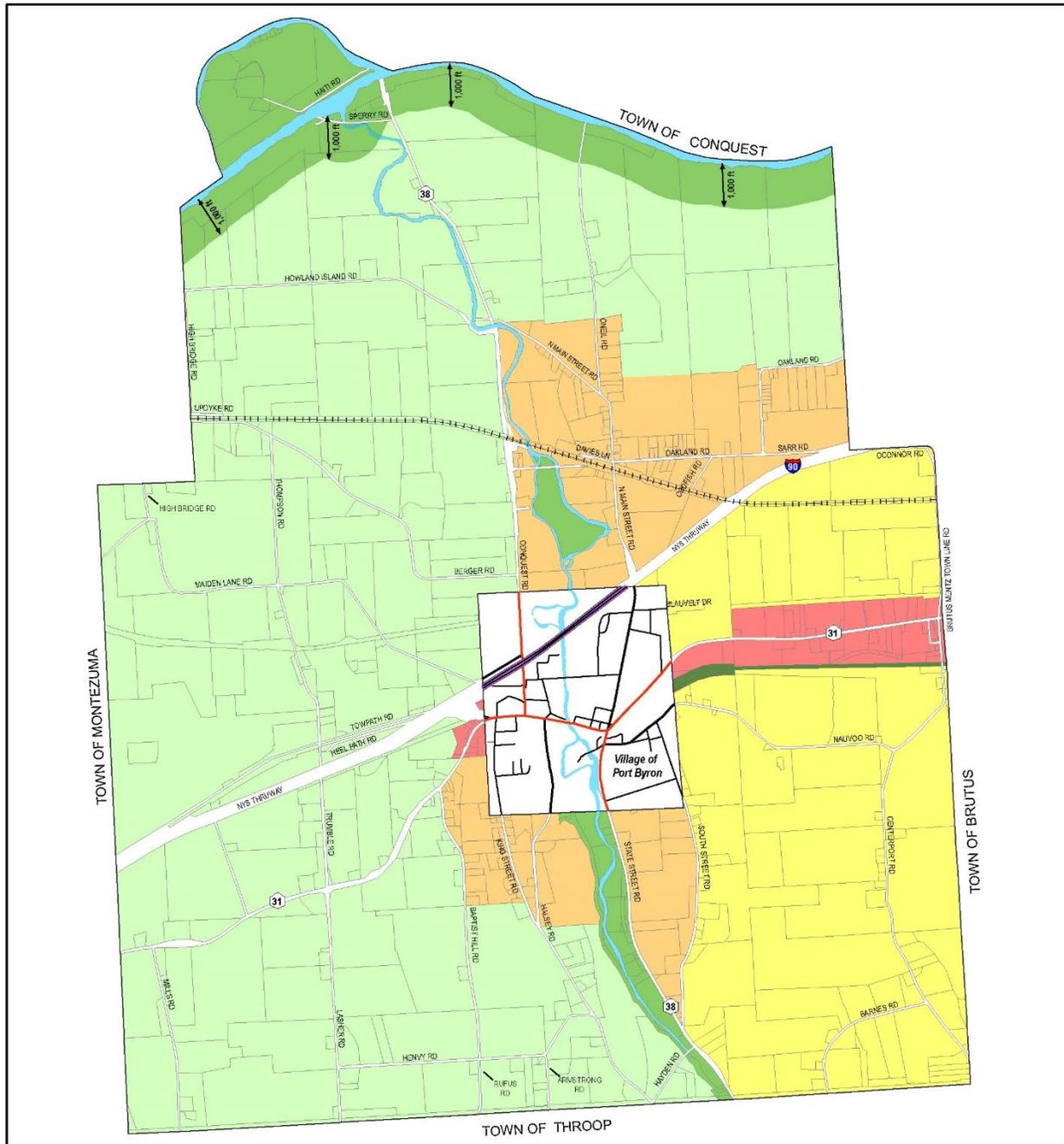
B. If this Law entitled "Town of Mentz Zoning Ordinance" adopted and effective as noted in Section 21.03 herein, is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective as aforesaid, then in that event the laws listed above together with their supplements and amendments, would necessarily remain in full force and effect until this Law is found to be effective and valid.

### **Section 21.03 - Effective Date**

A. Be it enacted this 22 day of October, 2019 by the Town Board of the Town of Mentz of Cayuga County, New York that this Law shall be effective immediately.

**ERRATA - Wherever in this enactment words other than "Zoning Ordinance" have been used and referring to this enactment, those words shall mean "Zoning Ordinance".**

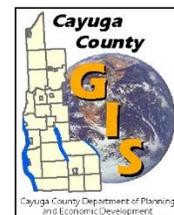
Appendix I. Zoning Map



**TOWN OF MENTZ ZONING DISTRICTS**

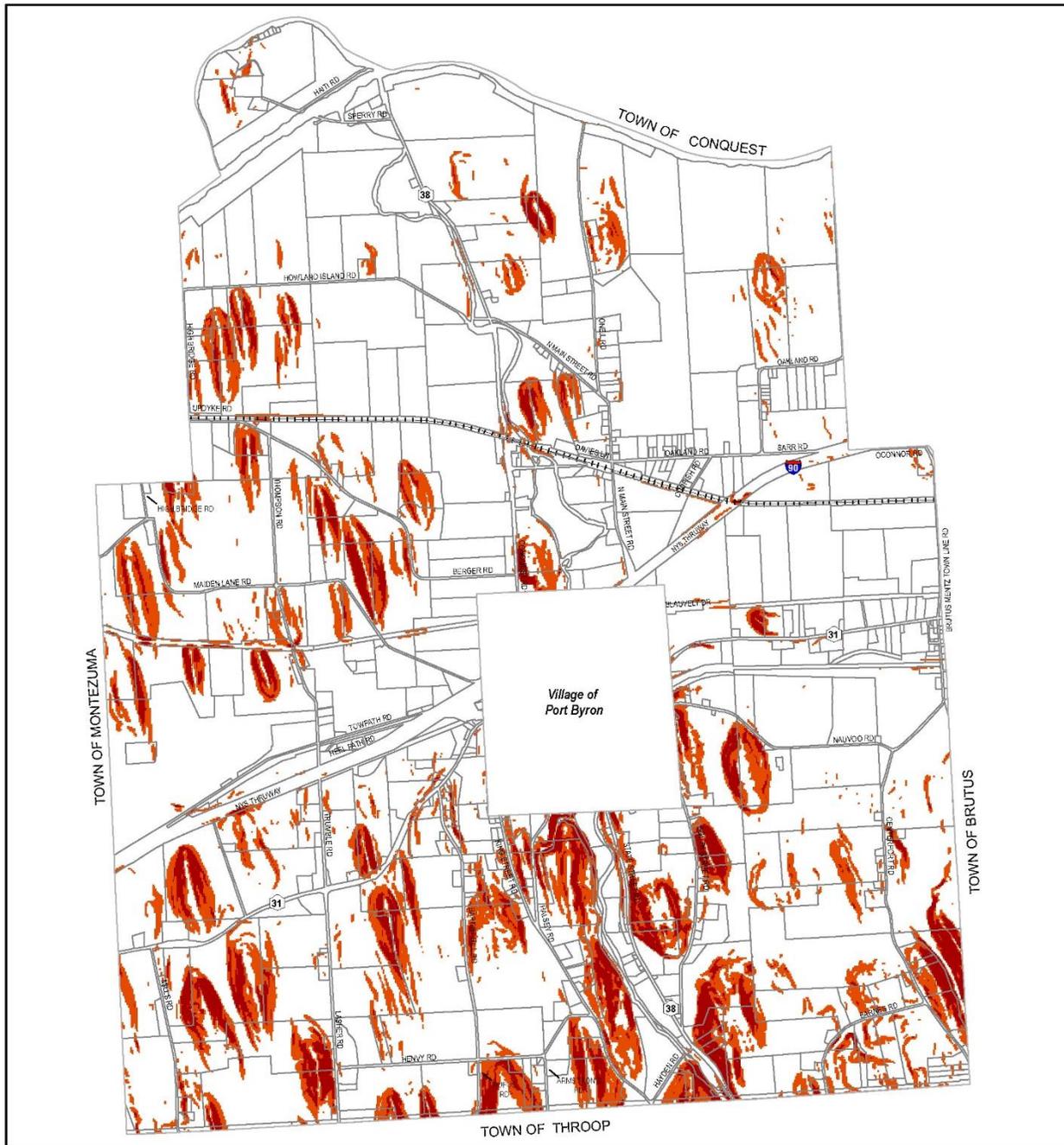
**LEGEND**

- ++++ Railroad
- Zoning Districts**
- Commercial
- Residential- Medium Density
- Residential- Low Density
- Public Parkland
- Conservation
- Agriculture



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**Appendix II. Steep Slope Map**



**TOWN OF MENTZ - STEEP SLOPES**

**LEGEND**

Steep Slopes\*

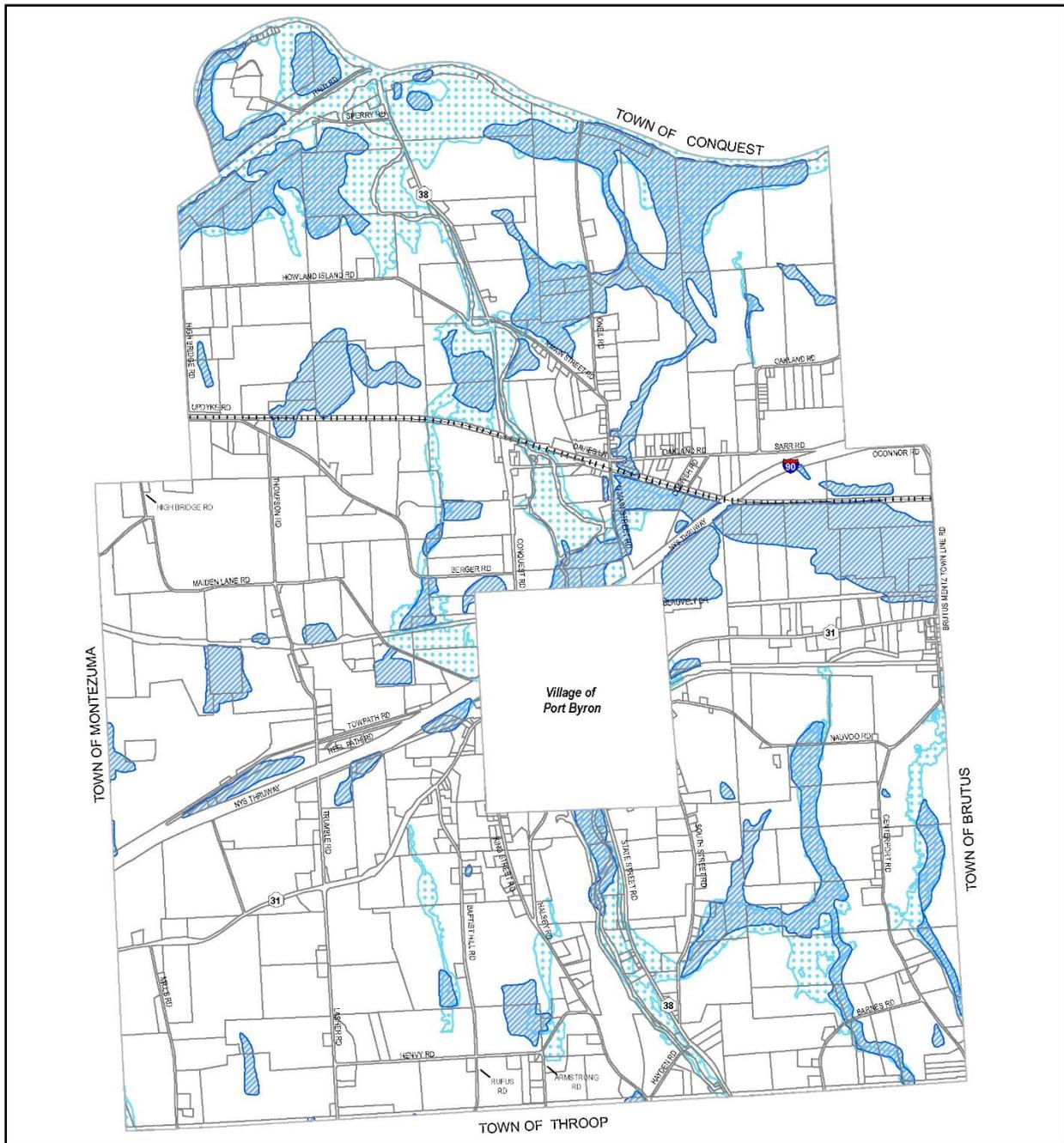
- 15% - 25%
- Greater than 25%

\* Steepness of slopes. Data derived from Airborn LiDAR data collected April, 2000.



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**Appendix III. Natural Resource Protection Map**



**TOWN OF MENTZ - NATURAL RESOURCE PROTECTION**

**LEGEND**

-  Flood Hazard Overlay
-  Freshwater Wetlands\*

\* Includes all freshwater wetlands in the Town of Mentz that have been mapped by either NYS DEC or the US Fish & Wildlife Service.



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## **Appendix IV. Outdoor Lighting Ordinance**

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### **Section 1 - Purpose and Intent**

- A. The purpose of this Ordinance is to provide regulations which will protect the health, safety, and welfare of the general public, conserve valuable energy resources, prevent light trespass from interfering with our quality of life, protect our ecological and natural resources, and preserve the ability to view the celestial features of the night sky for present and future generations. By this legislation, the Town Board wishes to establish provisions and a process for review so that outdoor lighting that is protective of the environment is installed on all new construction and is used when current outdoor lighting fixtures that are not in compliance with this Ordinance need replacement. These standards provide for the following:
1. Comprehensive regulations and guidelines in order for residents, business owners, and the municipality to comply with standards set by the community for outdoor lighting;
  2. Preservation of our rural character, aesthetic value, and the unique quality of life enjoyed by Town residents by preserving and enhancing the ability to view the night sky;
  3. Advancement of sound environmental policies which will benefit residents and serve as a positive example;
  4. Proper direction and use of light in order to minimize light trespass, glare, and energy wasted on unnecessary and indiscriminate illumination;
  5. Elimination of the need for commercial establishments to compete for visual attention by escalating outdoor lighting levels;
  6. Reduction in excessive illumination which can have a detrimental effect on flora and fauna that depend on the natural cycle of day and night for survival; and
  7. Prevention of nuisances caused by unnecessary light intensity, glare, and light trespass.

### **Section 2 - Definitions**

- A. As used in this Ordinance, the following terms shall have the meanings indicated:
- Acceptable Outdoor Lighting Fixtures:** Outdoor lighting fixtures consistent with the examples of "acceptable fixtures" shown in Schedule B located at the end of this Ordinance.
- Average Footcandles:** The average level of illuminance for a given area measured at ground level with a light meter placed parallel to the ground.
- Color Rendering Index (CRI):** A number from 0 to 100 representing the ability of a light source to accurately reproduce the colors of an illuminated object. (Higher index numbers indicate greater accuracy.)
- Correlated Color Temperature (CCT):** The perceived color of the light emitted by a lamp, expressed in kelvin (K) units. The lower the kelvin rating, the "warmer" or more yellow the light; the higher the rating, the "cooler" or more blue the light.
- Essential Lighting:** Light used for a specified period of time that is necessary for a specific purpose while said purpose is actively being served. This includes lighting that is necessary to promote location identification, public circulation, public safety, and fully shielded security lighting.

**Excessive Lighting:** Light that exceeds the amount that is needed to perform a visual task at night or is required for safety, per suggested minimum illuminance levels published by IES in its Recommended Practices.

**Fixture:** The complete lighting assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens; also referred to as a "luminaire."

**Flood- Or Spotlight:** Any light fixture or lamp that incorporates a reflector, a refractor, or a prismatic lens to concentrate the light output into a directed beam in a particular direction.

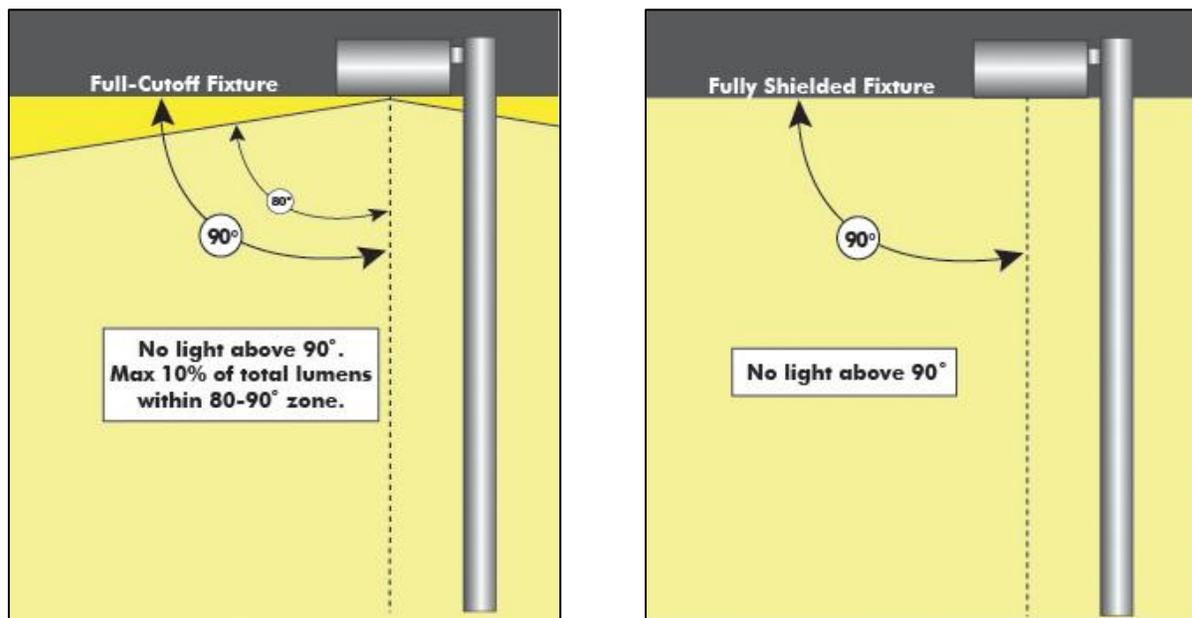
**Fluorescent:** A type of discharge lamp that employs mercury vapor and phosphors. Unlike incandescent lamps, fluorescent lamps require a ballast to regulate the flow of electricity.

**Footcandle:** The unit of measurement used to quantify the amount of light falling on a surface. One footcandle is the illuminance produced by a candle on a surface one foot square from a distance of one foot.

**Full-Cutoff:** For the purposes of this Ordinance, a "full-cutoff fixture" is considered one that delivers 100% of the total lumens within the 0° to 90° zone with a maximum of 10% of total lumens delivered within the 80° to 90° zone. Full-cutoff fixtures are considered fully shielded. See Figure 1.

**Fully Shielded:** A fixture constructed and installed in a fixed position and in such a manner that all light emitted is projected below the horizontal plane through the fixture's lowest light-emitting part. Unlike a full-cutoff fixture, a fully shielded fixture is not engineered to limit lumen distribution in the 80° to 90° zone. See Figure 1.

Figure 1



**Glare:** A visual effect produced when a light source within the field of view is brighter than the level to which the eyes are adapted. Glare may cause annoyance, discomfort, loss of visual acuity, or momentary blindness.

**High-Intensity Discharge (HID) Lighting:** An energy efficient family of lighting that includes high-pressure sodium, mercury vapor, and metal-halide-type bulbs. These types require a warmup time, usually require a ballast exclusive to the light source, and have a higher lumen output per watt than incandescent or halogen lamps.

**High-Pressure Sodium (HPS):** A type of high-intensity discharge lamp that primarily employs sodium. These lamps produce light with a warm Correlated Color Temperature of approximately 2100 K and have a Color Rendering Index of around 25.

**Holiday Lighting:** Temporary lighting of various types and colors installed in connection with holiday or religious observances and removed thereafter.

**IES:** Illuminating Engineering Society, the trade association of the lighting industry.

**IES Recommended Practices:** IES publications setting forth recommended light levels for a particular application. Recommended Practices cited in this Ordinance are: Lighting for Exterior Environments (RP-33), Lighting for Parking Facilities (RP-20), Roadway Lighting (RP-8), and Sports and Recreational Areas Lighting (RP-6).

**Illuminance:** The amount of light falling on a surface, measured in footcandles (lumens per square foot).

**Kelvin:** The unit of measurement used to characterize the color of light emitted by a lamp. See also "Correlated Color Temperature."

**Lamp:** A light bulb or other component of a fixture that changes electricity into visible light.

**Lamp Type:** The category to which a lamp belongs by virtue of the process by which it produces light. The principal categories are incandescent, fluorescent, low-pressure sodium, high-intensity discharge (HID) (which includes high-pressure sodium, metal halide, and mercury vapor), and LED (light-emitting diode). The categories vary in terms of:

1. The amount of light output (lumens) per watt consumed;
2. Lamp life;
3. The color of the light emitted (Correlated Color Temperature); and
4. The accuracy with which colors of an illuminated object are reproduced (Color Rendering Index).

**LED (Light-Emitting Diode):** A semiconductor device that emits visible light when electrical current passes through it.

**Lighting:** Man-made illumination or equipment used to produce it.

**Light Level:** The illuminance as measured by a light meter or reported in photometric calculations. Light levels are indicated in footcandle measurements and may also be expressed as uniformity ratios, maximum or average to minimum.

**Light Pollution:** Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, visual clutter, excessive or unnecessary lighting, or any artificial light that unnecessarily diminishes the ability to view the night sky or is disruptive to the natural environment.

**Light Source:** The light-emitting part or parts of a light fixture, consisting of the lamp or lamps and any transparent or translucent covering over the lamp, as well as any refractors, reflectors, prismatic lenses, mirrors, or diffusers which emit or transmit light.

**Light Trespass:** Light projected onto a property or into the public right-of-way from a light source on a different property.

**Low-Pressure Sodium:** A type of discharge lamp that primarily employs sodium. These lamps have a higher lumen output per watt than HID lamps but low Color Rendering Index.

**Lumen:** The unit of measurement used to quantify the amount of light produced by a lamp or emitted from a fixture (as distinct from "watt," which is a measurement of the electrical power). For the purposes of this Ordinance, measurements in lumens shall refer to "initial lamp lumens" (as opposed to "maintained lamp lumens") as rated by the manufacturer when the lamp is new, as listed on the packaging.

**Luminaire:** See "fixture."

**Mercury Vapor:** A type of high-intensity discharge lamp that uses mercury as the primary light-producing element. Mercury vapor lamps produce light with a cool Correlated Color Temperature (CCT) from 3000 to 7000 K.

**Metal Halide:** A type of high-intensity discharge lamp that uses mercury and several halide additives as light-producing elements. Metal halide lamps are typically available with cool Correlated Color Temperatures (CCT) from 2300 to 5400 K and with CRI values from 60 to 93.

**Mounting Height:** The vertical distance measured from the average elevation of the existing natural grade or average elevation of the approved grade (if cut/fill activities are proposed) to the lowest light-emitting part of an installed fixture.

**Nonconforming:** Lighting which does not meet the requirements and specifications contained in this Ordinance.

**Nonessential Lighting:** Lighting which is unnecessary for pedestrian passage or other tasks and therefore not generally useful (i.e., decorative and landscape lighting). This includes lighting intended for a specific task or purpose when said task or purpose is not being actively performed (e.g., parking lot illumination and wall-mounted perimeter lights after business hours).

**Nonresidential Lighting:** Any outdoor lighting intended for use on a lot with a business (except home occupation), industrial, or institutional use (or, if undeveloped, is zoned for such use). Municipal buildings and facilities shall follow nonresidential standards.

**Nuisance Lighting:** Any outdoor lighting that creates a potential hazard to the public or light trespass or glare to neighboring properties, thereby causing loss of enjoyment, comfort, or repose.

**Outdoor Lighting:** Lighting that provides illumination to a surface, building, structure, device, or other outdoor feature. Any fixture located indoors that is intended to illuminate something outdoors is considered outdoor lighting for the purposes of this Ordinance.

**Photometric(s) or Photometry:** A test to determine light distribution and performance of a fixture. A photometric report, which may include candlepower distribution data, cutoff or other light distribution classification, footcandle chart, etc., is generally available from the manufacturer.

**Repair:** Any service normally provided by a licensed electrician to a light fixture or lighting installation, including replacement, modification, or relocation of any of the following: poles, mounting arms, wiring, housings, or any component within or attached to a light fixture. Replacement of a user-serviceable lamp (i.e., light bulb) shall not by itself be considered a repair.

**Residential Lighting:** Any outdoor lighting on a lot having a structure or structures whose primary use is residential (or, if undeveloped, is zoned for such use). Although reviewed as a commercial site plan, lighting plans for multifamily developments shall follow residential standards.

**Searchlight:** Lighting designed to project a high-intensity beam of light that is typically used to sweep the sky for promotional purposes.

**Sensor (Motion):** A device that causes a light fixture to turn on or off in response to motion or light or infrared radiation or a combination thereof.

**Shield or Shielded:** An opaque device that is attached to a light fixture to prevent light from being emitted in certain directions. Auxiliary "back" or "house-side" shielding added to an already fully shielded fixture can help limit trespass where a fixture is located near the property line.

**Skyglow:** The brightening of the night sky or the overhead glow from artificial light that is directed upward or from light reflected upward from the ground or off other surfaces. Skyglow is caused by the reflection of light off moisture and dust particles in the atmosphere, reducing the ability to view the natural night sky.

**Sports Lighting:** Light fixtures used to illuminate courts, arenas, fields, tracks, and recreational areas.

**Street Lighting:** Permanent outdoor lighting that is owned and maintained by a municipality or other public agency and that is specifically intended to illuminate streets for automotive vehicles and may also incidentally light sidewalks and private property.

**Temporary Lighting:** Lighting which is intended to be used for a specified purpose and for a limited time and is removed thereafter.

**Town:** The Town of Mentz and its employees, officers, or agents, including any agency, authority, board, bureau, commission, committee, council, department, or division of the Town created by law or by the Town Board or by the Town Supervisor, the expenses of which are paid in whole or in part from Town funds.

**UL Rating:** A reference to "Underwriters Laboratory," a commercial agency that certifies the maximum safe wattage for fixtures and other electrical devices. A UL label indicating the maximum safe wattage is affixed or imprinted on all light fixtures which are offered for sale.

**Unacceptable Outdoor Lighting Fixtures:** Outdoor lighting fixtures consistent with the examples of “unacceptable fixtures” shown in Schedule B located at the end of this Ordinance.

**Uniformity Ratio:** A ratio that describes uniformity of illuminance across an area. The uniformity ratio may be a ratio of the maximum to minimum illuminance or the average to minimum illuminance.

**Unshielded:** A fixture designed or installed so that it is not fully shielded, i.e., emits light above the lowest light-emitting part of the fixture.

**Watt:** The standard unit of measurement of electrical power. One watt is one ampere of current flowing at one volt.

### **Section 3 – Applicability**

- A. New lighting. All outdoor lighting newly installed after the effective date of this Ordinance shall comply with its provisions.
- B. Preexisting lighting. All properties with legally existing and operative outdoor lighting at the effective date of this Ordinance shall be exempt from compliance, subject to the provisions below.
  1. Any outdoor lighting fixture that is replaced, changed, repaired, or relocated, in whole or in part, after the effective date of this Ordinance shall comply with its provisions.
  2. Nonresidential lighting.
    - a. Subsequent to the effective date of this Ordinance, any addition or expansion (whether single or cumulative) that is made to a nonresidential property, whereby lot coverage or floor area is increased by 25% or more, shall subject said nonresidential property to the provisions of this Ordinance for the entire property, including previously installed and any new outdoor lighting.
    - b. Subsequent to the effective date of this Ordinance, any addition or expansion (whether single or cumulative) that is made to an existing nonresidential property encompassing at least 4,000 square feet of development prior to expansion, whereby lot coverage or floor area is increased by 25% or more, shall subject said nonresidential property to the provisions of this Ordinance for the entire property, including previously installed and any new outdoor lighting.
  3. Residential lighting. Subsequent to the effective date of this Ordinance, any addition or expansion (whether single or cumulative) that is made to a residential property, whereby lot coverage or floor area is increased by 25% or more, shall subject said residential property to the provisions of this Ordinance for the entire property, including previously installed and any new outdoor lighting.
  4. Nuisance lighting. The exemption shall not apply if the Town determines that certain outdoor lighting creates nuisance lighting as defined in Section 2 herein. If the Town determines, that nuisance lighting exists on a property causing loss of enjoyment, comfort, or repose, such lighting shall comply with Subsection B,5 below, in accordance with the procedures outlined in Section 9-B of this Ordinance.

- a. Light trespass shall be considered nuisance lighting when:
    - i. Illuminance at or beyond a property line abutting a residential parcel, nature preserve, or waterway exceeds 0.05 footcandle as measurable from any orientation of the measuring device; or
    - ii. Illuminance at or beyond a property line abutting a nonresidential property or public right-of-way exceeds 0.1 footcandle as measurable from any orientation of the measuring device.
  - b. Glare light shall be considered nuisance lighting when a light source is seen from a neighboring property or roadway at sufficient intensity to cause discomfort, annoyance, or impaired visibility.
5. Abatement of nuisance lighting. If the Town determines nuisance lighting to exist on a property, that lighting shall comply with either Subsection B,5,a or b below, in accordance with the procedures outlined in Section 9-B of this Ordinance.
- a. To the extent that the abatement of nuisance lighting will require re-aiming a fixture or re-lamping to reduce lumen output, such lighting shall be re-aimed and/or re-lamped so that the light source is not visible across property lines.
  - b. To the extent that the abatement of nuisance lighting will require removing, replacing, shielding, retrofitting, or relocating a fixture, such lighting shall be removed, replaced, shielded, retrofitted, or relocated so that the light source is not visible across property lines.
6. Hours of operation. Preexisting lighting on both residential and nonresidential properties shall comply with the limits on hours of operation set forth in Section 6-A,5 and Section 7-A,5 of this Ordinance.
7. All power company leased preexisting nonconforming fixtures (i.e., "dusk to dawn") shall be removed, replaced, or retrofitted on or before January 1, 2021. All replacement or retrofitted lighting shall meet the following requirements:
- a. Full-cutoff fixtures and shields shall be installed so that the light source is not visible from any adjacent roadway or any private property other than that on which the lessee is located; and
  - b. Light levels shall not exceed the values as specified in Tables 1 and 2 (see Schedule A at the end of this Ordinance); and
  - c. Correlated Color Temperature of lamps may not exceed 3000 kelvin; and
  - d. No new light fixture (other than municipal street lighting) shall be installed on a public utility pole after the effective date of this Ordinance.
- C. Use. Lighting plans and installations shall continue to be reviewed by the Town based on the use of a property and with due regard to the underlying zoning district as well as potential impacts to existing adjacent uses.

D. Other laws.

1. In the case where this Ordinance is found to be in conflict with another provision of local law, the provision or requirement that is the more restrictive, or that which establishes the higher standard, shall prevail.
2. Sign lighting. Illumination of signs shall be governed by Article XV of the Town of Mentz Zoning Ordinance and any amendments thereto.

E. Other jurisdictions. Federal, state, and county agencies with facilities located within the Town are urged to comply with the provisions of this Ordinance except where doing so would conflict with established regulations.

**Section 4 – Exempt and Prohibited Outdoor Lighting**

A. Exempt outdoor lighting. The following are exempt from the provisions of this Ordinance:

1. All temporary emergency lighting determined to be necessary by the Police, Fire, or EMS personnel; Highway Superintendent; or other emergency service providers.
2. Lighting used in municipal road construction or emergency repair or maintenance of utility lines, sewer, water mains, or similar public infrastructure.
3. Holiday lighting, as defined in Section 2 of this Ordinance.
4. Flag up-lighting, provided any such flag is not used for advertising purposes and the light source is not visible across property lines or from roadways.
5. Underwater lighting used for swimming pools, provided such lighting meets all relevant electrical codes.
6. Lighting for radio, telecommunication, and navigation towers, provided that the owner or occupant demonstrates to the satisfaction of the Planning Board that the Federal Aviation Administration (FAA) regulations can only be met through the use of lighting that does not comply with this Ordinance, and that the provisions of this Ordinance are otherwise met to the fullest extent possible. Lighting for any telecommunications facility shall not be permitted unless required by the FAA; in which case, required lighting shall be of the lowest allowed intensity, unless specifically forbidden by the FAA.
7. Runway lighting on any approved landing strip or runway, provided that the owner or occupant demonstrates that FAA regulations can only be met through the use of lighting that does not comply with this Ordinance.
8. Lighting installed to illuminate public monuments, provided that the light levels do not exceed two footcandles on any light surface monument and do not exceed four footcandles on any dark surface.
9. Historic-style fixtures that are part of an existing and approved continuous lighting design, where the piecemeal replacement with compliant fixtures would unacceptably degrade the aesthetic characteristics of the overall design. This exemption shall not be construed to preclude the installation of fixtures complying with this Ordinance.

- B. Prohibited outdoor lighting. The following outdoor lighting shall not be permitted within the Town as of the effective date of this Ordinance, except as exempt above:
1. Lamps having Correlated Color Temperature in excess of 3000 kelvin.
  2. Lighting used to illuminate a property other than that on which the fixture is located.
  3. Searchlights, except those used for governmental or emergency purposes.
  4. Strobe lights and laser lights, including laser light shows and aerial laser lights.
  5. Neon lights, except as legally permitted.
  6. Fixtures that revolve or create blinking, flickering, scrolling, rotating, pulsating or tracing light, exclusive of exempt holiday lighting and sign lighting as permitted by Article XV of the Town of Mentz Zoning Ordinance.
  7. Flashing lights, unless temporarily triggered by a security system and extinguished at the time of security response.
  8. Any type of lighting used to outline all or part of a building (for example, a window, roof, or gable), except for fully recessed soffit lighting that otherwise complies with this Ordinance.
  9. Any light fixture that may be construed as or confused with a traffic signal, traffic control device, or maritime navigational markers.
  10. Lighting that is determined by law enforcement to contribute to a condition of disabling or distracting glare into a public roadway.
  11. Any light fixture located within or illuminating a designated nature preserve, conservation easement, or waterway, except as approved by the Town or the applicable agency.
  12. When visible across property lines, the illumination of vending machines after the close of business.
  13. "Day burners" or outdoor lighting which is illuminated during daylight hours.
  14. Mercury vapor (MV) lamps.

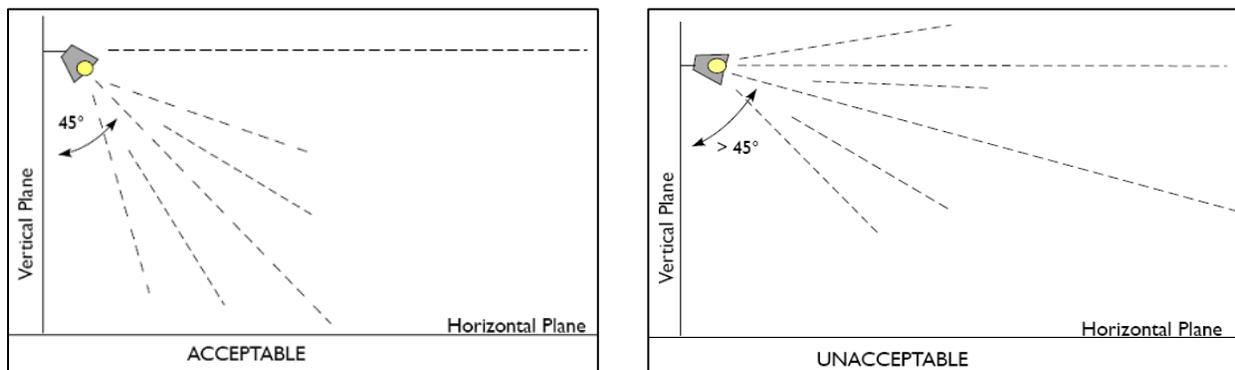
**Section 5 – General Standards for all Outdoor Lighting Installations**

- A. All new or replacement outdoor lighting shall be designed, located, lamped, directed, and maintained in order to prevent the following:
1. Nuisance lighting.
  2. Excessive lighting and energy consumption.
  3. Glare.
  4. Light trespass.
  5. Unnecessary skyglow.
  6. Unnecessary detriment to species in natural communities proximate to lighting locations.
  7. Interference with pedestrian or vehicular travel on streets, roadways, and highways.

**Section 6 – Residential Lighting Standards**

- A. All residential and multifamily residential properties shall comply with the following standards.
1. Nuisance prevention. Outdoor lighting on residential properties shall be designed and installed so that all light which is emitted by any outdoor light fixture shall not shine on or illuminate any neighboring property. No outdoor lighting shall be maintained or operated in such a manner so as to be nuisance lighting, as defined Section 2 of this Ordinance.
  2. Shielding. All outdoor lighting fixtures shall be fully shielded and aimed straight downward, with the following exceptions:
    - a. Outdoor lighting fixtures with total light output of 900 lumens or less (60 watts incandescent or less) are exempt from the shielding and aiming requirement above.
    - b. Unshielded outdoor lighting fixtures operated by motion sensors are permitted, provided that:
      - i. The fixture is set to go on only when activated and to go off within five minutes after activation has ceased;
      - ii. The sensor shall not be triggered by activity off the property; and
      - iii. The output per fixture does not exceed 1,800 lumens (100 watts incandescent).
    - c. Unshielded floodlights not exceeding 1,800 lumens per fixture (100 watts incandescent) are permitted, provided they are aimed no higher than 45° and do not cause nuisance lighting, as defined in Section 2 of this Ordinance. See Figure 2.
    - d. Driveway lighting. Unshielded fixtures installed in or on a pillar or post at the foot of a driveway may not exceed 250 lumens (25 watts incandescent) per pillar/post.

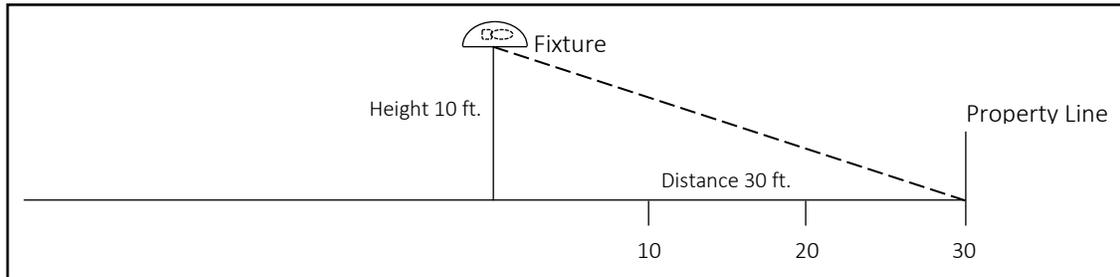
**Figure 2**



3. Mounting height.
  - a. The mounting height of a fixture attached to any structure shall not exceed 12 feet from the lowest light-emitting point on the fixture to the area to be lit directly below the fixture, except for fully recessed soffit lighting that otherwise complies with this Ordinance.

- b. The mounting height of any freestanding light fixture shall not exceed 10 feet and, when located in side and/or rear yards, shall meet the setback requirements of Subsection 4 below, unless otherwise authorized by the Town.
- 4. Setback. The setback for freestanding light fixtures from closest side and/or rear yard property lines shall be greater than or equal to three times the mounting height. See Figure 3.

**Figure 3**



- 5. Hours of operation. Automated shutoff controls for outdoor lighting are encouraged to conserve energy, to extinguish lighting that is not needed for safety, and to alleviate nuisance lighting.
  - a. Nonessential outdoor lighting shall not remain on continuously from 12:00 midnight until dawn.
  - b. Essential outdoor lighting sufficient for security purposes may be in operation continuously from 12:00 midnight until dawn, provided that illumination on the ground or on any vertical surface is not greater than 0.5 footcandle.
- 6. No light fixture on a residential property (other than sports lighting) shall have a total light output exceeding 2,600 lumens (150 watts incandescent).

**Section 7 – Nonresidential Lighting Standards**

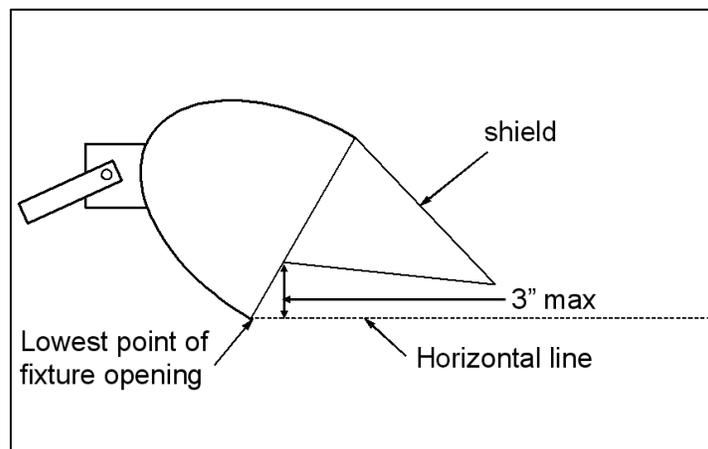
- A. Properties with nonresidential lighting, as defined in Section 2 of this Ordinance, shall comply with the following standards. The Planning Board may permit minor adjustments to any lighting requirement herein, provided that the proposed outdoor lighting is found to be reasonable, necessary, and consistent with the purposes of this Ordinance.
  - 1. Nuisance prevention. Outdoor lighting on nonresidential properties shall be designed and installed so that all light that is emitted by any outdoor light fixture shall not shine on or illuminate any neighboring property. No outdoor lighting shall be maintained or operated in such a manner so as to be nuisance lighting, as defined in Section 2 of this Ordinance.
  - 2. Shielding. Unless otherwise specified, all outdoor lighting fixtures shall be fully shielded and aimed straight downward.
  - 3. Mounting height.
    - a. Building or structure. Outdoor lighting fixtures shall not be installed at a height greater than 12 feet from grade to the lowest light-emitting part of the fixture, except for fully recessed soffit lighting that otherwise complies with this Ordinance.

- b. Free-standing pole. The Planning Board may consider heights of outdoor lighting fixtures up to but not greater than 14 feet from the natural grade to the lowest light-emitting part, unless it is demonstrated to the Planning Board's satisfaction that a greater mounting height would better accomplish the purposes of this Ordinance.
4. Setback. Freestanding poles placed within 10 feet of side and/or rear property lines shall not exceed 10 feet in height and shall have full-cutoff fixtures.
5. Hours of operation.
  - a. Nonessential outdoor lighting shall not remain on continuously from 12:00 midnight until dawn.
  - b. Essential lighting in operation after the close of business should be controlled by timers or motion sensors.
  - c. The Planning Board may establish hours of operation in connection with a lighting plan and may authorize specific lighting to remain on after the close of business.
6. Lamp types. Any lamp type except mercury vapor may be used as long as the lamp's Correlated Color Temperature does not exceed 3000 kelvin.
7. Limits of illumination.
  - a. The Town recognizes that not every situation will require lighting, such as situations that may utilize reflectorized markers, lines, or other passive means.
  - b. Light levels shall not exceed the minimums recommended by the Illuminating Engineering Society.
  - c. Except for athletic fields, light levels shall not exceed the values listed in Tables 1 through 5 (see Schedule A at the end of this Ordinance) for the appropriate task.
  - d. Light levels for sidewalks, doorways, and building approaches shall not exceed those in Table 1 (see Schedule A at the end of this Ordinance).
  - e. Illumination of building facades, sculptures, or structures is prohibited, except as approved by the Planning Board.
  - f. Light levels for parking lots, sidewalks, and other walkways shall include light contributions from nearby sources, and shall be expressed in footcandles on any lighting plan submitted for review and approval.
8. Light trespass limits.
  - a. Illuminance at or beyond a property line abutting a residential parcel, nature preserve, or waterway shall not exceed 0.05 footcandle as measurable from any orientation of the measuring device.
  - b. Illuminance at or beyond a property line abutting a nonresidential property or public right-of-way shall not exceed 0.1 footcandle as measurable from any orientation of the measuring device.
9. Additional lighting requirements for specific applications. In addition to Section 7- A, 1-8 above, the following requirements shall apply to the specific lighting applications below:

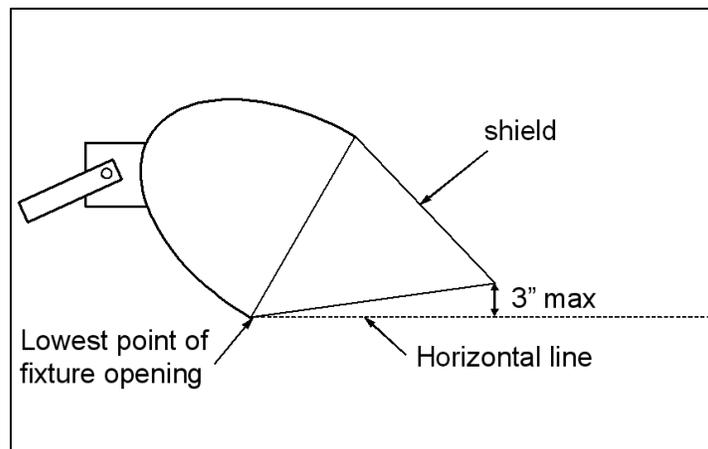
- a. Parking lot illumination.
  - i. All fixtures shall be full-cutoff.
  - ii. Light levels shall not exceed those in Table 2 (see Schedule A at the end of this Ordinance).
- b. Street lighting. No new or replacement streetlights shall be installed unless a determination has been made by the Town Highway Superintendent that the purpose of the new lighting installation or replacement cannot be achieved by reflectorized roadway markers, lines, warnings, informational lighting or other passive means.
  - i. Any fixture used for street lighting shall be full-cutoff and angled straight downward, except that an historic-style decorative fixture may emit up to 2% of its total lumens above the horizontal plane.
  - ii. Street lighting installed in the public right-of-way is exempt from height restrictions and ratio of height to property lines, as well as light trespass limits.
  - iii. New and replacement street lighting installations shall not exceed the light levels as specified in Table 3 (see Schedule A at the end of this Ordinance).
  - iv. No new lighting, other than municipal street lighting, shall be leased, installed, or maintained by any person or agency on public utility poles.
- c. Bank automatic teller machine (ATM) lighting.
  - i. All fixtures shall be full-cutoff and shall not cause glare or light trespass onto adjoining properties or into roadways.
  - ii. Light levels shall not exceed those established in New York State Banking Law Article II-AA, §75-b(4), to wit, the definition for "adequate lighting," as may be amended:
    - (A) For outdoor ATMs, pursuant to and consistent with §75-b(4)(b)(i), (ii), and (iii);  
and
    - (B) For indoor ATMs, pursuant to and consistent with §75-b(4)(c)(i) and (ii).
  - iii. ATM and other bank lighting shall meet the required transitional zoning requirements when located adjacent to residential zones.
  - iv. The Planning Board shall consider adjacent properties when permitting the hours of operation for ATM lighting.
- d. Service (gas) station lighting.
  - i. All service station fixtures shall be full-cutoff.
  - ii. Canopy lighting shall be fully recessed so as to be flush with the underside.
  - iii. Light levels shall not exceed those in Table 4 (see Schedule A at the end of this Ordinance).
  - iv. Twenty-four-hour service stations shall be required to install motion-sensor-activated lighting at the rear of buildings, provided the lighting is not triggered by off-site activity.

- e. Car dealerships.
  - i. All fixtures shall be full-cutoff and shall not cause glare or light trespass onto adjoining properties or into roadways.
  - ii. Light levels for display areas shall not exceed those in Table 5 (see Schedule A at the end of this Ordinance). Parking lot and other areas shall conform to the requirements of Section 7-A, 9, a.
- f. Sports lighting.
  - i. Fixtures shall be full-cutoff as designed and installed. Where full-cutoff fixtures are not available, light fixtures with auxiliary shielding may be used, provided that in the final installed configuration the shielding extends to within three inches of the lowest part of the light fixture opening; and the field-side edge of the shielding is no more than three inches above a horizontal line running through the lowest part of the light fixture opening, see Figures 4a and 4b. The fixtures shall be installed and maintained with aiming angles that permit no more than 1% of the light emitted by each fixture to project above the horizontal.

**Figure 4a**



**Figure 4b**



- ii. Light sources shall not exceed 3000 kelvin. On nonresidential properties a combination of lamps with higher (cooler) and lower (warmer) Correlated Color Temperatures (CCT) may be used as long as the lumen-weighted average CCT does not exceed 3000 kelvin [Lumen-weighted average CCT = (kelvin degrees of warmer lamps x total lumens of such lamps) + (kelvin degrees of cooler lamps x total lumens of such lamps) ÷ total project lumens].
- iii. Sports lighting shall meet the following height and setback requirements:
  - (A) Residential properties: The mounting height shall be no greater than 1/4 the distance to the property line and shall not exceed 18 feet.
  - (B) Nonresidential properties: no height restriction.
- iv. Sports lighting shall not exceed the following light trespass limits:
  - (A) Residential properties: at any point on the property line: 0.05 footcandle.
  - (B) Nonresidential properties: at any point on the property line when adjacent to residential properties: 0.1 footcandle; otherwise: 1.0 footcandle.
- v. Sports lighting shall not exceed the illumination levels appropriate for the amount of spectator seating. Facilities may not exceed illuminance levels specified for their class in IES RP-6, "Recommended Practice for Sports and Recreational Area Lighting.", in accordance with the table below.

Number of Fixed Spectator Seats	Class
1 to 500	Class IV
501 to 1,499	Class III
1,500 to 4,999	Class II
5,000 or more	Class I

- vi. Certification. The design and installation of every sports lighting system shall be certified by a registered engineer, architect, or landscape architect as conforming to the requirements in Section 7-A, 9, f, i. through v. above.
- vii. Sports lighting shall not be turned on if there is no scheduled play and shall be shut off within one hour after closing to the public. Lower light level off-field lighting may be provided for safe egress.

**Section 8 – Procedures**

- A. Adding new or relocating outdoor lighting on nonresidential properties. The Town Planning Board may issue an administrative lighting approval for changes to outdoor lighting on nonresidential properties if the following conditions are met:
  - 1. The property has an approved lighting plan to which the proposed change is a minor adjustment (including, but not limited to, the installation of new fixtures or relocation of existing fixtures) that conforms to this Ordinance.
  - 2. The property does not have an approved lighting plan but is only proposing to install a minimal amount of new lighting (including, but not limited to, installations above a doorway or for an existing sign) and the proposed lighting conforms to this Ordinance.

- B. New construction or additions on nonresidential properties. A comprehensive lighting plan for the site shall be reviewed and approved by the Planning Board for outdoor lighting which is associated with new nonresidential construction, building expansion, and/or additions as specified in Section 3-B, 2. In a case where total light output will not exceed 4,000 lumens and where all outdoor lighting will be fully shielded, the Planning Board may review the general specifications in an expedited fashion; in such case, full site plan renderings with footcandle measurements may not be required.
- C. All applications for proposed or required outdoor lighting submitted to the Town, including but not limited to special use permit review, site plan review, administrative lighting approvals, subdivision approvals, or building permits, shall include outdoor lighting plans, fixture and lighting control specifications, and any additional documentation required in order for the reviewing entity to verify that the preexisting or proposed outdoor lighting conforms to the provisions of this Ordinance.
- D. The following items shall accompany an application for review and approval of a special use permit, site plan, or subdivision as required and determined by the Planning Board:
  - 1. A site plan, meeting the standards required by Article XVI of the Town of Mentz Zoning Ordinance, and the following:
    - a. All existing and proposed structures, parking spaces, building entrances, and traffic areas (both vehicular and pedestrian); vegetation that might interfere with lighting; and shading or highlighting of all areas where pedestrians shall be walking or where pedestrians may come in conflict with vehicles.
  - 2. A detailed lighting plan that includes the following:
    - a. Footcandle measurements on a grid of the site showing readings in every five-foot square. The grid shall include the location and installed height of each existing and proposed fixture (i.e., pole-mounted lights, wall-mounted lights, and streetlights), and the overall light levels, in footcandles, on the entire site.
    - b. The grid shall extend at least 20 feet beyond the site property lines, indicating the zoning of all adjacent properties to assure compliance with light trespass requirements.
    - c. Photometric plans shall be prepared by the fixture manufacturer or a licensed professional, architect, landscape architect, or engineer and shall provide calculation of average maintained footcandles, maximum and minimum footcandle readings, and the average-to-minimum and the maximum-to-minimum uniformity ratios.
    - d. A description of each light fixture as depicted and identified on the site plan, including the manufacturer, model number, a photograph of the fixture and a manufacturer's catalog cut-sheet, detailed IES formatted photometric data, a description of the cutoff characteristics of each fixture, light output in initial lumens, lamp type, and Correlated Color Temperature verifying any compliance requirements specified within this Ordinance.
    - e. Mounting height indicated with the distance to the nearest property line for each proposed and existing fixture, including pole foundation description.

- f. Shielding or glare reduction devices and all mounting details.
  - g. Types of timing devices or motion sensor devices used to control the fixtures and a schedule of the proposed hours when each fixture will be operated.
  - h. Total outdoor lamp lumens for all fixtures on the property, calculated at initial lumen output.
  - i. A summary key table identifying the maximum, minimum, and average light levels in footcandles as well as uniformity ratios for all parking areas and walkways.
- E. When considering a special use permit, site plan, or subdivision application, the Planning Board may require the use of motion sensor devices to control lighting for illumination of a building entrance, recreation areas, parking areas, accessways, or other such areas.
- F. A post-installation inspection shall be conducted by a qualified lighting designer to verify compliance with the approved plan. The applicant shall submit a certification to the Planning Board verifying that such inspection was performed and that the installed system operates and is in conformance with the approved plan along with a manufacturer's cut-sheet/certification for the installed fixtures prior to the issuance of a certificate of occupancy or other Town approval.
- G. The Town shall have the right to conduct a post-installation inspection on any property with an approved lighting plan to verify compliance with the requirements of this Ordinance and, if appropriate, to require remedial action at the expense of the applicant.

**Section 9 – Prohibited Acts and Penalties for Offenses**

- A. It shall be unlawful for any person, firm, owner, tenant, person in possession, partnership, corporation or other business entity (hereinafter “person and/or business entity”) to install, alter, repair, move, equip, use or maintain or allow such installation of any outdoor lighting in violation of any of the provisions of this Ordinance or to fail in any manner to comply with a notice, directive or order of the Code Enforcement Officer. The Code Enforcement Officer shall enforce this Ordinance in accordance with the procedures in Article XIII of the Town of Mentz Zoning Ordinance.
- B. If, after investigation, the Code Enforcement Officer finds that any provision of this Ordinance is being violated or nuisance lighting exists, the Code Enforcement Officer shall enforce this Ordinance in accordance with the procedures in Article XIII of the Town of Mentz Zoning Ordinance.
- C. Any person and/or business entity who violates this Ordinance, or any provision thereof, shall be guilty of a violation and subject to the fines, penalties, and procedures in Article XVIII of the Town of Mentz Zoning Ordinance.

**Schedule A**

<b>Table 1. Illumination Limits: Sidewalks, Doorways, Building Approaches</b>		
<b>Task Area</b>	<b>Average Footcandles (fc) Not to Exceed</b>	<b>Uniformity Not to Exceed Maximum to Minimum</b>
Sidewalks	Commercial: 0.5 fc	10:1
	Residential <sup>1</sup> : 0.2 fc	10:1
Doorways	Active: 2.0 - 5.0 fc Inactive: 1.0 - 2.0 fc	NA
Building approach	0.2 - 1.0 fc	20:1

Notes: <sup>1</sup> Including multifamily developments.

<b>Table 2. Illumination Limits: Parking Lots</b>			
<b>Task Area</b>	<b>Average Footcandles (fc) Not to Exceed</b>	<b>Minimum Illuminance</b>	<b>Uniformity Not to Exceed Maximum to Minimum</b>
Parking Lots	0.5 fc	0.13 fc	20:1
Private <sup>1</sup>			
Public	0.8 fc	0.2 fc	20:1

Notes: <sup>1</sup> Including multifamily developments.

<b>Table 3. Illumination Limits: Street lighting</b>	
<b>Roadways</b>	<b>Average Footcandles (fc) Not to Exceed</b>
Local	0.4 fc
Collector	0.6 fc
Crosswalks	0.5 fc

<b>Table 4. Illumination Limits: Service (Gas) Station and Canopy Lighting</b>		
<b>Gas Station Task Area</b>	<b>Average Footcandles (fc) Not to Exceed</b>	<b>Uniformity Not to Exceed Maximum to Minimum</b>
Approach	1.5 fc	20:1
Driveway	1.5 fc	20:1
Pump island	5 fc	20:1
Service area	2 fc	20:1

<b>Table 5. Illumination Limits: Car Dealerships</b>		
<b>Car Dealership Display Area</b>	<b>Maximum Footcandles (fc) Not to Exceed</b>	<b>Uniformity Not to Exceed Maximum to Minimum</b>
Row adjacent to roadway	5 fc	5:1
Other rows	2.5 fc	10:1
Entrance	2.5 fc	5:1
Driveways	1 fc	10:1

**Schedule B**

The following figures illustrate examples of acceptable and unacceptable types of outdoor lighting fixtures. Note that even those types of fixtures shown as “acceptable” must be installed and aimed properly to comply with The Town of Mentz Lighting Ordinance. These figures are provided as guidelines and serve only as examples.

