

Chapter 210

ZONING

[HISTORY: Adopted by the Town Board of the Town of Cicero 3-26-2001 by L.L. No. 6-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Commission of Commercial and Industrial Development — See Ch. 11.

Department of Planning and Development — See Ch. 36.

Zoning Board of Appeals — See Ch. 49.

Planning Board — See Ch. 50.

Building construction and fire prevention — See Ch. 68.

Communications towers — See Ch. 83.

Environmental quality review — See Ch. 98.

Flood damage prevention — See Ch. 112.

Mobile homes — See Ch. 140.

Subdivision of land — See Ch. 185.

Swimming pools — See Ch. 188.

Wetlands — See Ch. 206.

ARTICLE I
Title, Purpose and Applicability

§ 210-1. Title.

This chapter shall be known and may be cited as the "Zoning Law of the Town of Cicero of 2001."

§ 210-2. Purpose; district classification.

- A. The purposes of this chapter, the regulations and the zoning districts as outlined on the Zoning Map are to provide for the orderly growth in accordance with a comprehensive plan to protect and conserve the value of property; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, flood or other dangers, to provide adequate light and air; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to promote the health, safety and general welfare of the public. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for uses, and with a view to encouraging the most appropriate use of land and also particular uses.
- B. Whenever a change in district is approved subsequent to the adoption of this chapter, the designation shall be in accord with the purposes and general intent as expressed in the Comprehensive Development Plan as accepted by the Town of Cicero. Future classification for districts shall be upon recommendation of the Planning Board and approval of the Town Board.

§ 210-3. Application of regulations.

- A. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located.
- B. No building shall hereafter be erected or altered to exceed the Height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards or side yards than is specified herein for the district in which such building is located.
- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.
- D. All uses not specifically permitted in a district or allowed pursuant to § 210-14 shall be deemed prohibited.
- E. This chapter shall not apply to existing buildings and structures, nor to the existing use of any building, structure or land to the extent to which it was used at the time of original enactment of this chapter. This chapter shall apply to any change in use, alterations, extension or movement of a building or structure and to any change in use of building or structure and to any change in use of land subsequent to

enactment of this chapter.

ARTICLE II
Definitions

§ 210-4. Definitions and word usage.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural; the word "lot" includes "plot"; the word "building" includes "structure"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied"; "person" includes individual, partnership, association, corporation, company or organization. Any questions as to the precise meaning shall be resolved by the Zoning Board of Appeals.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE OR BUILDING — A use or building customarily incidental and subordinate to the principal use or building and located on the same lot. An approved ancillary structure such as a lawn shed (up to 192 square feet) or a swimming pool may be installed 10 feet from the rear property line. Side line setbacks are determined by the zoning district. A structure may not be installed in an easement.

AGRICULTURAL USE or FARM — Land containing at least two acres which is used for raising livestock or agricultural products, including farm structures and the storage of agricultural equipment; riding and boarding stable, kennels and veterinaries; and, as an accessory use, the sale of agricultural products on the property.

ALTERATION — Structural change, rearrangement or addition to a building, other than repairs and modification in building equipment.

ANIMAL BOARDING — The keeping of a healthy animal overnight for one or more days for the purpose of normal care and feeding. **[Added 1-24-2005 by L.L. No. 3-2005]**

ANIMAL HOSPITALIZATION — The recovery of an animal at either a veterinary hospital or a veterinary clinic following surgery or other medical care, where the animal remains on site for one or more days. **[Added 1-24-2005 by L.L. No. 3-2005]**

BEDROOM — A room used or advertised for sleeping on a regular basis in a dwelling unit other than a kitchen, dining room, living room, bathroom or closet, and including extra kitchens, extra dining rooms, extra living rooms and all dens, game rooms, sun rooms or similar extra rooms. **[Added 2-12-2020 by L.L. No. 2-2020]**

BOARDINGHOUSE or ROOMING HOUSE — A building wherein more than four people are sheltered for profit.

BOAT HOUSE — A building used exclusively for private storage of boats and/or boat equipment. This does not include commercial boat storage or storage space provided in return for payment of money or other consideration. On residential lots,

boat houses may extend into the water not more than seven feet beyond the high water mark and may not be wider than 14 feet nor higher than 10 feet above the high water mark. Decks on boat houses shall not be enclosed other than by a railing and may not have a roof other than a portable canopy of canvas or other flexible material.

BUILDING — A structure having a roof supported by columns or by walls and intended for the shelter or enclosure of persons, animals or chattels.

BUILDING AREA — The total of areas taken on a horizontal plane at the main finished level of the principal building and all necessary buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

BUILDING HEIGHT — The vertical distance measured from the lowest elevation of the finished grade at the front of the building to the highest point of the roof.

BUILDING LINE — A line parallel to the front lot line tangent to that point in the building face which is closest to the front lot line. This face includes porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot on which it is situated.

CLINIC — An office building used by members of the medical profession for the diagnosis and out-patient treatment of human ailments.

COMMUNITY CENTER — Includes a public or private meeting hall, place of assembly, museum, art gallery, library, place of further education and church, not operated primarily for profit.

CORNER LOT — A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle less than 135°. On corner lots, within a triangle formed by the interior angle of the intersecting streets and the angles created by connecting points on the lot line 25 feet each side of such interior angle, there shall be no obstruction of vehicular visibility between the heights of three and seven feet above finished grade.

COVERAGE — That percentage of the lot area covered by the area of any building and shall include porches, verandas, carports and the like which have roofs.

DRIVE-IN ACTIVITIES — Any business primarily in the dispensing or sale of takeout consumer goods which are depending upon the customers remaining in their cars or returning to their cars for the consumption of such consumer goods sold therein; or drive-in vehicle services. Drive-in activities include, but are not limited to, gasoline service stations, soft drink stands, food and sandwich stands, ice cream sales and similar. For purposes of this chapter, drive-in teller stations of banks are not considered to be drive-in activities.

DRIVEWAY — Land used as access to, and situated on, the property or lot for vehicular traffic.

DUMP — Land used for the disposal, by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk,

discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING, MULTIPLE FAMILY — A building used as living quarters by three or more families living independently of each other.

DWELLING, ONE-FAMILY — A detached building used as living quarters by one family.

DWELLING, TWO-FAMILY — A building used as living quarters by two families living independently of each other.

DWELLING UNIT — A building or part thereof used as living quarters for one family.

FAMILY — One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

FLOOR AREA — The sum of the gross horizontal area of the floors of a building, excluding basement floor areas. All dimensions shall be measured between interior faces of walls.

FLOOR AREA OR ROOM, HABITABLE — The floor area of rooms in a dwelling unit used for living space.

GARAGE, PRIVATE — An enclosed space for the storage of the property owner's personal property.

GASOLINE STATION — A building or land that is used for the sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs. "Gasoline station" may include a convenience store.

GRADE, FINISHED — The completed surfaces of ground, lawns, walks, paved areas and roads brought to final elevations as shown on plans relating thereto, or in existence at the time the certificate of occupancy is issued.

HEALTH-RELATED FACILITIES — Service in a facility or facilities which provide or offer lodging, board and physical care, including, but not limited to, the recording of health information, dietary supervision and supervised hygienic services incidental to such service.

HOME OCCUPATION —

- (1) An accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the dwelling use for living purposes and does not change the character thereof or have any exterior signs, extra parking or any other exterior evidence of such use, and which conforms strictly to the following additional conditions:
 - (a) The occupation or profession shall be carried on wholly within the principal or accessory building.
 - (b) One employee shall be permitted.
 - (c) There shall be no exterior storage of materials used in the home occupation.

- (d) No offensive noise, vibration, smoke, dust, odor, heat, light or glare shall be produced.
- (2) "Home occupation" includes, but shall not be limited to, dressmaking, home cooking, teaching, musical instruction (limited to a single pupil at a time), television, radio or electrical appliance repair, and the practice by an artist, insurance agent, musician, realtor, photographer, barber and beautician.
- (3) "Home occupation" shall not be interpreted to include the following: commercial stable and kennel; animal hospital; restaurant; music dancing or karate instruction to groups; convalescent homes; day-care homes; mortuary; garage on the premises for the repair of motor vehicles, snowmobiles, lawn mowers, outboard motors and boats; florist; craft shops; ceramic instruction groups and other trades and businesses of a similar nature.

HOTEL/MOTEL — A building containing rooms which are used or rented to be occupied for sleeping purposes and where a general kitchen and dining room facility may or may not be provided.

JUNKYARD — Any place of storage or deposit, whether in whole or in part, whether in connection with another business or not, for the receipt, storage and/or resale of waste materials, including but not limited to motor vehicles or motor vehicle parts; paper products; scrap metal; chemicals; or tools, equipment or machinery or component parts of tools, equipment or machinery. For purposes of this chapter, a sanitary or garbage dump or the collection of organic matter for rapid decomposition shall be exempt from the definition of "junkyard."**[Amended 5-8-2006 by L.L. No. 9-2006]**

KENNEL — Land or a building used for the harboring of five or more dogs over six months old.

LANDING FIELD — Land used for the taking off or landing of aircraft or sail plane.

LIVESTOCK — Horses, cattle, pigs, sheep, goats, fur-bearing animals, and poultry.

LOADING SPACE — Off-street space used for the temporary location of one licensed motor vehicle, having direct access to a street or Alley.

LOT — Land occupied or to be occupied by a use or a building and its accessory buildings, together with such open spaces as are required, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated and having frontage on a street, or other means of access as may be determined by the Planning Board to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT AREA — The total area within the property lines excluding any part thereof lying within the boundaries of regulated wetlands for which no permit has been issued, utility easements for transmission lines not directly serving the lot or subdivision, easements for detention facilities and public streets or proposed public streets.

LOT DEPTH — The horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the street line.

LOT FRONTAGE — The width of the lot at the street line.

LOT LINES — The property lines bounding a lot.

LOT OF RECORD — The lot which has been established as such by plat or deed filed in the County Clerk's office prior to the adoption of this chapter.

LOT WIDTH — The width measured at the required building line.

MARINA — Land having direct access to the lake or river which provides for maintenance, storage, sale and service of boats and boat equipment, including boat storage facilities, docks and boat slips.

MOBILE HOME/HOUSE TRAILER — A movable living unit, with or without wheels, whether on a foundation or rigid support, capable of being used for living quarters year-round and not built to State Building Construction Code one-family dwelling regulations. A mobile home shall contain not less than 600 square feet of floor area. A prefabricated sectional or modular dwelling, built to state one-family regulations, shall not be considered a mobile home.

MOBILE HOME SITE — A parcel of land for the placement of a mobile home and for the exclusive use of its occupants.

NONCONFORMING LOT — See "lot of record."

NONCONFORMING STRUCTURE — Any building or structure which was legal when established and/or subsequently enlarged or rebuilt and which does not comply with the bulk or geometric requirements of the district in which it is situated.

NONCONFORMING USE — A use of land existing at the time of enactment or subsequent amendment of this chapter which does not conform to the use regulations of the zoning district in which it is situated, and which is both substantial and legal when established.

PARKING LOT — Either of the following:

- (1) A parcel of land or portion thereof whose principal use is the temporary parking of motor vehicles.
- (2) A designated portion of a parcel of land, which parcel contains a principal use to which the temporary storage of motor vehicles is accessory whether owned by customers or not.

PARKING SPACE — Off-street space used for the temporary location of a motor vehicle.

PERSON — An individual, firm, trust, partnership, public or private association or corporation.

PUBLIC UTILITY — Distribution facilities of gas, electric, water, sewerage, telephone and wireless service companies.

QUARRY — Land used for the purpose of extracting stone, sand, gravel, clay, lime or topsoil for sale or use as a commercial operation.

RECREATION, OUTDOOR — Includes, but is not limited to, golf driving range, golf pitch-and-putt course, par-three golf course, outdoor amusement park, hunting

preserve, yacht club, golf course, firearms and archery range, swimming pool, skating rink, riding stable, park, lake and beach, tennis court, recreation stadium and skiing facility.

RELIGIOUS INSTITUTION — Includes church, temple, parish house, convent, seminary and retreat house.

RESIDENTIAL USE — Includes one-family dwelling, two-family dwelling, multiple-family dwelling, home occupation, boardinghouse and tourist home.

RESTAURANT — An establishment primarily engaged in the sale of food and beverages, including alcoholic beverages, for on-premises consumption. **[Amended 6-24-2015 by L.L. No. 5-2015]**

RETAIL SALES AND SERVICE — An establishment for the retail sales of goods and/or services of not more than 10,000 square feet.

SCHOOL — Includes parochial, private, public and nursery school, college, university and accessory uses, and shall exclude commercially operated school of beauty culture, business, dancing, driving, music and similar establishments.

SHOPPING CENTER — A building or buildings containing a group of compatible retail stores and business office uses, designed and developed under unified control, and providing common parking areas and loading facilities.

SIGN — Any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, which shall display or include any letter, word, model, mural, banner, emblem, pennant, insignia or representation which is in the nature of an announcement, direction or advertisement which is placed out-of-doors. "Sign" does not include the flag or insignia of any nation, state or community, nor any political, educational, charitable or religious advertising campaign, provided that such advertising shall not be displayed for a period exceeding 30 days.

- (1) **FACING OR SURFACE** — Facing or surface of a sign is that part of the structure upon, against or through which the message of the sign is exhibited, including molding or trim, but not that part of the structure used solely for support. When the area of a sign is referred to in this chapter, it shall mean the surface of such sign.
- (2) **DOUBLE-FACED OR V-TYPE SIGN** — Any two-faced sign utilizing both surfaces for display purposes.
- (3) **GROUND SIGN** — Any sign not attached to any building.
- (4) **PROJECTING SIGN** — A sign which is attached to a wall and which extends beyond the wall surface a distance greater than one foot. "Projecting-sign" shall include any marquees used as a sign.
- (5) **ROOF SIGN** — A sign constructed or supported upon the roof of any building.
- (6) **WALL SIGN** — A sign which is attached to or part of a wall and which does not extend beyond the wall surface a distance greater than 12 inches.¹

1. Editor's Note: The former definition of "sign, advertising or billboard," which definition immediately followed this

SIGN, ADVERTISING — A sign not exceeding 20 square feet which directs attention to a business, industry, profession, service, commodity or entertainment conducted, sold or offered elsewhere than upon the same lot.**[Added 6-13-2005 by L.L. No. 10-2005]**

SIGN, BILLBOARD — A sign exceeding 20 square feet which directs attention to a business, industry, profession, service, commodity or entertainment conducted, sold or offered elsewhere than upon the same lot.**[Added 6-13-2005 by L.L. No. 10-2005]**

SIGN, BUSINESS — A sign which directs attention to a business, industry, profession, service commodity or entertainment sold or offered upon the same lot on which it is displayed, including "For Sale or Rent" signs.

SIGN, ELECTRONIC MESSAGE — A sign designed to allow changes in the sign graphics electronically. All electronic message signs are subject to site plan review as set forth in § 210-18K.**[Added 6-13-2005 by L.L. No. 10-2005]**

SIGN, FLASHING — An illuminated sign on which the light is not maintained stationary and constant in intensity and color at all times when in use, and any moving sign.

SIGN, ILLUMINATED — A sign designed to give forth or reflect light.

SIGN, INFORMATION — A sign used for stating the name or location of a public facility, church, institution or meeting place of a public service organization.

SIGN, TEMPORARY — A nonpermanent sign erected in accordance with §§ 210-18F and 210-18I.**[Added 6-13-2005 by L.L. No. 10-2005]**

SIGN, VIDEO BILLBOARD — A billboard sign or other outdoor sign which uses television, computer projections, or other similar technology to project images to the public. All video billboard signs are subject to site plan review as set forth in § 210-18K.**[Added 6-13-2005 by L.L. No. 10-2005]**

STABLE — A building in which horses are kept for public or private use, hire or sale.

STORAGE, ENCLOSED — Enclosed buildings used for the keeping of goods, supplies or equipment.

STORAGE, PUBLIC — Enclosed buildings rented to the public and used for the keeping of goods, supplies or equipment.

STREET — The public right-of-way for vehicular and pedestrian traffic which affords the principal means of access to abutting properties.

STREET LINE — The right-of-way line of a street as dedicated by a deed of record. Where the width of the street is not established, the street line shall be considered to be 30 feet from the center line of the street pavement.

STRUCTURE — Anything constructed or erected the use of which requires location on the ground or attachment to something located on the ground.

SWIMMING POOL — Any body of water or receptacle for water having a depth

at any point greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground. A swimming pool shall be deemed a structure for all purposes under the provisions of this chapter. For purposes of this chapter, the small plastic-type wading pools for small children shall not be considered a swimming pool.

TOURIST HOME/BED-AND-BREAKFAST — A dwelling in which overnight accommodation is provided for not more than 12 transient guests for compensation.

TOWNHOUSE — A structure consisting of a series of noncommunicating, laterally attached single-family dwelling units, not stacked on one another, having one or more rated common or party walls between each dwelling unit, with each dwelling having separate utility services and each dwelling unit having a separate filed lot and approved as a condominium designed for individual ownership.

TRAILER — Includes any vehicle used as sleeping or living quarters mounted on wheels, or a camper body usually mounted on a truck, and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery or boats or used as an office.

USE — The specific purpose for which land, building or structure is designed, intended, used or maintained.

USE, PERMITTED — The use specifically allowed in the district, excluding illegal uses and nonconforming uses.

VETERINARY CLINIC — A clinic for the medical treatment of small, domesticated animals. A veterinary clinic may engage in animal boarding or animal hospitalization for small, domesticated animals. **[Added 1-24-2005 by L.L. No. 3-2005]**

VETERINARY HOSPITAL — A clinic for the medical treatment of large animals, including but not limited to farm animals. A veterinary hospital may engage in animal boarding or animal hospitalization. **[Added 1-24-2005 by L.L. No. 3-2005]**

WAREHOUSE — A structure used for the bulk storage of goods.

YARD — The space on a lot not occupied with a building or structure, except fences. Porches, whether enclosed or unenclosed, shall be considered part of the main building and shall not project into a required yard. Every part of a required yard shall be open from its lowest part to the sky, unobstructed, except for the ordinary projections of sills, cornices, pilasters, chimneys and eaves, provided that no such projection shall extend more than two feet into any required yard.

YARD, FRONT — The yard between the street line and a line parallel to the street line intersecting the point on a structure closest thereto.

YARD, REAR — The yard between the rear lot line and a line parallel to the rear lot line intersecting the point on a structure closest thereto.

YARD, SIDE — The yard between the side lot line and a line parallel to the side lot line intersecting the point on a structure closest thereto.

ZONING PERMIT — A document evidencing satisfactory compliance with the provisions of this chapter.

ARTICLE III

Establishment of Districts; Zoning Map; Interpretation; Fees**§ 210-5. Establishment of zoning districts. [Amended 9-10-2007 by L.L. No. 8-2007; 7-27-2009 by L.L. No. 12-2009]**

For the purpose of this chapter, the Town of Cicero, outside the incorporated Village of North Syracuse, is hereby divided into the following zoning districts:

Agricultural District: AG

Residential Districts: R-20, R-15, R-12, R-10 and R-M

Commercial Districts: NC, GC, GCP and RC

Industrial District: IN

Planned Unit Development District

Floodplain Zone

Overlay Districts: DC and HG

§ 210-6. Zoning Map. [Amended 5-8-2019 by L.L. No. 12-2019]

The zoning districts are shown, defined and bounded on the map accompanying this chapter, entitled "Zoning Map, Town of Cicero," which with all explanatory matter thereon is hereby made a part of this chapter. The Zoning Map, which is updated periodically, shall be on file in the office of the Town Clerk.

§ 210-7. Interpretation of zoning district boundaries.

Where uncertainty exists with respect to boundaries of the various zoning districts as shown on the Zoning Map, the following rules shall apply:

- A. Questions concerning the exact location of the district boundary lines shall be resolved by the Zoning Board of Appeals.
- B. Where district boundaries are indicated as approximately following the center lines of streets, railroad lines or streams, such center lines shall be construed to be the boundaries.
- C. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries.
- D. Where district boundaries are indicated as approximately parallel to the center lines of streets, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of a scale.

§ 210-8. Lots in two zoning districts.

Where a district boundary line divides a lot of record at the time such line is adopted, and there is any question as to the application of the regulations to any portion of such

lot, the questions shall be referred to the Zoning Board of Appeals for determination.

§ 210-9. Application fees.

In order to reimburse the Town for legal and engineering expenses associated with a request for any approval, permit, relief or zone change, the applicant shall deposit with the Town of Cicero such amounts as may from time to time be determined by resolution of the Town Board.

ARTICLE IV
Zoning District Regulations

§ 210-10. Agricultural AG District.

A. Permitted uses. In Agricultural AG Districts, the following uses are permitted:

- (1) Agricultural use.
- (2) One-family dwelling.
- (3) Private garages, not exceeding 1,300 square feet in area for parcels of one acre or less and not exceeding 2,400 square feet in area for parcels of one acre or more, when used as an accessory use to the principal residential use of the property. **[Amended 7-24-2013 by L.L. No. 7-2013; 7-12-2017 by L.L. No. 6-2017]**

B. Site plan uses. The following uses are permitted subject to site plan approval as set forth in this Code:

- (1) Tourist home/bed-and-breakfast.
- (2) Veterinary hospital or veterinary clinic. **[Amended 1-24-2005 by L.L. No. 3-2005]**
- (3) Parking lot for special events.
- (4) Agriculture-related sales or service businesses, provided that total business area, including display area, does not exceed 5,000 square feet.
- (5) Quarry.
- (6) Aircraft landing field.
- (7) Religious institution.
- (8) School.
- (9) Outdoor recreation.
- (10) Stable.
- (11) Cemetery.
- (12) Short-term parking which supports an allowed use on or off site, but not including storage.
- (13) Enclosed storage.
- (14) Public utility structure.
- (15) Home occupation.
- (16) Accessory use.
- (17) Other uses which, in the opinion of the Planning Board, are similar in character

to those listed above.

- C. Bulk regulations. The bulk regulations for the district are as set forth in Article V below.
- D. Supplementary regulations. Supplementary regulations are as set forth in Article VI below. Nonresidential uses, excluding agricultural, require site plan approval.

§ 210-11. Residential Districts.

- A. Districts established. The following residential use districts are established: R-20, R-15, R-12, R-10 and R-M.
- B. Permitted uses. In all residential use districts one of the following uses is permitted as of right on each lot:
 - (1) One-family residence.
 - (2) Enclosed accessory building use.
 - (3) R-M Districts only: two-family dwellings, townhouses.
 - (4) Private garages, not exceeding 1,300 square feet in area for parcels of one acre or less and not exceeding 2,400 square feet in area for parcels of one acre or more, when used as an accessory use to the principal residential use of the property. [Amended 7-24-2013 by L.L. No. 7-2013; 7-12-2017 by L.L. No. 6-2017]
- C. Site plan uses. In all residential use districts one of the following uses is permitted subject to site plan approval as set forth in this Code:
 - (1) Home occupation.
 - (2) Golf course.
 - (3) Public utility substation.
 - (4) Clinic.
 - (5) School.
 - (6) Religious institution.
 - (7) Community center.
 - (8) R-M District only: multiple-family residences.
- D. Bulk regulations. The bulk regulations for the district are as set forth in Article V below.
- E. Supplemental regulations. Supplemental regulations, such as signage, parking, screening and the like are set forth in Article VI below.

§ 210-12. Commercial Districts.

- A. Districts established. The following commercial use districts are established: Neighborhood Commercial (NC), General Commercial (GC) and Regional Commercial (RC)
- B. Site plan required. All uses allowed in Commercial Districts are subject to site plan approval as set forth in this Code.
- C. Uses permitted in all Commercial Districts. The following uses are allowed in all commercial use districts:
 - (1) Retail sales and services with or without attached dwelling.
 - (2) Offices.
 - (3) Community centers.
 - (4) Religious institutions.
 - (5) Public utility substations.
 - (6) Uses accessory to the above, including parking.
 - (7) Other commercial uses if the Planning Board finds that the proposed use meets the statement of intent and is of the same general character, size, scale and intensity as those allowed.
- D. Neighborhood Commercial District.
 - (1) Statement of intent. The Neighborhood Commercial District is designed and intended to provide for relatively small, stand-alone commercial uses whose primary market is the immediate neighborhood of the enterprise. Such uses are located on Town highways or relatively nonintense county highways and are characterized by their small size (less than 5,000 square feet) and their low traffic generation.
 - (2) Allowable uses. Only those uses set forth in Subsection C above are allowed in the Neighborhood Commercial District.
 - (3) Bulk regulations. The bulk regulations for the district are as set forth in Article V below.
 - (4) Supplemental regulations. Supplemental Regulations, such as signage, parking, screening and the like, are set forth in Article VI below.
- E. General Commercial District.
 - (1) Statement of intent. The General Commercial District is designed to provide for those medium-sized commercial uses whose primary market is Town-wide. Such uses tend to be located on county or state highways of medium to high traffic volume. The size of such uses generally should not exceed 50,000 square feet.
 - (2) Allowable uses. In addition to those uses set forth in Subsection D above, the following uses are allowed:

- (a) Shopping centers.
 - (b) Hotels and motels.
 - (c) Gas/service stations and car-wash facilities.
 - (d) Restaurants and drive-in activities.
 - (e) Health-related facilities.
 - (f) Light assembly.
 - (g) Automobile sales and service, including recreational vehicles and boats.
 - (h) Veterinary clinic, provided that animal boarding is not allowed within 200 feet of the nearest residentially zoned parcel. **[Added 1-24-2005 by L.L. No. 3-2005]**²
- (3) Bulk regulations. The bulk regulations for the district are as set forth in Article V below.
- (4) Supplemental regulations. Supplemental Regulations, such as signage, parking, screening and the like, are set forth in Article VI below.
- F. Regional Commercial District.
- (1) Statement of intent. The Regional Commercial District is designed to provide for those large-scale commercial enterprises which draw on a market at least county-wide. Such uses are only located on or near county, state or federal highways and are usually easily accessible from interstate highways. These uses are characterized by their high traffic generation characteristics and tend to be no smaller than 10,000 square feet.
 - (2) Allowable uses. In addition to those uses set forth in Subsection E(2) above, the following uses are allowed:
 - (a) Parking lot.
 - (3) Bulk regulations. The bulk regulations for the district are as set forth in Article V below.
 - (4) Supplemental regulations. Supplemental regulations, such as signage, parking, screening and the like, are set forth in Article VI below.
- G. General Commercial Plus District. **[Added 9-10-2007 by L.L. No. 8-2007]**
- (1) Statement of intent. The General Commercial Plus District is designed and intended to provide for a co-existence between commercial uses and light industrial uses.
 - (2) Allowable uses. In addition to those uses set forth in Subsections C, D and E(2) above, the uses specified below are allowed.

2. Editor's Note: Former Subsection E(2)(i), regarding apartments in the General Commercial District, which was added 4-13-2016 by L.L. No. 4-2016 and immediately followed this subsection, was repealed 1-22-2020 by L.L. No. 1-2020.

- (a) Parking garages.
 - (b) Parking lots.
 - (c) Warehousing and distribution facilities.
 - (d) Automotive repair and/or garage facilities.
 - (e) Manufacturing/assembly.
 - (f) Other uses if the Planning Board finds that such proposed use meets the Statement of Intent and is of the same general character and intensity as those uses allowed. The Planning Board is authorized to construe this Subsection G(2)(f) liberally and broadly so as to allow for a co-existence between commercial uses and light industrial uses in a General Commercial Plus District.
- (3) Bulk regulations. The bulk regulations for the district are as set forth in Article V below.
 - (4) Supplemental regulations. Supplemental regulations, such as signage, parking, screening and the like, are set forth in Article VI below.

§ 210-13. Industrial District.

- A. Statement of intent. The Industrial Use District is designed to provide for those uses characterized by high volumes of truck traffic and/or which have a tendency to be noisy or otherwise a nuisance if proximate to residential uses. Such uses are generally located on county, state or federal highways suitable for a high volume of truck traffic and are located away from residential concentrations.
- B. Site plan required. All uses allowed in the Industrial District are subject to site plan approval as set forth in this Code.
- C. Allowable uses. Only those uses set forth below are allowed in an Industrial District:
 - (1) Manufacturing.
 - (2) Warehousing and distribution facilities.
 - (3) Trucking terminals.
 - (4) Sales, service and/or repair of heavy equipment or machinery.
 - (5) Contractor's storage yard.
 - (6) Automotive repair and/or garage facilities.
 - (7) Public utility facilities.
 - (8) Public storage.
 - (9) Other industrial uses if the Planning Board finds that such proposed use meets the statement of intent and is of the same general character and intensity as

those uses allowed.

- D. Prohibited uses. Particularly noxious or inherently dangerous uses, such as rendering plants, explosives manufacture and/or storage, bulk storage and/or sale of liquid or gaseous combustibles, et cetera, are specifically prohibited and may only be allowed in the Town in a Planned Unit Development District.
- E. Bulk regulations. The bulk regulations for the district are as set forth in Article V below.
- F. Supplemental regulations. Supplemental regulations, such as signage, parking, screening and the like, are set forth in Article VI below.

§ 210-14. Planned Unit Development District.

- A. Statement of intent. The Planned Unit Development District is designed in recognition of the fact that not all reasonable land uses are provided for in this chapter. Further, it may be possible on a particular site that a mix of uses not otherwise provided for would be a reasonable evaluation of the Comprehensive Plan of the Town and would serve to promote the general welfare of the public.
- B. Preliminary discussion. By reason of the fact that an applicant does not have a right to a Planned Unit Development District designation and the fact that such a designation requires the adoption of a law by the legislative body, it is recommended (although not required) that an applicant have a preliminary discussion with the Town Board prior to making any formal applications. The purpose of this preliminary discussion is to obtain a general expression of the acceptability of the concept proposed.
- C. Steps for creation of district. The creation of a Planned Unit Development District involves the following steps:
 - (1) Review of a preliminary development plan by the Planning Board and the Town Board.
 - (2) Preparation of a detailed development plan and review of this plan by the Planning Board.
 - (3) A formal recommendation regarding the plan from the Planning Board to the Town Board.
 - (4) Adoption of a law by the Town Board creating the Planned Unit Development District.
- D. Procedure. The following procedure shall be followed in the creation of a Planned Unit Development District:
 - (1) The owner of the land shall apply in writing for a change in district to a Planned Unit Development District and shall submit two copies of a preliminary development plan and any other supplementary material as described in Subsection E.
 - (2) The Planning Board shall discuss the proposed application for a change in

district and shall review the preliminary development plan with the owner at a meeting of the Planning Board. The Planning Board shall prepare general recommendations with regard to the preliminary development plan and the proposed change in district.

- (3) The Planning Board shall send a copy of its recommendations to the owner, indicating its approval in principle, or its disapproval, concerning the proposed change in district and the preliminary development plan. If the proposed change in district and preliminary development plan are approved in principle, the Planning Board shall state any specific changes it will require and authorize the owner to submit a formal application and development plan.
 - (4) The owner shall submit three copies of an application for a change in district and three copies of a development plan, and any other supplementary material as described in Subsection F.
 - (5) The Planning Board shall discuss the proposed change in district and the development plan with the owner at a public meeting. The Planning Board will submit its findings with regard to the proposed change in district and the development plan as required by Subsection F.
 - (6) After receipt of the Planning Board's recommendations, public notice shall be given and a public hearing held by the Town Board on the proposed change of district, as provided by the law in the case of an amendment to this chapter.
 - (7) After the public hearing, this chapter may be amended so as to define the boundaries of the Planned Unit Development District, but such action shall have the effect only of granting permission for development of the specific proposal, in accordance with this chapter, within the area so designated with the development plan submitted. If the change of district and development plan is approved, an appropriate notation to that effect will be made on the face of the three copies of the development plan. One copy will be retained by the Clerk, one copy will be given to the Planning Board and one copy will be returned to the owner.
 - (8) When the owner desires to proceed with the next phase of the development plan, approval shall be obtained as described in Subsection F.
- E. PD, preliminary development plan: first submission. The owner shall submit a preliminary development plan to the Planning Board for review, which shall include the following information presented in drawn form and which may be accompanied by a written text:
- (1) Proposed site plan, showing building locations and land use areas.
 - (2) Proposed traffic circulation, parking areas and pedestrian walks.
 - (3) Proposed landscaping layout.
 - (4) Proposed construction sequence for building, parking spaces and landscaped areas.
 - (5) Availability of existing and proposed utilities, schools, parks and playgrounds.

- F. PD, development plan, second submission.
- (1) The owner shall submit a development plan to the Planning Board for review, together with the application for a change of district classification and a certified check in the amount of 1% of the cost of the required improvements, as determined by the Town Engineer to meet the costs of inspection and review of required improvements, unless the improvements are to be provided by special district.
 - (2) The development plan shall be prepared by an architect, landscape architect, engineer, land surveyor or planner and shall include the following information presented in drawn form and which may be accompanied by a written text:
 - (a) Survey of the property, showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, rights-of-way, land use, and utility extensions from surrounding contiguous property.
 - (b) Site plan showing proposed building locations and land use areas.
 - (c) Traffic circulation, parking and loading spaces and pedestrian walks.
 - (d) Landscaping plans, including site grading and landscape design.
 - (e) Preliminary engineering plans, including street improvements, drainage system, and public utility extensions.
 - (f) Preliminary drawings for buildings delineated to be constructed in the current phase, including floor plans, exterior elevations and sections.
 - (g) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development as required by the Planning Board.
 - (h) Construction sequences and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.
 - (i) Blocks and lots in accordance with Town of Cicero numbering system.
 - (3) This development plan shall be in general conformance with the approved preliminary development plan. Planned development approval shall be secured by the owner for each phase of the development. Such approval shall be valid for two years, at which time, unless the proposed development has been completed, the development plan approval shall be reviewed.
- G. PD findings required. The Planning Board, after determining that all the requirements of this chapter dealing with Planned Unit Development Districts have been met, shall recommend the approval, approval with modifications, or disapproval of the development plan. The Planning Board shall enter its reasons for such action in its records. The Planning Board may recommend to the Town Board the establishment of a Planned Unit Development District, provided that it finds that the facts submitted with the development plan establish that:
- (1) The uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under any

other district.

- (2) Land surrounding the proposed development can be planned in coordination with the proposed development and that it is compatible in use.
 - (3) The proposed change to a Planned Unit Development District is in conformance with the general intent of the Comprehensive Master Plan.
 - (4) Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
 - (5) Existing and proposed utility services, including but not limited to water, sanitary sewer and stormwater sewer, are adequate for the proposed development.
 - (6) Each phase of the proposed development, as it is proposed to be completed, must contain the required parking spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
 - (7) The proposed Planned Unit Development District and all proposed buildings, parking spaces and landscape and utility areas can be completely developed within five years of the establishment of the district.
- H. Modifications and amendments to an existing PDD. [Note: This subsection describes how changes are addressed after a PDD has been adopted, constructed and/or occupied. All changes to an existing PDD will be regulated by the following provisions: changes that will affect individual lots that have been subsequently established after the PDD adoption will require approval by the Commissioner or the ZBA; changes that are directed to the entire PDD or to an identified stage of the PDD will require review by either the Planning Board or Town Board depending on the perceived effect.] **[Added 2-14-2018 by L.L. No. 1-2018]**
- (1) Minor modifications affecting one property. The Commissioner of Planning and Development shall evaluate all modifications and may either refer the proposal for consideration of a variance by the ZBA or approve minor modifications for development with the POD pursuant to the following:
 - (a) Thresholds:
 - [1] The proposed change is applicable to one property within the POD.
 - [2] The proposed change complies with the land use, dimensional and performance standards.
 - [3] There is no change in the defined land use.
 - [4] The basic physical relationship and function of buildings and improvements are maintained.
 - (b) Criteria: The Commissioner can find that the proposed modification does not require any modification of applicable standards, substantially alter the property from the approved plan and does not change the relationship to surrounding properties or improvements.

- (c) Procedure: The Commissioner shall process and document the approval of such modifications in a manner consistent with the general procedural and enforcement provisions of this Code. The Commissioner may issue a building permit, certificate of compliance or similar approvals (e.g., minor subdivision or site plan adjustments) when authorized by this Code.
 - (d) Waivers of POD standards: The Commissioner finds that the change for a proposed development, improvement, or modification fails to comply with the land use, dimensional or performance standards adopted for the specific PDD and shall be subject to the procedures and standards for issuance of a use or area variance by the Zoning Board of Appeals.
 - (e) Transfer to Planning Board or Town Board: The Commissioner may require any requested modification to be submitted for a PDD intermediate design and land use modification by the Planning Board or, for a major modification, to the Town Board.
- (2) Intermediate modifications; project plan amendment. Existing or approved PDD land uses, structures and improvements may be altered or modified after the effective date of PDD adoption. Unless otherwise required by the Town Board or Planning Board, such modifications shall be subject to the issuance of a project plan amendment by the Planning Board, pursuant to the following:
- (a) Thresholds:
 - [1] There are changes in type or location of approved land uses within the same general land use category (e.g., residential, commercial, industrial) and within the same PDD section identified in the approved project plan.
 - [2] Increase in floor area in excess of 10% of a principal or accessory structure.
 - [3] Demolition of a principal structure, except where mandated by an appropriate official in the interest of public safety.
 - [4] Establishment or realignment of new streets or other public/common areas.
 - [5] Any change, except routine replacement and maintenance, to landscaping, open space, parking, public facilities or other improvements addressed in the project plan.
 - (b) Criteria: The Planning Board shall find that the proposed modification does not substantially alter any modification of applicable standards, maintains the basic relationship of the property to the approved project plan and maintains the basic relationship to surrounding properties or improvements.
 - (c) Procedure: The Planning Board shall review and consider a project plan amendment under procedures set forth in this section for adoption of a project plan (Step 2), except that Town Board approval shall not be

required.

- (d) Transfer to Town Board: The Planning Board may, at any time, find that the proposed modification substantially alters the project plan and require the requested modification to be submitted for a PDD major amendment by the Town Board.
- (3) Major modifications. Any modification not addressed by the minor or intermediate modifications above, exceeding the limits established at the inception of the district, or expanding or altering the PDD boundary shall be reviewed and approved by the Town Board, subject to the procedures for establishing a PDD (Steps 1, 2 and 3).
- (4) Nonconformities. It is the intent of the PDD that no nonconforming elements will exist within the PDD. The flexibility of the land use and geometric controls and review procedures should prevent the creation of any nonconforming element. In the event that a nonconformity does exist, any subsequent changes shall conform to the POD controls and shall be subject to an issuance of a project plan amendment by the Planning Board. [See Subsection H(2), Intermediate modifications.]

§ 210-15. Floodplain Zone.³

- A. Statement of intent. A Floodplain Zone is hereby established to allow Oneida Lake and streams and tributaries flowing into said lake to carry abnormal flows of water in times of flood; to prevent encroachments into the floodplains of these waterways which will unduly increase flood heights and damage, and to prevent excessive property damage as well as a potential threat to the health and safety in the area of greatest flood hazard. The Floodplain Zone is not restricted to any particular zoning district as established under § 210-5 of this chapter, but instead is superimposed over any district which lies within the floodplains of the Town.
- B. Extent of floodplain. For the purposes of this chapter land subject to flooding shall be defined as follows: floodplain areas as designated on the FEMA Map of the Town of Cicero.
- C. Restrictions in the Floodplain Zone. No building permit shall be issued within the area designated as a Floodplain Zone unless approved by the Code Enforcement Officer. The Code Enforcement Officer, in his review, shall be guided by the following standards, keeping in mind that the purpose of the Floodplain Zone is to prevent encroachment into the floodway which will unduly increase flood heights and endanger life and property:
 - (1) Any structure permitted shall be designed, constructed and placed on the lot so as to offer minimum obstruction to the flow of water.
 - (2) Any structure permitted shall be firmly anchored to prevent the structure from floating away and thus threatening to further restrict bridge openings or other restricted sections of the stream.

3. Editor's Note: See also Ch. 112, Flood Damage Prevention.

- (3) Any use permitted shall be constructed so as to not be subject to appreciable damage by floodwaters.
- (4) Where, in the opinion of the Code Enforcement Officer, topographic data, engineering and other studies are needed to determine the effects of flooding on a proposed structure and/or effect of the structure on the flow of water, the Zoning Officer may require the applicant to submit such data prepared by competent engineers or other technical persons.
- (5) The granting of approval of any use or structure shall not constitute a representation, guaranty or warranty of any kind or nature of the Town of Cicero, or by any officer or employee, of the practicality or safety of any use or structure proposed, and shall create no liability upon, or cause action against, any such public body, officer or employee for any damage that may result pursuant thereto.
- (6) Any use or structure shall also conform to the FEMA regulations as may be amended from time to time.

**ARTICLE V
Schedule of Area, Yard and Bulk Regulations⁴**

§ 210-16. Area, yard and bulk regulations.

A. Agricultural Districts. In each Agricultural District the following bulk regulations shall apply:

Use	Minimum Lot Area (acres)	Minimum Building Line (feet)	Minimum Lot Depth (feet)	Minimum Yards (feet)			Maximum Coverage	Building Height (feet)
				Front	Rear	Side		
				Res. use	1	100		
Nonres. use	2	100	200	50	50	50	20%	35

B. Residential Districts. In each Residential District the following bulk regulations shall apply:

(R) refers to residential uses

(NR) refers to nonresidential uses

[Note: An approved ancillary structure such as a lawn shed (up to 192 square feet) may be installed within three feet from the rear property line, and a swimming pool may be installed within 10 feet of the rear property line. Side line setbacks are determined by the zoning district. A structure may not be installed in an easement.]
[Amended 5-28-2003 by L.L. No. 2-2003; 11-9-2016 by L.L. No. 13-2016; 12-14-2016 by L.L. No. 14-2016]

Use	Minimum Lot Area per Unit (sq. feet)	Minimum Building Line (feet)	Minimum Lot Depth (feet)	Minimum Yards (feet)			Maximum Coverage	Maximum Building Height (feet)
				Front	Rear	Side		
R-20(R)	20,000	100	150	30	35	Total 30; Min. 1 side 10	20%	35
R-20(NR)	2 acres	200	240	30	50	50 each side	20%	35

4. Editor's Note: For area, yard and bulk requirements for the DC and HG Overlay Districts, see Article XIII.

Use	Minimum Lot Area per Unit (sq. feet)	Minimum Building Line (feet)	Minimum Lot Depth (feet)	Minimum Yards (feet)			Maximum Building	
				Front	Rear	Side	Maximum Coverage	Building Height (feet)
R-15(R)	15,000	85	130	30	30	Total 25; Min.1 side 10	20%	35
R-15(NR)	2 acres	200	240	30	40	30 each side	20%	35
R-12(R)	12,000	80	130	30	30	Total 25; Min. 1 side 10	25%	35
R-12(NR)	2 acres	200	240	30	40	30 each	30% side	35
R-10(R)	9,800	70	125	30	30	Total15; Min. 1 side 6	25%	35
R-10(NR)	2 acres	200	240	30	40	30 each side	30%	35
R-M one- family	12,000	80	125	30	30	Total 30; min. 1 side 6	30%	30; access- ory building 15
R-Mtwo- family	10,000	100	125	30	30	15 each side	30%	30; access- ory building 15
R-M multi- family	5,445	100	130	30	30	15 each side	30%	35
R-Mtown- houses	5,445	100	130	30	30	15 each side	30%	35
R-M(NR)	40,000	100	200	30	50	30 each side	30%	35

C. Commercial Districts. In each Commercial District the following bulk regulations shall apply: **[Amended 9-10-2007 by L.L. No. 8-2007; 11-14-2007 by L.L. No. 16-2007; 1-7-2008 by L.L. No. 1-2008]**

District	Minimum Lot Area	Minimum Building Line (feet)	Minimum Lot Depth (feet)	Minimum Yards (feet)			Maximum Building		
				Front	Rear	Side	Coverage	Size	Height
								(sq.ft.)	(feet)
Neighborhood Commercial	NA	100	200	50	25	15	40%	8,000	35
General Commercial	NA	100	200	50	25	15	40%	100,000	60
General Commercial Plus	NA	100	200	50	25	15	40%	None	60
Regional Commercial	NA	400	500	75	25	30	40%	None	60

D. Industrial Districts. In each Industrial District the following bulk regulations shall apply: **[Amended 11-14-2007 by L.L. No. 16-2007]**

Minimum Lot Area (sq. ft.)	Minimum Building Line (feet)	Minimum Lot Depth (feet)	Minimum Yards (feet)			Maximum Coverage	Building Height (feet)
			Front	Rear	Side		
20,000	100	200	75	25	30	40%	60

E. Planned Unit Development Districts. The concept of the Planned Unit Development District requires that the bulk regulations applicable to each such district will be determined by the approval process itself and will vary from district to district depending upon the specifics of each such plan.

ARTICLE VI
Supplemental Regulations

§ 210-17. Parking, loading and access requirements.

- A. Parking space. For purposes of this Code a parking space shall be at least nine feet wide by 18 feet long.
- B. Driveway aisle. Driveway aisles shall be at least 22 feet clear in width.
- C. Loading space. For purposes of this Code, a loading space shall be at least 12 feet wide by 50 feet long.
- D. Accessibility.
 - (1) All parking and loading spaces shall be directly accessible from an interior driveway. No required parking space will be considered usable if it is directly accessible from a public highway without first leaving the highway onto an interior driveway.
 - (2) All driveways other than one- and two-family residences shall be at least 150 feet from any street line intersection.
- E. On-site requirements. All parking spaces required shall be on the same lot as the principal use unless the Planning Board specifically approves off-site parking as part of the site plan approval requirements. Such specific approval shall be voted on the approved plan.
- F. Parking and loading setback. No parking or loading spaces shall be closer than 15 feet to any lot line abutting a residential use district, nor shall any portion of a required front yard be used for parking or loading spaces in a residential use district.
- G. Residential requirements. **[Amended 2-12-2020 by L.L. No. 2-2020]**
 - (1) Each one- and two-family dwelling unit shall have at least two parking spaces per family.
 - (2) Each multifamily use with up to two bedrooms shall have a minimum of two parking spaces per dwelling unit. Multifamily uses with three or more bedrooms shall have a minimum of three parking spaces.
- H. Nonresidential requirements. All uses in the Town, other than single-family residential uses, require site plan approval. The Planning Board, as part of the site plan approval process, shall specify the number of parking and loading spaces required considering the nature and intensity of the use, the site conditions and other pertinent considerations. The Planning Board shall be guided by the standards set forth in professional design manuals such as the American Planning Association Off-Street Parking Standards.
- I. Certain parking prohibited.
 - (1) Tractor-trailers, trucks and vans with a carrying capacity in excess of one ton shall not be parked in any residential use district except for deliveries or service calls.

- (2) In any Residential Use District (R-10, R-12, R-15, R-20, R-M, AG-R) unregistered motor vehicles, including racecars, shall not be stored outside in front, side or rear yards for a period exceeding 30 days without a permit from the Town of Cicero.
 - (3) An unregistered/unlicensed vehicle may be stored/parked for a period of six months in an approved residential location by obtaining a permit from the Town of Cicero Zoning Office.
- J. Sale or repair of vehicles. The sale or apparent intent to sell or repair more than two vehicles per year at any nonapproved location in any district constitutes a commercial activity and therefore requires site plan approval by the Planning Board. Such activity without Planning Board approval constitutes a violation of this section.
- K. Junk accumulation. The operation or maintenance of a junkyard as defined in § 210-4 in any district, not related to the district use and without a valid permit. Junk accumulation is a violation punishable in accordance with this chapter. **[Amended 5-8-2006 by L.L. No. 9-2006]**

§ 210-18. Signs. [Amended 6-13-2005 by L.L. No. 10-2005]

- A. Purpose. The intent of these regulations is to promote and protect public health, welfare and safety by regulating and restricting the location, construction, repair, removal, alteration and maintenance of signs and other advertising devices in the Town. The regulations are intended to promote and protect public health, welfare and safety by regulating and restricting existing and proposed signs and advertising devices of any kind. It is intended to promote public safety, to protect property values, to create a more attractive economic climate and to enhance the scenic and natural beauty of the Town.
- B. Signs permitted as of right. Any person shall have the right to the following types of signs, provided that the conditions set forth in this section are met.
- (1) Political signs. **[Amended 7-24-2013 by L.L. No. 7-2013; 5-8-2019 by L.L. No. 13-2019]**
 - (2) Home occupation signs. One sign, on the interior of a window, not exceeding two square feet. No exterior signs are allowed.
 - (3) Real estate and directional signs. Except for vacant commercial premises, no "For Rent," "Open House," "Sold," "For Sale," directional or similar sign shall exceed four square feet. All such signs shall be allowed only during the pendency of the event which is advertised thereby, and only one such sign shall be allowed per lot.
 - (4) Commercial real estate. For each vacant commercial parcel, no one sign shall exceed 16 square feet. Such signs shall not be located within the highway right-of-way and shall be removed within two weeks of the sale or date such premises is withdrawn from the market.
 - (5) Agricultural farm stand or market directional signs.

C. Signs prohibited in all districts.

- (1) Flashing, oscillating or revolving signs.
- (2) Signs which unreasonably illuminate neighboring properties.
- (3) Banners, pennants and similar temporary attention-getting devices, except in connection with a grand opening ceremony, and then only for a period of not more than two weeks and only upon the issuance of a permit therefor in accordance with Subsections F and J below.
- (4) Inflatable objects and similar attention-getting devices, except upon issuance of a permit therefor in accordance with Subsections F and J below, and then only for a period of seven days. A permit for an inflatable object or similar attention-getting device may be issued a total of two times per calendar year.
- (5) Vehicle signs. Any sign displayed on a parked trailer or other vehicle where the primary purpose of the vehicle is to advertise a product, service business, or other activity. This regulation shall permit the use of business logos, identification or advertising on vehicles primarily and actively used for business purposes. **[Added 7-24-2013 by L.L. No. 7-2013]**

D. General provisions applicable to all signs.

- (1) No sign shall be permitted closer than 20 feet to the street line, or within 10 feet of any other lot line.
- (2) No sign or portion thereof shall be higher than the building on which it is located or more than 24 feet from the ground, whichever is greater, except that within 1,000 feet of the Route 81 right-of-way, no sign shall be higher than 50 feet, and no freestanding sign other than those allowed by Subsection A above shall be closer to the ground than six feet. The Planning Board may in its discretion allow monument-type signs that are closer to the ground than six feet during site plan approval.
- (3) The total signage for any one lot shall not exceed one square foot for each lineal front foot of the building located on such lot, unless deemed allowable by the Planning Board during site plan approval.
- (4) No sign shall impair public safety, obstruct vision between a sidewalk and the street, be confused with a traffic sign or signal or prevent free access to a door, window or fire escape.

E. General provisions applicable to all billboard signs.

- (1) Billboard signs are permitted only along interstate highways located within a General Commercial or Industrial Zone.
- (2) The total footage of any billboard sign may not exceed 672 square feet. Billboard signs may be lit by no more than four halogen lamps. Each halogen lamp may not exceed 400 watts.
- (3) No billboard sign or portion thereof shall be higher than the surrounding trees and/or buildings, whichever is greater. If there are no trees or buildings in

proximity, no billboard sign may have a height above ground level which exceeds 26 feet, or as otherwise approved by the Planning Board.

- (4) No billboard sign shall be permitted within 20 feet of the street line, or within 1,000 feet of any other sign or billboard.
 - (5) No billboard sign shall be permitted within 500 feet of any school, religious institution, or park.
 - (6) No billboard sign may be placed within 500 feet of any intersection, if such a billboard sign would, by use or simulation of colors, design or placement, tend to confuse, detract from or in any manner obstruct the utilization of traffic regulatory devices. All determinations of this type shall be made by the Planning Board, which shall consider, but not be limited to, the following aspects of such billboard signs:
 - (a) The use of words such as "stop," "go," "look," "caution," "danger," "warning" and similar nomenclature.
 - (b) The use of colors and lights in the spectrum of colors utilized for traffic regulatory devices.
 - (c) The use of blinking, intermittent, flashing or other animated forms of illumination or light and all sources of illumination which through direct or indirect means create glare.
 - (7) All billboard signs are subject to the general restrictions for signs as set forth in this chapter, as applicable.
 - (8) Billboard signs abandoned for over one year must be removed by the applicant. Failure to remove an abandoned billboard shall be a violation of this chapter.
- F. General provisions applicable to temporary signs.
- (1) Temporary signs may not be displayed without a permit issued by the Code Enforcement Officer in accordance with § 210-18J.
 - (2) Temporary signs must be displayed on the premises owned by the applicant or at the applicant's place of business. The location of the sign is to be indicated on a property survey or sketch of the property.
 - (3) The square footage of any temporary sign must not exceed 16 square feet. The top of a temporary sign may not be higher than four feet from the ground.
 - (4) A temporary sign may be displayed for up to 30 consecutive days with a proper permit. An applicant may receive a temporary sign permit up to a total of four times per calendar year.
 - (5) Temporary signs must be neatly prepared and displayed, and are to be placed so that they do not interfere with vehicular or pedestrian traffic, or impede lines of sight.
 - (6) Temporary signs must be secured firmly in place, and are to be reinstalled or

repaired if damaged or displaced.

- (7) Temporary signs must be removed on the date indicated on the temporary sign permit, which shall be 30 days from the date upon which the permit is granted.
 - (8) The back of all temporary signs must state the permit holder's name, address and telephone number, as well as the date upon which the permit expires.
 - (9) Any violation of this subsection may result in revocation of a temporary sign and/or the imposition of a fine.
 - (10) The fee for a temporary sign permit shall be \$25, or an amount established by the Town Board therefor.
 - (11) One temporary sign is permitted per individual or business at any given time.
 - (12) Any existing temporary sign erected prior to the adoption of this subsection which is nonconforming and for which no permit was issued shall be removed within 30 days of the effective date of this subsection.
 - (13) All temporary signs are subject to the general restrictions for signs as set forth in this chapter, as applicable.
- G. Computation of sign area.
- (1) All existing signs shall be included.
 - (2) The total area of all signs on the lot shall not exceed the total permissible square footage as defined in the applicable provision of this chapter.
 - (3) Signs consisting of freestanding letters, numerals or other symbols shall include only intervening spaces between them.
 - (4) Back-to-back, double-faced or V-type signs shall be counted as one sign and only the larger face area shall be used.
- H. Permit required. No sign, except for those specified in Subsection B above, shall be erected or maintained unless and until a permit is issued therefor by the Town Code Enforcement Officer in accordance with this chapter. The Code Enforcement Officer may deny a sign permit to any applicant who has been in violation of this section more than three times in any calendar year.
- I. Permit procedure: advertising sign and billboard sign. Prior to the erection or maintenance of any sign requiring a permit as set forth in Subsection E above, the applicant shall apply to the Town Code Enforcement Officer for a permit and shall include the following:
- (1) The name, address and telephone number of the owner of the property and the person, firm or corporation erecting the sign.
 - (2) A plot plan or survey of the parcel, showing the location of the building, structure or lot to which or upon which the sign is to be attached or erected.
 - (3) The type, size, location and a rendering or drawing of the sign.

- (4) Two copies of the plans and construction specifications of the sign and the structure for attachment to the building or ground.
 - (5) A copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this or any other code for signs of 150 square feet or more.
 - (6) Any electrical permit required and issued for the sign.
 - (7) Filing and processing fee in the amount established by the Town Board therefor.
 - (8) Such other and further information as the Code Enforcement Office may deem necessary to ensure compliance with this Code.
- J. Permit procedure: temporary signs. Prior to the erection or maintenance of any sign requiring a permit as set forth in Subsection F above, the applicant shall apply to the Town Code Enforcement Officer for a permit and shall give the name, address and telephone number of the owner of the property and the person, firm or corporation erecting the sign. A fee of \$25 will be charged for each temporary sign or an amount established by the Town Board therefor.
- K. Site plan.
- (1) The Code Enforcement Officer, in his discretion, may refer any application for a sign permit to the Planning Board for its recommendation.
 - (2) All video billboard signs shall be subject to site plan review by the Planning Board. The Planning Board may place reasonable restrictions on the content and duration of images as well as the location of video billboards. The permit fee for a video billboard sign shall be in accordance with the Town of Cicero building and zoning fees, as established by the Town Board.
 - (3) All electronic message signs shall be subject to site plan review by the Planning Board. The Planning Board may place reasonable restrictions on the content and duration of images as well as the location of electronic message signs. The permit fee for an electronic message sign shall be in accordance with the Town of Cicero building and zoning fees, as established by the Town Board.
- L. Enforcement. The Code Enforcement Officer is authorized to remove any sign erected in violation of this chapter.

§ 210-19. Landscape and screening requirements. [Amended 7-24-2013 by L.L. No. 7-2013]

The Town of Cicero recognizes that a modern suburban Town environment requires a balancing of the right to privacy with the need to maintain open views and vistas and the right to be protected from undesirable intrusions of adjacent uses with the right to reasonably utilize one's property. Because of the diversity of situations existing in the Town, it is unreasonable to establish one set of inflexible rules to govern all situations on possible combinations of uses. Accordingly, this Code establishes certain minimum requirements applicable in all situations therein designated and delegates to

the Planning Board or Code Enforcement Office the responsibility to strike a reasonable accommodation between these competing interests based upon the evidence presented to it as part of site plan approval applications.

- A. Landscaping requirements. Any landscaping or planting requirement imposed by the Planning Board or Code Enforcement Officer as part of a site plan approval shall be maintained in a sound, safe and healthy condition at all times.
- B. Visibility on streets and driveways.
 - (1) No plantings, fencing or screening device shall impair exit vision from a street or driveway.
 - (2) On corner lots there shall be no obstruction to visibility between the height of two feet and 10 feet from grade for a distance of 20 feet from the property corner along both streets.

§ 210-19.1. Fences and walls. [Added 7-24-2013 by L.L. No. 7-2013]

- A. Legislative findings. The Town Board of the Town of Cicero finds that the installation and maintenance of fences within the Town is an area of concern. The Town Board enacts this section regarding fences because the Town Board recognizes that while property owners may enjoy fences, in the interest of public health, safety and welfare, fences should be installed and maintained in a manner that adequately protects the general public.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:
 - FENCE — Anything constructed and/or placed for the purposes of enclosing and/or dividing property.
- C. Permit required. No fence, wall or other type of construction shall be erected unless a permit has been issued by the Code Enforcement Officer. The provisions of this chapter shall not apply to the owner or premises devoted to full-time agriculture as defined by New York State Department of Agriculture and Markets, when such fence is solely for an agriculture purpose.
- D. Application. An application for permit shall be made to the Code Enforcement Officer, on forms provided by him, and shall contain, at a minimum, the following information:
 - (1) A copy of a property survey showing current conditions of the site.
 - (2) An accurate plan showing property lines and the location of the proposed new or modified fence on or within the applicant's property lines and the height of the proposed new or modified fence.
 - (3) The full name and address of the owner, applicant, and of the contractor, where applicable.
 - (4) A brief description of the materials to be used and the type and height of the fence to be installed.

- (5) Such other information as may reasonably be required by the Code Enforcement Officer to establish compliance with all applicable requirements.

E. Fence regulations:

- (1) This section shall apply to all districts or any parcel of land.
- (2) For lots along the shore or banks of Oneida Lake, Oneida River or Chittenango Creek, no screening device in excess of three feet, nor any plantings (except trees) in excess of two feet, nor any fences more than 50% opaque, shall be allowed in any required front or rear yard. Trees in these areas shall have all branches trimmed to a minimum height of six feet above grade.
- (3) All fences or other screening devices which completely enclose any portion of a lot shall have at least one pedestrian gate at least three feet in width.
- (4) Fences in the required front yard shall be no higher than four feet from grade and shall be no more than 50% opaque.
- (5) Except in one- and two-family districts, all service areas for buildings, i.e., dumpsters, trash areas, etc., shall be screened from view of neighboring properties by a solid, opaque enclosure of at least six feet in height.
- (6) No fence or screening device shall be installed or maintained in any drainage easement.
- (7) Fences may be installed at the perimeter of the property line. Fences may be no more than 48 inches tall and no more than 50% opaque in the front yard, and no more than 72 inches tall in the side and rear yards, with the exception of tennis or recreation courts, which may extend to a height of 144 inches.
- (8) Signs such as "No Trespassing" or other similar signs are not permitted on residential fences.
- (9) Fences shall be constructed of natural material, chain link, vinyl or similar material and shall be generally of a uniform design and finish within each individual lot. The finished side of the fence shall face adjoining properties. Fences shall be white, black or natural colored, and no fluorescent colors shall be permitted.
- (10) Fences shall be of a consistent material along each property boundary.
- (11) The following specific fences and fencing materials are prohibited:
 - (a) Barbed-wire fences, except on agriculturally zoned land actively used for farming purposes.
 - (b) Canvas fences.
 - (c) Cloth fences.
 - (d) Aboveground electrically charged fences, except on agriculturally zoned land actively used for farming purposes.
 - (e) Temporary fences, except where necessary to protect public health, safety

and welfare. Such temporary fences shall be removed within 30 days after the circumstances warranting the temporary fence have abated.

- (f) Expandable and collapsible fences, except during improvements to real property.
- (g) Snow fences, except between November 1 and April 15.

(12) To the extent that this section conflicts with other provisions of the Cicero Town Code with respect to fences in any districts, this section shall control.

(13) This section shall not supersede any fencing requirements with respect to swimming pools.

F. Fence maintenance.

- (1) Fences shall be maintained in a safe and substantial condition.
- (2) The Code Enforcement Officer shall notify a property owner in writing of any fence that does not comply with this section. Said property owner shall have 30 days to comply with the provisions of this section. Failure to comply shall be punishable in accordance with this chapter.
- (3) For lots along the shore or banks of Oneida Lake, the Oneida River or Chittenango Creek, no screening device in excess of three feet, nor any plantings (except trees) in excess of two feet, nor any fences more than 50% opaque, shall be allowed in any required front or rear yard. Trees in these areas shall have all branches trimmed to a minimum height of six feet above grade.

§ 210-20. Storage of recreational vehicles and trailers.

Recreational vehicles such as campers, RV's, boats, water craft, snowmobiles, trailers and the like may be stored on the owner's property, provided that such vehicles are no closer than two feet to the rear or side property lines and no closer than 10 feet to the front property line, and provided further that vehicular visibility is not impaired. No such vehicle shall be used as living quarters, nor shall it be hooked up to any utilities, water or sewer.

§ 210-21. Grading.

No grading or cut and fill activities shall be carried out in any district which leaves the slope of the finished land in excess of one to two.

§ 210-22. Prohibited uses.

The following uses are prohibited in all districts except as they may be specifically allowed in a Planned Unit Development District designed for that purpose:

- A. Junkyards.
- B. Bulk storage of combustible materials including explosives.
- C. Smelters and/or blast furnaces.

- D. Slaughterhouses, rendering plants or hide tanning and/or curing facilities.
- E. Manufacture or processing of fertilizer, bone, rubber, asphalt, ammonia or chlorine.
- F. Manufacture or refining of petroleum, gas or explosives.
- G. Dumps.
- H. Mobile homes, except as may be permitted pursuant to § 210-15.

§ 210-23. Excavation and demolition.

Within six months after work on an excavation for a new building has begun or within six months after a building has been demolished or abandoned, all structural materials shall be removed from the site and the excavation thus remaining shall be filled to the normal grade. Any excavation having slopes in excess of one to two shall be protected by a fence at least four feet high.

§ 210-24. Height exceptions.

Radio or television transmission or receiving towers as accessory uses to residences shall be allowed only upon site plan approval by the Planning Board.

§ 210-25. Nonconforming uses and lots.

- A. Nonconforming lots. Any residentially zoned lot which has not been improved and which has been held in single and separate ownership since a date prior to July 29, 1972, or any subsequent amendment of this chapter which as a result of the adoption of this chapter or any subsequent amendment hereto does not have sufficient area, width or depth shall be deemed, nevertheless, to comply with such minimum lot requirements, and no variance shall be required to obtain a building permit to construct a single-family dwelling thereon, provided that:
 - (1) Such lot does not adjoin other lot or lots held by the same owner at any time subsequent to July 29, 1972, or any amendment to this chapter increasing required lot dimensions.
 - (2) The proposed dwelling and/or yard and bulk dimensions comply with all other zoning regulations for that district.
- B. Limitations on nonconforming uses and structures.
 - (1) Whenever a nonconforming use or structure is abandoned or discontinued for a continuous period of one year or more, such use or structure shall not be reestablished or occupied except in conformity with the provisions of this chapter.
 - (2) Any nonconforming building or structure or building or structure containing a nonconforming use which is damaged by fire or other causes shall not be reoccupied, reused and/or repaired or reconstructed except in conformity with this chapter unless such repair or reconstruction is completed within 12 months of the damage. Failure to so repair or reconstruct within 12 months of the damage shall cause a nonconforming use to be automatically terminated. The

Town Board is empowered to extend this period upon receipt of a written request from the owner at least 30 days in advance of the expiration of the twelve-month period. Nothing contained herein shall allow such nonconforming use to be expanded in any way. **[Amended 7-13-2011 by L.L. No. 5-2011]**

- (3) A nonconforming structure or nonconforming use, as those terms are defined in § 210-4 of this chapter, may be improved, provided that such improvement does not expand the property's nonconformity or nonconformities. **[Amended 4-24-2019 by L.L. No. 10-2019]**
- (4) A nonconforming mobile home or house trailer shall not be replaced by another mobile home or house trailer.

§ 210-26. Mobile homes.⁵

Mobile homes or house trailers, whether single- or double-wide, are prohibited in all districts except in established mobile home parks or pursuant to a duly approved Planned Unit Development District.

5. Editor's Note: See also Ch. 140, Mobile Homes.

ARTICLE VII
Site Plan Approval

§ 210-27. Site plan review; application and plan requirements.

- A. All new structures, modifications, alterations or replacements of existing structures; any single-use structure that has been vacant for more than one year; or any change in the use or occupancy classification of a single-use building shall be subject to site plan review by the Town Planning Board as hereafter set forth, except that the Code Enforcement Officer shall have authority to approve site plans without referral to the Planning Board if the proposal meets all of the following conditions: **[Amended 7-24-2013 by L.L. No. 7-2013]**
- (1) Where the proposal involves the expansion and/or modification of an existing structure or site which has received previous site plan approval by the Planning Board;
 - (2) The proposal is in full compliance with all existing zoning regulations;
 - (3) The proposal does not exceed 25% of the ground space of the existing building or structure or 10,000 square feet, whichever is less; and
 - (4) There is no change to the existing traffic patterns, drainage patterns, change in the required parking or change in any pedestrian access.
- B. In all cases where site plan approval is required, the owner or his contract purchaser or lessee shall complete an application for site plan approval on the forms available therefor from the Code Enforcement Officer. No such application shall be complete unless it shall contain the following:
- (1) A site plan prepared by an architect, landscape architect, engineer or land surveyor containing the information and data as required by this chapter and the Code Enforcement Officer.
 - (2) A completed environmental assessment form as required by 6 NYCRR Part 617 (SEQRA).
 - (3) All necessary application fees and deposits as required by the Code Enforcement Officer.
 - (4) Any other or further data or information as may be reasonably required by the Code Enforcement Officer.
- C. Site plan requirements. The site plan map or maps shall contain the following information and elements:
- (1) A survey of the property, dated within six months of submission.
 - (2) Names and addresses of the owner of the site as well as all other owners within 200 feet of the site.
 - (3) The zoning classification of the site and all property within 200 feet.
 - (4) All existing easements and/or restrictions of record including rights-of-way.

- (5) All existing and proposed utilities, both public and/or private.
- (6) All existing and proposed buildings or structures and mature trees.
- (7) All watercourses, marshes, rock outcroppings, wooded areas, wetlands (DEC or Corps of Engineers) floodplains (based on FEMA maps) or other significant natural or man-made features.
- (8) Topographic information (spot elevations for areas of less than 2% slope and two-foot contours for slopes greater than 2%).
- (9) Proposed land use.
- (10) All driveways, parking lots, curbing, loading spaces and driving lanes including proposed on- and off-site circulation patterns.
- (11) All proposed landscaping, plantings, screening devices and exterior lighting.
- (12) All proposed signs.
- (13) Existing and proposed fire hydrants and fire suppression connections.
- (14) Detailed drainage plans showing on-site storage, floodways and proposed easements, including siltation and erosion control plans.
- (15) Proposed grading.
- (16) Construction sequence and timing of completion of all improvements.
- (17) Architectural renderings and floor plans showing pedestrian and vehicular access.
- (18) A stormwater pollution prevention plan consistent with the requirements of Chapter 179 of the Town Code of the Town of Cicero. **[Added 12-10-2007 by L.L. No. 18-2007]**
- (19) Such other information or details as may be reasonably required by the Code Enforcement Officer or the Planning Board. **[Amended 12-10-2007 by L.L. No. 18-2007]**

§ 210-28. Procedure.

- A. Upon receipt of a complete application, the Code Enforcement Officer shall cause said application to be placed on the next available Planning Board agenda for consideration by the Planning Board and shall refer a copy of the application to the Syracuse Onondaga County Planning Board if required by GML § 239-m, as well as the Town Engineer and the Town Highway Superintendent and such other persons or agencies as in his discretion seems advisable.
- B. The Town Planning Board shall review such plan for completeness and suitability in accordance with the provisions of this chapter. Such review shall commence with the first meeting after receipt of a complete application, and a decision to approve, approve with modifications, or disapprove such proposal shall be made no later than 62 days from the first Planning Board meeting at which a complete application is

received.

- C. In the event that the Planning Board review determines that an area variance is required by the proposal, the matter shall be referred to the Town Zoning Board of Appeals and the sixty-two-day decision time shall be stayed during the time of such referral.
- D. The time for decision set forth above may be extended by mutual consent of the Planning Board and the applicant.
- E. Expiration of site plan; extension. Approved site plans shall expire unless building permits have been issued for the project, or for projects not requiring a building permit, construction has substantially commenced on site, within one year of the date of approval by the Planning Board; provided, however, that clearing, grading and/or excavation shall not be deemed to be substantial construction within the meaning of this section. Additional construction shall be completed not more than three years from the date of approval of the site plan. Time requirements may be extended for a period of one year by a majority of the Town Planning Board through resubmittal of final plans for check against current Code requirements and/or written justification for the requested extension. No fees will be levied for such a compliance check and extension. Changes to the plans originally approved for purposes other than Code requirements shall require an application for revisions pursuant to this chapter. Upon expiration of the building permit, a new site plan approval must be obtained. In any event, such site plan shall expire upon the rezoning of the site following approval of the site plan unless the proposed use is a permitted use in the subsequent zone. Any currently approved site plan that has not had a building permit issued shall be required to obtain such building permit within one year from the date of adoption of this section or such approval shall expire. **[Added 7-24-2013 by L.L. No. 7-2013; amended 2-24-2021 by L.L. No. 2-2021]**

§ 210-29. Review criteria.

- A. The Planning Board shall review each application for site plan approval in order to determine to the extent practicable that all elements of the site design and layout serve to promote the following goals and objectives:
 - (1) Compatibility of the proposed use with neighboring uses.
 - (2) Safe and appropriate movement of vehicles and pedestrians on and off site.
 - (3) Adequacy of fire safety and suppression systems.
 - (4) Suitability of landscaping, buffering, lighting and hours of operation.
 - (5) Adequacy of proposed drainage systems.
 - (6) Suitability of proposed signage.
 - (7) Appropriateness of architectural design and treatment considering neighboring structures.
 - (8) Compliance with Chapter 179 of the Town Code of the Town of Cicero. **[Added 12-10-2007 by L.L. No. 18-2007]**

- B. The Planning Board, when rendering a decision on a proposed site plan, may approve, approve with modifications, or disapprove such proposal. In addition, the Planning Board shall have the right to impose on any such approval or approval with modification any conditions or restrictions as in the opinion of the Planning Board are both reasonable and directly related to or incidental to the proposed site plan or use. A site plan may only be approved if it complies with Chapter 179 of the Town Code of the Town of Cicero. **[Amended 5-11-2009 by L.L. No. 8-2009]**

ARTICLE VIII
Zoning Board of Appeals

§ 210-30. Creation and organization in accordance with statute.

The Zoning Board of Appeals shall hear and decide all appeals from decisions of the Code Enforcement Officer and all referrals for area variances from the Planning Board. Said Board shall be organized and shall conduct its activities in accordance with the provisions of Town Law § 267 as the same exists or may from time to time be amended.

§ 210-31. Powers and duties.

- A. The Zoning Board of Appeals is vested with exclusive jurisdiction to hear and decide appeals involving any interpretation of the Zoning Law or issues related thereto, including but not limited to district boundaries, extent of nonconforming uses, language employed or other similar matters. In addition, the Zoning Board of Appeals is vested with exclusive jurisdiction to hear and decide all appeals or applications for variances from the provisions of the Zoning Law, including both use and area variances.
- B. In exercising its powers, the Zoning Board of Appeals shall have all of the powers set forth in Town Law § 267.
- C. Limitations on variances. A variance shall become null and void one year after the date on which it was issued, unless a building permit or certificate of occupancy is obtained and maintained. Where a violation of this chapter has been cited against the property which is the subject of the variance, the Zoning Board of Appeals may establish a shorter time limitation based on the nature and severity of the violation, taking into consideration the practical ability of the applicant to correct the violation in light of weather conditions, construction issues or other relevant factors. **[Added 7-24-2013 by L.L. No. 7-2013]**

ARTICLE IX
Administration and Enforcement

§ 210-32. Enforcement.

This chapter shall be enforced by the Code Enforcement Officer or other designated official who shall be appointed by the Town Board. No zoning permit or certificate of occupancy shall be issued by him except in compliance with the provisions of this chapter.

§ 210-33. Zoning permits.

- A. No building or structure in any district shall be erected, added to, structurally altered or demolished until a permit has been issued by the Code Enforcement Officer. No such zoning permit or certificate of occupancy shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter.
- B. All applicants for zoning permits shall submit two copies of a layout or plot plan drawn to scale and with all dimensions shown, showing the exact size and location on the lot of the building and accessory buildings and the intended use of the building. Zoning permits shall expire one year from date of issuance.

§ 210-34. Certificate of zoning compliance.

- A. A certificate of zoning compliance shall be applied for coincidental with the application for a zoning permit. A certificate of zoning compliance shall be issued by the Code Enforcement Officer upon completion of a structure erected or altered for the occupancy of the structure and the use designated in the permit for building, provided that the structure and the premises actually comply with the provisions of this chapter. Said certificate shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this chapter.
- B. No nonconforming use shall be renewed or changed or extended until a zoning permit has been issued by the Enforcement Officer.
- C. The Code Enforcement Officer shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.
- D. The applicant shall provide the Code Enforcement Officer with an as-built survey of the foundation and/or basement wall prior to construction beyond the foundation.
- E. A fee may be charged for every request to the Code Enforcement Officer for a certificate of zoning compliance; and an additional fee may be charged for each return inspection required at the final inspection stage only.

§ 210-34.1. Compliance with zoning provisions. [Added 7-24-2013 by L.L. No. 7-2013]

It shall be unlawful for any person, firm or corporation to:

- A. Allow any building or land to be used or occupied or any building or part thereof to be erected, moved, extended or altered except in conformity with the regulations herein set forth for the district in which it is located.
- B. Fail to make a good-faith effort to comply with a lawful written notice, directive, or order of a Code Enforcement Officer, provided that such notice, directive, or order is substantially related to compliance with and/or enforcement of the provisions of this chapter. **[Amended 8-23-2017 by L.L. No. 7-2017]**
- C. Construct, alter or use and occupy any building or structure or portion thereof or use any land in a manner not permitted by an approved plan or resolution of the Planning Board or the Zoning Board of Appeals, where such approval is required.

§ 210-35. Penalties for offenses.

- A. Reporting. Any resident of the Town may file a written complaint with the Code Enforcement Officer alleging a violation of this Zoning Law. The Code Enforcement Officer shall file said complaint and investigate the same.
- B. Punishment. **[Amended 5-8-2006 by L.L. No. 9-2006]**
 - (1) A violation of any of the provisions of this chapter by an owner of land and/or a builder or contractor shall constitute an offense punishable either:
 - (a) By the imposition of a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, by a fine of not less than \$350 but no more than \$700, or imprisonment for a period not exceeding 15 days, or both; and, for conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine of not less than \$700 but no more than \$1,000, or imprisonment for a period not exceeding six months, or both; and/or
 - (b) By the imposition of a civil penalty in the above amounts, which said penalty may be assessed and recoverable against the violator in a small claims proceeding instituted by the Town in the Town Justice Court, pursuant to the provisions of Article 18 of the Uniform Justice Court Act.
 - (2) Each week's continued violation shall constitute a separate, additional violation for which separate and additional fines or civil penalties in the above amounts may be imposed or recovered.

§ 210-36. Amendment and supersession of provisions.

Section 210-35 above expressly amends and supersedes any inconsistent provision of any other Zoning Law, rule or regulation heretofore adopted by the Town of Cicero, Onondaga County, New York, and also any inconsistent provision of Article 16 of the Town Law of the State of New York.

ARTICLE X
Tree, Shrub and Brush Removal
[Added 8-22-2005 by L.L. No. 15-2005]

§ 210-37. Title.

This article shall be known as the "Tree, Shrub and Brush Removal Law of the Town of Cicero."

§ 210-38. Purpose.

The purpose of this article is to regulate the conduct and business practices of tree removal in the Town of Cicero.

§ 210-39. Definitions.

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

PERSON — An individual, firm, partnership, corporation or any other association or legal entity and any principal, agent, contractor or employee thereof.

TOWN BOARD — The Town Board of the Town of Cicero.

TOWN CLERK — The Town Clerk of the Town of Cicero.

TOWN COUNSEL — Any person serving at the time as the attorney for the Town of Cicero.

TREE REMOVAL BUSINESS — Any business or service conducted where the person or persons, in part or in whole, deal with or conduct the cutting and/or removal of trees, shrubs, brush, weeds, yard waste or any other foliage.

TREE REMOVAL PERSONNEL — A person or persons, either as principal, agent, contractor, employee or representative, who engages or proposes to engage in a tree, shrub or brush removal business.

§ 210-40. License required.

It shall be unlawful for any person to perform within the Town of Cicero tree, shrub or brush cutting or removal business(es) or service(s) as defined in this article, or assist such a person so acting, without first having obtained and paid for, and having in full force and effect, a license for such activities as defined and provided for in this article.

§ 210-41. Contents of application.

- A. Any person desiring to obtain a tree removal license as herein provided shall file with the Town Clerk a written application upon a form furnished by the Town Clerk.
- B. An applicant for a tree removal license shall provide the following in addition to any other requirements set forth on the application provided by the Town Clerk:
 - (1) The address and telephone number of the applicant's residence and place of business and duration of time at such address.

- (2) The identity of the company or service represented by the applicant or by whom the applicant is employed, together with documents establishing the service or company's principal place of business, the form of organization, the identity of ownership and authority of said company or service to do business in the State of New York. Applicants shall also disclose the identities and the addresses of shareholders, officers, directors, members, partners or such similar persons as required by the Town of Cicero.
- (3) A brief description of the nature of the business and the types of services the company or service performs.
- (4) Satisfactory evidence that the applicant is fully bonded and insured for the work to be conducted upon the issuance of a permit under this article.

§ 210-42. Exemptions.

- A. The licensing provisions of this article shall not apply to:
 - (1) Business conducted pursuant to statute or by order of any court.
 - (2) Business conducted by any discharged member of the United States Armed Forces who has procured a license issued by the County Clerk as provided by § 32 of the General Business Law of the State of New York.
 - (3) Business conducted pursuant to contract or authority with the Town of Cicero for refuse removal services.
- B. Notwithstanding any exemption granted herein, all persons exempted herein shall, however, file an application with the Town Clerk claiming such exemption on a form provided by the Town Clerk before the commencement of any business or transaction described herein.
- C. This article shall not be construed so as to unlawfully burden or interfere with interstate commerce.

§ 210-43. Issuance or denial of license.

- A. Upon the filing of the application, the Town Clerk shall, upon approval of such application, issue to the applicant a license in accordance with this article. A license may be refused if the applicant has been convicted of a misdemeanor or felony which, in the reasonable discretion of the Town Clerk, renders the applicant unfit or undesirable to carry on the trade or occupation consistent with a tree removal service or company. No license shall be issued by the Town Clerk until the Town Clerk has had reasonable opportunity to determine the applicant's fitness and in no event prior to the passage of five business days following the day on which the application is received, except that such five day requirement may be waived solely in the Town Clerk's discretion in the event of special or exigent circumstances requiring immediate relief for a town resident. The Town Clerk shall not issue a license to any applicant who is unable to provide satisfactory evidence of insurance as set forth in § 210-41.
- B. No applicant who has been refused a license under this article or has had a license

revoked under this article shall make any further application for a license for a period of six months after denial or revocation, and in no event shall reapplication be made at any time without submission of proof that the reason for prior refusal or revocation no longer exists.

- C. Any applicant who is refused a license by the Town Clerk may apply to the Town Board for such license, and the same may be granted or refused by the Town Board, except as prohibited by Town Law § 137.

§ 210-44. Nonassignability of license.

A license shall not be assignable. Any holder of any license who permits it to be used by any other person or entity, and any person or entity who uses such license granted to another, shall each be guilty of a violation of this chapter.

§ 210-45. Loss of license.

Whenever a license obtained under this article is lost or destroyed on the part of the licensee, or the licensee's agent or employee, a duplicate in lieu thereof, under the original application, may be issued by the Town Clerk, upon the filing with the Town Clerk of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

§ 210-46. Content and record of license.

All licenses shall clearly state the type of vehicle to be used for the tree removal, the types of services rendered, the Town's designated number of license, the date of issuance and expiration of the license, the fee paid and the name and address of the licensee.

§ 210-47. Term of license.

A license issued under this article shall be for such term as requested by the applicant, but in no event for a term greater than one year from the date of issuance.

§ 210-48. Exhibition of license.

Every licensee, while exercising his or her license, shall carry the license with him or her and shall exhibit the same upon demand.

§ 210-49. License fee.

The fee for a license granted under this article shall be in an amount as determined by the Town Board.

§ 210-50. Revocation of license.

A license issued pursuant to this article may be revoked by the Town Board after a public hearing as provided in Article 9 of the Town Law.

§ 210-51. Records.

The Town Clerk shall keep and maintain records of all applications and all licenses

granted under this article, specifying the number and date of each license, the expiration date of each license, and the date of revocation of all licenses revoked.

§ 210-52. Removal.

All licensees under this article shall be responsible for removing and disposing of any and all trees, limbs, shrubs or brush cut by the licensee. A licensee shall not be permitted to allow any cut trees, limbs, shrubs or brush to be left on the property from which they were cut, in any public right-of-way, or curbside for pickup by the Town. Any violation of this section shall be a violation punishable in accordance with this chapter.

§ 210-53. Penalties for offenses.

A violation of the provisions of this chapter shall be an offense punishable as provided in Article IX of this chapter. Violations of this article continuing for more than seven days shall be a separate and additional violation for each week thereafter or portion thereof during which such violation continues.

ARTICLE XI
Miscellaneous Regulations⁶
[Added 8-23-2017 by L.L. No. 7-2017]

§ 210-54. Definitions.

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

ABANDONED, JUNKED OR INOPERATIVE MOTOR VEHICLE —

- A. A vehicle, as defined in § 159 of the New York State Vehicle and Traffic Law,⁷ that is:
- (1) Unlicensed, wrecked, stored, discarded, dismantled, or partly dismantled or which is not in a condition suitable for legal use upon a public highway; or
 - (2) Being held or used for the purposes of resale of used parts therefrom, for the purpose of reclaiming some or all of the materials therein, or for the purpose of disposing of the same.
- B. A vehicle shall be presumed to be abandoned, junked, or inoperative if:
- (1) It is a vehicle not required to be licensed or registered, or not usually used on public highways, and it is in a condition wherein it cannot be moved or removed under its own power; or
 - (2) It is a vehicle that may be licensed or registered but does not display a current license or registration.

§ 210-55. Storage of abandoned, junked or inoperative motor vehicles; penalties for offenses.

- A. It is prohibited to store, deposit, or cause, suffer, or permit to be stored or deposited an abandoned, junked or inoperative motor vehicle on a parcel which has a zoning classification of residential.
- B. Notwithstanding the provisions of Subsection A, this subsection shall not apply to:
- (1) Vehicles stored within a garage or other enclosed structure; or
 - (2) An unlicensed, but not disabled or inoperable motor vehicle stored or deposited on a residential parcel for not more than 30 days in total.
- C. A person who violates the provisions of this section shall be guilty of a violation and shall be punished as follows:
- (1) For a conviction of a first offense, a fine of not less than \$100 and not more than \$250.

6. Editor's Note: Former Art. XI, Licensing of Junkyards, added 6-12-2006 by L.L. No. 13-2006, as amended, was repealed 7-24-2013 by L.L. No. 7-2013. See now Ch. 130, Junkyards, Licensing of.

7. Editor's Note: The definition of "vehicle" in § 159 of the New York Vehicle and Traffic Law reads as follows: "Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks. (L. 1959, c. 775)"

- (2) For a conviction of a second or subsequent offense, a fine of not less than \$500 and not more than \$1,000.
- D. In addition to the sanctions specified in Subsection C, if a person convicted of an offense under this section does not remove the offending vehicle or alter it such that it is no longer abandoned, junked, or inoperative within seven days of such conviction, a Code Enforcement Officer may cause the vehicle to be removed without further notice pursuant to the procedures specified in § 210-55.1. Such removal shall be at the owner's sole expense.

§ 210-55.1. Removal of abandoned, junked, or inoperative motor vehicles.

- A. A Code Enforcement Officer may cause the removal of an abandoned, junked, or inoperative motor vehicle without notice:
- (1) Pursuant to § 210-55D;
 - (2) If with due diligence the owner thereof, or the owner, occupant, or tenant of the location where the vehicle is stored cannot be located for service of notice pursuant to § 210-55.2; or
 - (3) If the vehicle presents an imminent danger to public health or safety.
- B. The Town Board shall designate a private contractor to effectuate vehicle removals pursuant to this section.
- C. The owner of an abandoned, junked, or inoperative motor vehicle removed pursuant to this section shall be fully responsible to pay all costs associated with said removal. To the extent that the Town incurs any costs associated with removal, the same may be collected in a civil action in the name of the Town or in the same manner as general Town taxes. In such a case, the amount collected shall include any legal fees incurred by the Town.

§ 210-55.2. Service of notice.

Service of any notice of a violation of § 210-55 shall be made by personal service or by regular mail upon the owner of the abandoned, junked, or inoperative motor vehicle or the owner's executors, legal representatives, or agents, and/or the owner, occupant, or tenant of the location where the vehicle is stored, or their executors, legal representatives, or agents.

§ 210-56. through § 210-62. (Reserved)

ARTICLE XII
Adult Uses
[Added 12-27-2006 by L.L. No. 30-2006]

§ 210-63. Purpose.

- A. The purpose of this article is to protect the public health, safety, welfare, economic well being, and the tranquility in the Town of Cicero while developing adequate regulations which may be uniformly applied to prevent any deleterious secondary effects and public nuisances associated with adult uses.
- B. It is not the intent of the Town of Cicero to:
- (1) Deny any person the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses;
 - (2) Impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Town under the U.S. Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression;
 - (3) Impose upon any person any additional limitations or restrictions upon the right to obtain, view or partake of any communications guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Town under the U.S. Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression; or
 - (4) Estimate, decide, determine, resolve, consider, conclude, judge or qualify in any manner of fashion the quality or value of the content, nature, message, form, format, appearance, substance or presentation of the free expression guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

§ 210-64. Legislative findings.

- A. The area surrounding the Town of Cicero currently has several different forms of adult use entertainment which serve as an outlet for free expression.
- B. Currently, there do not exist adequate regulatory standards controlling the time, place and manner in which adult uses are conducted in the Town of Cicero.
- C. Adult uses, by their very nature, are recognized as having serious objectionable characteristics, and under certain circumstances, have deleterious effects on the surrounding neighborhoods. The Town of Cicero's resources would be severely

strained to adequately address the potential increased demand for crime prevention, degradation of the community's retail areas, the potential decline in property values and overall quality of neighborhoods that the proliferation of such uses could dangerously affect.

- D. The Town of Cicero has conducted necessary research to examine the extent of deleterious secondary effects upon the community and has determined the special regulations that need to be adopted to accomplish the primary purpose of restricting the accessibility of adult uses to minors and prevent the deleterious secondary effects upon areas in the Town of Cicero. Local legislation by the Town Board is needed to prevent the occurrence of deleterious secondary effects associated with adult uses and to prevent a race of diligence by applicants seeking to establish such uses until proper regulations have been put into place.
- E. The Town of Cicero has diligently researched the most appropriate location for adult uses within the Town by reviewing numerous locations, carefully evaluating each location and the ability of each location to promote the intent of the Town of Cicero in enacting this adult use legislation.
- F. A reasonable licensing procedure is an appropriate mechanism to place the on the operators of adult uses. A reasonable licensing procedure will also encourage the operators of adult uses to operate such businesses in a manner consistent with the health, safety and welfare of its patrons and employees as well as citizens of the Town. Because the Town of Cicero Planning Board routinely evaluates site plans under the criteria set forth in the Town of Cicero Town Code, the Planning Board is the entity best suited to issuing adult use licenses in conjunction with reviewing a site plan for an adult use.
- G. The general welfare, health and safety of the citizens of the Town of Cicero will be promoted by the enactment of this article.
- H. The adoption of this article has been determined to be an Type II Action under SEQRA, 6 NYCRR Part 617, and will not result in any significant adverse environmental impact.

§ 210-65. Definitions.

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

ADULT ARCADE — Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, video or laserdisc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE, NOVELTY STORE OR VIDEO STORE —

- A. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes or video reproductions, digital video discs ("DVDs"), slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
 - (2) Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised, or promoted for use in connection with specified sexual activities.
- B. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as at least 25% of its store area, or 25% of its display area, or 25% of the total stock of the establishment is dedicated to the offering sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT ENTERTAINMENT CABARET — A public or private establishment which is licensed to serve food and/or alcoholic beverages and which features topless dances, strippers, male or female impersonators or similar entertainers.

ADULT MOTEL/HOTEL — A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, DVDs, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.

ADULT PHYSICAL CONTACT ESTABLISHMENT — Any establishment which offers or purports to offer massage or other physical contact to patrons of either gender by employees or staff of either gender. Medical offices, offices of persons licensed or authorized under the Education Law to practice massage therapy, offices or persons licensed or otherwise authorized by the Education Law as physical therapists or physical therapist assistants and electrolysis, karate, judo and dance studios are not to be considered adult physical contact establishments.

ADULT THEATER — A theater, concert hall, auditorium or similar establishment that customarily presents either live performance or motion pictures, films, videotapes, slide shows, DVDs or other media characterized by the exposure of specified sexual activities or specified anatomical areas and that are not open to the public generally but excludes, or is required by law to exclude, minors by reason of age.

ADULT USE — Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to adult bookstores, adult motion-picture theaters and adult entertainment cabarets.

ADULT USE ESTABLISHMENT — Any building, structure or land, or portion thereof

used for adult uses as defined in this article.

APPEARANCE TICKET — A written notice issued in accordance with § 150 of the New York State Criminal Procedure Law.

CITATION — A notice that an adult use licensee is in violation of this article.

LICENSE/ADULT USE LICENSE — The license granted to the owner or operator of an adult use upon approval by the Planning Board.

LICENSEE — The grantee of an adult use license.

PEEP SHOWS — The use of a building, or a portion of a building, to present material in the form of live shows, films, videotapes, DVDs or other media, viewed from an individual room or similar enclosure which excludes, or is required by law to exclude, any minor by reason of age.

SPECIFIED ANATOMICAL AREAS —

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- B. Human male genitalia in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; or
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or breasts.

§ 210-66. License required.

- A. It shall be a violation of this article for any person to operate an adult use without a valid license issued under this article.
- B. Operation of an adult use described in Subsection A above without a valid license is a violation punishable in accordance with this article.

§ 210-67. Application procedure.

- A. In addition to the requirements of a site plan application, the application for an adult use license shall contain:
 - (1) The name under which the establishment is to be operated and a general description of the type of adult use found at the proposed establishment;
 - (2) Whether the applicant has had a previous license under this article or other similar adult use ordinances from another municipality denied, suspended or revoked, including the name and location of the adult use for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a

corporation that is or was licensed under an adult use ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the adult use for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;

- (3) Whether the applicant holds any other licenses under this article or other similar adult use ordinance from another municipality, and, if so, the names and locations of such other adult uses;
 - (4) The expected startup date, expressed in number of days from the date of issuance of the adult use license and receipt of site plan approval; and
 - (5) If the persons identified as the fee owner(s) of the real property that is the subject of the site plan and adult use application is not also the owner of the proposed adult use, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the adult use to have or obtain the use and possession of the real property that is to be used for the adult use.
 - (6) A renewal application shall contain any changes, modifications, or additions to Subsection A(1) through (6).
- B. An applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed by the Zoning and Planning Office.
- C. If a person who wishes to own or operate an adult use establishment is an individual, he or she must sign the site plan application as applicant. If the person who wishes to operate an adult use is an entity organized under the Laws of the State of New York, a duly authorized representative of the entity must sign the site plan application. All signatures shall be notarized.
- D. Applications for an adult use establishment, whether original or renewal, must be made to the Zoning and Planning Office by the intended operator of the adult use. Applications must be submitted during regular business hours.
- E. The Planning Board shall hear all adult use license applications simultaneously with the site plan application for any site.

§ 210-68. Site plan; issuance of license for adult use.

- A. All adult use establishments must undergo site plan review pursuant to § 210-27 of this chapter.
- B. A public hearing shall be held for all adult use site plan applications and adult use license applications.
- C. The Planning Board shall approve, approve with modifications, or disapprove an adult use license when considering the site plan application for the proposed establishment.
- D. All site plans for adult uses shall be conditioned on the applicant's strict compliance

with all provisions of this article.

- E. The Planning Board shall review with the applicant those areas within the adult use establishment in which the adult use activities will take place. No adult use activities shall take place in the establishment in any location not approved by the Planning Board during the site plan and license approval process.
- F. The Planning Board shall not approve an adult use license for any establishment not in the location specified in § 210-77.
- G. The Planning Board shall not approve an adult use license for any adult use that operated prior to obtaining site plan and license approval.
- H. The Planning Board shall approve a license to an applicant with final site plan approval unless a finding is made that:
 - (1) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 - (2) An applicant is under the age of 18 years;
 - (3) An applicant has been denied a license by the Town to operate an adult use within the preceding 12 months, or whose license to operate an adult use has been revoked within the preceding 12 months;
 - (4) The license fee required under this article has not been paid;
 - (5) The applicant has previously been convicted of a crime which, in the reasonable determination of the Planning Board, after careful consideration of Article 23-A of the Correction Law of the State of New York, renders the applicant unfit to operate an adult use; or
 - (6) An applicant is in violation of or is not in compliance with one or more of the provisions of this article.
- I. Upon the approval of a license, the Planning Board shall notify the Administrator of the Zoning and Planning Office. The Administrator of the Zoning and Planning Office shall issue a license for the adult use establishment. A copy of the license shall be filed in the Town Clerk's Office and the Zoning and Planning Office.
- J. A license issued pursuant to this section shall state on its face the name of the person or entity to whom it is granted, the expiration date, and the address of the adult use establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult use so that it may be easily read.
- K. The fact that a person possesses other types of state, Town or other municipal permits and/or licenses does not exempt him or her from the requirement of obtaining an adult use license.
- L. An adult use license shall permit the licensee to operate the adult use establishment between the hours of 8:00 a.m. to 12:00 a.m.
- M. A licensee shall be prohibited from selling alcoholic beverages on the premises in

accordance with the Alcoholic Beverage Control Law of the State of New York.

§ 210-69. Appeals of adult use license determinations.

- A. An applicant may appeal a final decision of the Planning Board regarding an adult use license to the Zoning Board of Appeals.
- B. The applicant must appeal to the Zoning Board of Appeals within 60 days after filing of the decision.
- C. The status quo immediately prior to the denial of the license shall be maintained during the pendency of the appeal.
- D. If the Zoning Board of Appeals denies the applicant an adult use license, suspends an adult use license, or revokes an adult use license, the applicant may appeal the decision to any Court of competent jurisdiction upon the applicant's filing of an Article 78 proceeding.
- E. If the Zoning Board of Appeals approves an adult use license, the Planning Board shall review the site plan for the adult use establishment, if such site plan has not been approved. The Zoning Board of Appeals shall direct the Administrator of the Zoning and Planning Office to issue an adult use license in accordance with § 210-68. In no event may an adult use establishment operate prior to site plan approval by the Planning Board.

§ 210-70. Fees for adult use applications.

- A. The fee for reviewing an adult use license application shall be \$500.
- B. This fee shall be in addition to fees required for site plan applications.
- C. The cost to renew an adult use license shall be \$500 for each renewal.

§ 210-71. Inspection of adult use establishments.

- A. The Town is permitted to inspect the premises of any adult use establishment within the Town in order to ensure compliance with the provisions of this article and other laws. A licensee shall permit representatives of the Police Department and/or the Zoning and Planning Office to inspect the premises at any time the establishment is open for business. Any such representative shall have the authority to: inspect those areas to which patrons have access; inspect all other areas of the adult use establishment upon reasonable suspicion of a violation of this article, or to ensure compliance with any other local building code or ordinance; request for inspection of the license required under this article; and to request for identification of those individuals who reasonably appear to be under the age of 18.
- B. A person who operates an adult use establishment or his or her agent or employee commits a violation of this article if he or she refuses to promptly permit such lawful inspection. An appearance ticket or a citation may be issued and the licensee may be subject to the penalties set forth in this article.

§ 210-72. Expiration of license; denial of renewal.

- A. Each license shall expire one year from the date of issuance and may be renewed only by completing a renewal application. An application for renewal shall be made at least 30 days before the expiration date. When an application is made less than 30 days before the expiration date, the expiration of the license will not be affected.
- B. The administrator of the Zoning and Planning Office is authorized to approve adult use license renewal applications if there are no material changes to the information contained in the original site plan and adult use license application. If, in the opinion of that administrator, there are material changes to a renewal application, that administrator shall cause the application to be placed on the next available Planning Board agenda for determination to be made by the Planning Board.
- C. If the administrator of the Zoning and Planning Office denies a renewal application, the applicant may appeal the decision to the Planning Board. If the Planning Board denies a renewal application, the applicant may appeal the decision as set forth in § 210-69.
- D. When an applicant is denied a renewal of an adult use license, the applicant shall not be issued a license for one year from the date of denial. Notwithstanding the provisions of this section, in the event an applicant appeals the nonrenewal of a license, the status quo immediately prior to nonrenewal shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in § 210-69.

§ 210-73. Suspension of license.

- A. The Planning Board shall suspend a license for a period not less than 30 days if it determines by a preponderance of the evidence that a licensee or an employee of a licensee has:
 - (1) Violated or is not in compliance with any section of this article;
 - (2) Operated or performed services in an adult use establishment while intoxicated by the use of alcoholic beverages or controlled substances;
 - (3) Refused to allow prompt inspection of the adult use establishment as authorized by § 210-71; or
 - (4) With knowledge, permitted gambling by any person at the adult use establishment.
- B. A licensee may appeal the suspension of a license to the Zoning Board of Appeals in accordance with the procedure set forth in § 210-69. Notwithstanding any other provisions of this section, in the event a licensee appeals the suspension of a license, the status quo immediately prior to suspension shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits as set forth in § 210-69.

§ 210-74. Revocation of license for adult use.

- A. The Planning Board shall revoke a license upon a determination by a preponderance of the evidence that:

- (1) A cause of suspension as set forth in § 210-73 occurs and the license for the adult use establishment has been suspended within the preceding 12 months;
 - (2) It is discovered that a licensee gave materially false or misleading information in the materials submitted during the application process;
 - (3) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;
 - (4) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises in violation of the New York State Alcoholic Beverage Control Law;
 - (5) A licensee has, with knowledge, permitted prostitution as defined in the New York State Penal Law on the premises;
 - (6) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;
 - (7) A licensee has, with knowledge, permitted a person under 18 years of age to enter or remain in the establishment; or
 - (8) A licensee has attempted to sell his or her license, or has sold, assigned or transferred ownership or control of the adult use to a nonlicensee of the establishment.
- B. Upon revocation of an adult use license, the revocation shall continue for one year, and the licensee shall not be issued an adult use license for one year from the date revocation became effective. A licensee may appeal the revocation of a License to the Zoning Board of Appeals in accordance with the procedure set forth in § 210-69. Notwithstanding any other provisions of this section, in the event the licensee appeals the revocation of a license, the status quo immediately prior to the revocation shall be maintained throughout the pendency of the appeal, up to and including judicial review on the merits.

§ 210-75. No transfer of adult use license.

- A. A licensee shall not transfer his or her adult use license to another, nor shall a licensee operate an adult use under the authority of the licensee at any place other than the address designated in the application and set forth in the adult use license issued by the Town Clerk.
- B. An adult use license shall not be transferable from one location to another.
- C. A noncompliance with this section shall constitute a violation of this article.
- D. Any new applicant seeking a license for an adult use already in operation must also bring a site plan application before the Planning Board.

§ 210-76. Enforcement; penalties for offenses.

- A. Any resident of the Town may file a written complaint with the Zoning and

Planning Office alleging a violation of this article. The Zoning and Planning Office shall file said complaint in that office and investigate the same within a reasonable time after receipt. If it is determined by a Code Enforcement Officer that a violation of this article exists, the Code Enforcement Officer shall file a citation for violation of this article.

- B. A citation shall state, at a minimum, the name of the licensee, the nature of the adult use establishment, the date upon which the violation occurred, and the substance of the violation. The citation shall be signed by the issuer.
- C. A Town of Cicero police officer or a Code enforcement officer shall be authorized to issue a citation for any violation of this article. The citation shall be filed with the Zoning and Planning Office and notice of the citation shall be given to the licensee promptly thereafter.
- D. The adult use licensee shall have 15 days from filing of a citation to cure the violation. If the violation is cured within 15 days, no further action shall be taken upon the citation. A record of the citation and a statement by a Code enforcement officer that the citation has been cured shall be kept on file in the Zoning and Planning Office.
- E. If the violation is not cured within 15 days, the citation shall be reviewed by the Planning Board at the next available Planning Board meeting for a determination as to suspension or revocation of the license, as applicable, in accordance with this article.
- F. If a licensee has received two citations within any six-month time period, upon filing of a third citation, the third citation shall be reviewed by the Planning Board at the next available Planning Board meeting for a determination as to suspension or revocation of the license, as applicable, in accordance with this article. This Subsection F shall apply even if the two prior citations were cured within 15 days.
- G. If an adult use establishment continues to be in operation after the suspension, revocation, and/or nonrenewal of an adult use license, a Cicero police officer or a Code enforcement officer shall issue an appearance ticket to the licensee. Such operation shall constitute:
 - (1) A violation punishable either by the imposition of a fine not exceeding \$350 or imprisonment for a period not exceeding 15 days, or both, for a conviction of a first offense.
 - (2) A misdemeanor punishable by a fine of not less than \$350 but no more than \$700, or imprisonment for a period not to exceed six months, or both, for a second offense.
 - (3) A misdemeanor punishable by a fine of not less than \$700 but no more than \$1,000, or imprisonment for a period not to exceed one year, or both, for a third offense.
- H. If an adult use establishment operates in an area outside the specified adult use Zone, a Cicero police officer or a Code enforcement officer shall issue an appearance ticket to the licensee. Such operation shall constitute a violation and

subject to a fine not exceeding \$1,500 or 15 days in jail or both.

- I. Each day's continued violation shall constitute a separate, additional violation for which separate and additional fines or civil penalties and/or separate sentences of imprisonment, or both, may be imposed.
- J. Nothing in this article shall be construed to limit the authority of the Town of Cicero to seek and obtain injunctive relief to ensure compliance with this article.

§ 210-77. Location.

- A. Adult uses shall be confined to the real property designated by the following Tax Map numbers, as they exist of the date this article is adopted, in the Town of Cicero: 065.-1-14.0; 065.-01-16.3; 065.-01-16.2 and 065.-01-16.1. Adult uses shall be confined to those portions of the parcels listed herein that are 250 feet or less from the right-of-way line of Oxbow Road.
- B. For purposes of this adult use article, adult uses shall be permitted on the portions of the parcels listed in Subsection A above regardless of the current zoning of the parcel.
- C. Notwithstanding any other provisions of this chapter, adult uses shall be no larger than 5,000 square feet.
- D. Notwithstanding any other provisions of this chapter, adult uses shall be subject to the following setback regulations:
 - (1) Front yard: 100 feet.
 - (2) Back yard: 50 feet.
 - (3) Side yard: 50 feet.
- E. Adult uses shall not be permitted within 1,000 feet of the primary, secondary or tertiary entrance of any park, school or religious institution.
- F. Adult uses shall not be permitted within 500 feet of the primary, secondary or tertiary entrance of any residence.

§ 210-78. Exterior portions of adult use establishment.

- A. It shall be unlawful for an owner or operator of an adult use establishment to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- B. It shall be unlawful for the owner or operator of an adult use establishment to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to an adult use establishment if the following conditions are met:
 - (1) The establishment is a part of a commercial multi-unit center; and
 - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same

color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

- C. Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of an adult use establishment.

§ 210-79. Signage.

Adult use businesses shall conform with all existing applicable sign regulations in addition to the following specific requirements:

- A. Exterior signs, displays or other advertisements which contain nude, seminude or provocative pictures or silhouettes shall be prohibited.
- B. Signs which are illuminated in neon or which contain flashing lights shall be prohibited.
- C. There shall be no off-premises advertising for adult use establishments.

§ 210-80. Repealer.

All statutes, ordinances, or local laws, or any parts thereof, in conflict with the provisions of this article are hereby superseded or repealed to the extent necessary to give this article full force and effect during its effective period.

§ 210-81. Severability.

If any provision of this article or the application of any other provision to any item in this article is held invalid, the invalidity of that provision or application shall not affect any of the other provisions or the application of those provisions to other items in this chapter or article.

§ 210-82. When effective.

This article shall take effect immediately.

ARTICLE XIII
**Brewerton Road Corridor: Downtown Core (DC) and Hamlet Gateway (HC)
Districts**
[Added 7-27-2009 by L.L. No. 12-2009]

§ 210-83. Introduction.

- A. Form-based code orientation. This article contains the development regulations that govern future development actions in the Downtown Core (DC) and Hamlet Gateway (HG) Overlay Districts located along the Brewerton Road Corridor in the Hamlet of Brewerton, Town of Cicero. The design standards and guidelines in this article will be used to evaluate development projects or improvement plans proposed for properties within the Downtown Core and Hamlet Gateway Overlay Districts.
- B. Intent. The intent of Downtown Core and Hamlet Gateway Overlay Districts is to implement the goals and objectives outlined in the Brewerton Strategic Revitalization Plan document, adopted by the Town of Cicero (hereafter referred to as the "Town") Board on October 15, 2008. The Brewerton Strategic Revitalization Plan identified geographic areas collectively identified as "character areas" with the intent of implementing creative regulatory solutions to ensure enhanced Infill and an improved quality of life.
- C. Application of overlay districts.
- (1) Development within the Brewerton Road Corridor must comply both with this Overlay Code and all other regulations of the Town, as applicable. However, the regulations of the Town will only apply to the extent that such regulations do not conflict with this overlay, or address issues not regulated by this overlay.
 - (2) All parcels within the defined boundaries of the Downtown Core and Hamlet Gateway Overlay Districts are required to follow these regulations.
 - (3) This article shall apply to new construction, additions of more than 10% to a structure's floor area, exterior renovations to existing structures that involve a building permit, and new land uses proposed for existing structures or land.
 - (4) Right of continued use. Nothing contained in this article shall require any change in any existing structure or any proposed structure or structural change for which a building permit was issued prior to the effective date of this article. This article shall also not apply to any plans submitted for application and on file prior to the effective date of this article. Changes in the property's ownership or tenants of existing uses shall likewise require no change in any existing building or structure. Section 210-92, Nonconforming uses and structures, shall govern any other nonconforming condition.
 - (5) Where improvements and additions are made to existing buildings, requirements for renovation or enlargements apply only to new construction. Improvements and additions to existing buildings that increase nonconformities are prohibited. Section 210-92, Nonconforming uses and

structures, shall govern any other nonconforming condition.

- (6) Development regulations established herein are of two types: standards and guidelines.
 - (a) Standards address those aspects of development that are essential to achieve the goals of the Brewerton Road Corridor Regulating Plan. They include specifications for site development and building design, such as permitted land uses, building Height, and Setbacks. Conformance with standards is required. Such provisions are indicated by use of the words "shall," "must," or "is prohibited."
 - (b) Guidelines provide guidance for new development in terms of aesthetics and other considerations such as district character or design details. They are intended to direct building and site design in a way that results in the continuity of the valued character of the hamlet. Whereas conformance with the standards is required, conformance with the guidelines is preferred and/or recommended. Provisions that fall into this category are indicated by the use of the words "should," "may" or "are encouraged to." In various cases, the guidelines provide a choice of treatments that will achieve the desired effect. Although direct conformance with the guidelines is the surest route to approval, developers are permitted to propose alternative design details if they are able to show that such details implement the overall Brewerton Road Corridor Regulating Plan objectives with respect to the desired character of the hamlet.
- (7) Lists of examples prefaced by "such as" or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar and nonmentioned examples by the Code Enforcement Officer.
- (8) The graphics, tables, and text used throughout this article are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics.

D. How to use this article.

- (1) To determine which standards and guidelines are applicable to a Lot, the applicant should review the sections of the article identified below. Projects must meet all development standards in order to achieve approval in the site plan review process. Projects are encouraged to adhere to the recommendations contained within the sections' guidelines, and projects that conform to those recommendations will facilitate the site plan review process.
- (2) The form-based code is divided into seven sections:
 - (a) Brewerton Road Corridor Regulating Plan. Using the Brewerton Road Corridor Regulating Plan (Figure 210-84-3), determine the Lot's district designation. The district designation will determine which uses are permitted on the Lot and lot standards, including Frontage Types (refer to § 210-86).

- (b) Use regulations. For regulations governing land use, locate the property in question on Figure 210-84-3: Brewerton Road Corridor Regulating Plan. Note which district the property is in. Refer to Table 210-85-1, Use Regulations, and review the definitions and requirements for each regulated element listed.
- (c) Lot and building standards. For regulations governing property frontage and building placement: locate the property in question on Figure 210-84-3: Brewerton Road Corridor Regulating Plan. Then refer to the Frontage Type Table 210-86-1 and the appropriate lot and building standards table (Tables 210-87-1 and 210-87-2) and review the requirements for that district.
- (d) Parking standards and guidelines. Refer to Table 210-88-1: Parking Provisions, and then review the parking standards and guidelines governing parking lot site layout, parking lot lighting, and parking lot landscaping.
- (e) Architectural standards and guidelines. Locate the property in question on Figure 210-84-3: Brewerton Road Corridor Regulating Plan, and refer to the standards and guidelines for architectural elements in § 210-89.
- (f) Landscape and lighting standards and guidelines. Refer to the standards and guidelines for landscape and lighting in § 210-90.
- (g) Signage standards. Refer to the standards for signage in § 210-91.

§ 210-84. Districts and Brewerton Road Corridor Regulating Plan.

- A. Establishment of districts. The Brewerton Road Corridor is hereby divided into the following zoning districts:
 - (1) Downtown Core (DC) District.
 - (a) Statement of intent. The purpose of this district is to foster a vibrant, pedestrian-oriented character for Brewerton Road (NY Route 11) within the downtown core of the hamlet. In general, The downtown core encompasses existing parcels that front Brewerton Road from approximately Bennett Street to Jerome Street. The physical form and uses are regulated to maintain and enhance the historic Mixed-Use character of the downtown core, while encouraging Infill development that is compatible with that character, providing greater amenities to residents and a range of housing options and Commercial opportunities.



Figure 210-84-1 — Downtown Core (DC) District. This district consists of Brewerton's historic downtown main street area with (1) two- to four-Story buildings; (2) small-scale retail, office, service and restaurant use with upper floor residential use; (3) a shallow Build-To-Line and frontage build-out requirement that supports a pedestrian-friendly street; (4) on-street parking, tree lawn with street trees, sidewalks and streetlights; (5) flat roofs with cornices or pitched roofs.

(2) Hamlet Gateway (HG) District.

- (a) Statement of intent. The purpose of this district is to create a public realm conducive to pedestrian activity and provide a transitional zone between the hamlet's vehicle-oriented land uses and the traditional downtown core. In general, the Hamlet Gateway encompasses existing parcels that front Brewerton Road from approximately Jerome Street to Orangeport and Miller Roads.



Figure 210-84-2 — Hamlet Gateway (HG) District. This district consists of a mix of Frontage Types and corresponding reliance on a consistent streetscape to enhance the pedestrian environment of the Brewerton Road Corridor.

- B. Brewerton Road Corridor Regulating Plan. The areas and boundaries of the districts listed in § 210-84A, Establishment of districts, are established to scale as shown on the Brewerton Road Corridor Regulating Plan (refer to Figure 210-84-3) and referenced to herein as the "Regulating Plan."
- C. District regulations. The regulations outlining the permitted uses are set forth in § 210-85.

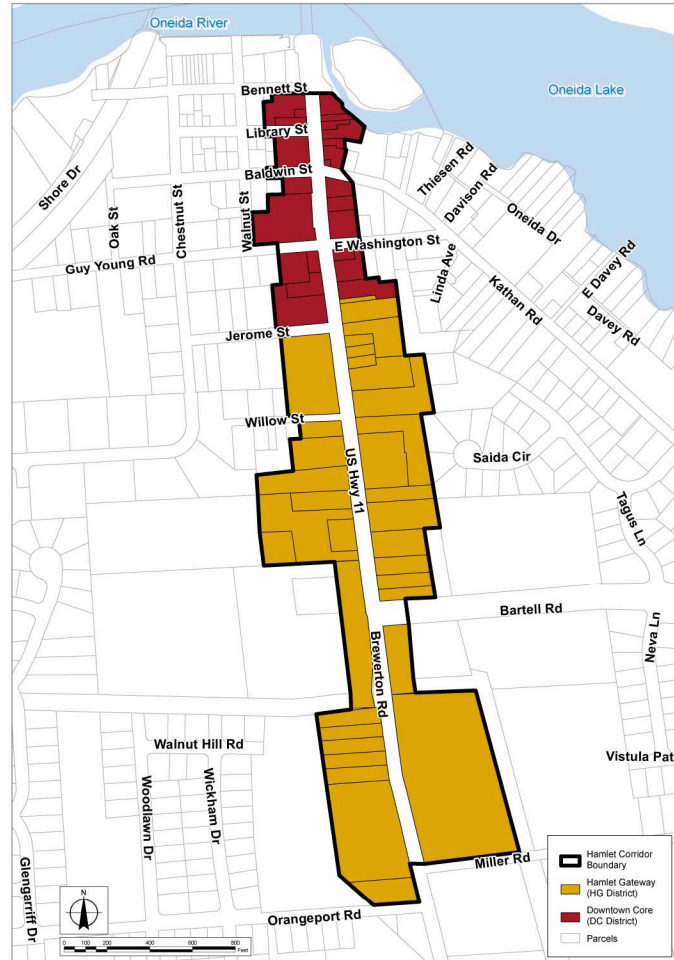


Figure 210-84-3: Brewerton Road Corridor Regulating Plan

§ 210-85. Uses.

- A. General requirements. The following pertains to uses permitted on the Brewerton Road Corridor.
 - (1) Table 210-85-1, Use Regulations. The use regulations table outlines the permitted uses. Each use is given one of the following designations. A use may not be designated as the same across the zoning districts.
 - (a) Permitted: uses permitted by right in the districts in which they are listed.

- (b) Permitted in the upper stories only: uses permitted by right only if they are located in the upper stories of a structure, or if on the ground floor behind the area adjacent to the front Facade (the front space is considered the storefront display and use area).

Table 210-85-1: Use Regulations			
		Districts	
Uses		HG	DC
Residential			
	Single-family	Permitted	Permitted-U
	Two-family	Permitted	Permitted-U
	Multifamily	Permitted	Permitted-U
	Accessory family unit	Permitted-U	Permitted-U
Lodging and housing			
	Bed-and-breakfast	Permitted	Permitted
	Hospice	Permitted	
	Hotel/motel	Permitted	Permitted
	Independent, assisted living, and nursing home	Permitted	
	Therapeutic or agency-operated group home	Permitted	
Civic institutional			
	Assembly	Permitted	
	Hospital	Permitted	
	Library/museum	Permitted	Permitted
	Park	Permitted	Permitted
	Police and fire	Permitted	Permitted
	Post office	Permitted	Permitted
	Education facilities	Permitted	Permitted
Retail			
	Neighborhood retail	Permitted	Permitted
	General retail	Permitted	
	Large-scale retail		
Service			
	Neighborhood personal services	Permitted	Permitted
	Bar or tavern	Permitted	Permitted
	Nightclub	Permitted	

Table 210-85-1: Use Regulations			
		Districts	
Uses		HG	DC
	Restaurant	Permitted	Permitted
	General services	Permitted	Permitted
	Arena	Permitted	
	Day-care center	Permitted	
	Vehicular service		
Office			
	Neighborhood office	Permitted	Permitted
	General office	Permitted	Permitted
Infrastructure			
	Parking lot	Permitted	Permitted
	Utility and infrastructure	Permitted	
	Telecommunication antenna facility	Permitted	

LEGEND
—: Not Permitted
Permitted-U: Upper stories only
Permitted: These elements are allowed, by right, as indicated.

- (2) General provisions and organization. The uses are grouped into general categories, which may contain lists of additional uses or clusters of uses.
 - (a) Number of uses. A parcel of land may contain more than one use.
 - (b) Unlisted similar use. If a use is not listed, but is similar in nature and impact to a category of use permitted by right, the Code Enforcement Officer may interpret the use as permitted as if it were in that use category.
- (3) Accessory use or building. Accessory uses or buildings home occupations are subject to the standards detailed in the Town of Cicero Zoning Code.
- (4) Home occupations. Home occupations are subject to the standards detailed in the Town of Cicero Zoning Code.
- (5) Prohibited uses. The following are examples of uses prohibited anywhere within the Downtown Core and Hamlet Gateway Overlay Districts: animal boarding; boardinghouses; chemical manufacturing, storage, or distribution; any Commercial use in where patrons remain in their automobiles while receiving goods or services, gasoline/oil change automobile services; automobile sales and services, car washes, enameling, painting, or planting of

materials, except artists' studios; kennels; the manufacture, storage, or disposal of hazardous waste materials; mini-storage warehouses; self-storage warehouses; outdoor advertising or billboards; packing houses; prisons or detention centers, except as accessory to a police station; drug and alcohol treatment and rehab centers; scrap yards; tire vulcanizing and retreading; vending machines, except within a Commercial building; uses providing goods or services of a predominately adult-only or sexual nature, such as adult book or video stores or sex shops; and other similar uses as determined by the Zoning Code Enforcement Officer.

- B. Residential uses: a category of uses that includes several residence types.
- (1) One-family dwelling: refer to Town of Cicero Zoning Code, Article II, Definitions.
 - (2) Two-family dwelling: refer to Town of Cicero Zoning Code, Article II, Definitions.
 - (3) Multiple-family dwelling: refer to Town of Cicero Zoning Code, Article II, Definitions.
 - (4) Accessory family unit: a dwelling unit that is associated with and is incidental to another dwelling unit on the same Lot which serves as the Lot's principal use. The following standards apply:
 - (a) Quantity: One per Lot is permitted.
 - (b) Entrance: If a separate entrance exists, it shall not be located on the front Facade.
 - (c) Location on the Lot: An accessory family unit may be located within the Principal Building or an accessory building.
- C. Lodging and housing uses: a category of uses that provides furnished rooms for temporary or permanent accommodations.
- (1) Bed-and-breakfast: an owner-occupied building originally built and used as a dwelling in which accommodations for transients are regularly offered for compensation and which accommodations include provision of at least one meal, and in which building no more than four bedrooms are utilized for such accommodations.
 - (2) Hospice: A maximum of six patients are permitted.
 - (3) Hotel/motel: a building containing rooms rented for living or sleeping accommodations for transient occupancy.
 - (4) Independent, assisted living, and nursing home.
 - (5) Therapeutic group home or agency-operated group home.
- D. Civic and institutional uses: a category that includes uses which focus on improving the quality of day-to-day community life by providing a location for assembly, discourse, worship, education, healing, and entertainment.

- (1) Assembly: a facility that has organized services, meetings, or programs to benefit, educate, entertain, or promote discourse amongst the residents of the community in a public or private setting. Assembly includes such uses as a municipal building, community center, house of worship, and private clubs and lodges.
 - (2) Hospital: a licensed institution providing medical care and health services to the community. These services may be located in one building or clustered in several buildings and typically include laboratories, in- and out-patient facilities, training facilities, medical offices, staff residences, food service, and gift shop.
 - (3) Library/museum.
 - (4) Park.
 - (5) Police and fire.
 - (6) Post office.
 - (7) School.
- E. Retail uses: a category of uses that involves the selling of goods or merchandise to the general public for personal or household consumption.
- (1) Neighborhood retail: a retail use involving the small-scale sale of goods or merchandise to residents living within walking distance. A use in this category typically occupies an area of less than 5,000 square feet. Neighborhood retail includes such uses as:
 - (a) Antique shop.
 - (b) Apparel, shoe, and accessory store.
 - (c) Art, craft, and education supplies.
 - (d) Book, magazine, and newspaper store.
 - (e) Camera and photo supply store.
 - (f) Convenience store.
 - (g) Drugstore/pharmacy.
 - (h) Flower shop.
 - (i) Gift, novelty, and souvenir shop.
 - (j) Grocery store.
 - (k) Hardware store.
 - (l) Hobby and children toy shops.
 - (m) Jewelry sales and repair.

- (n) Luggage and leather goods.
 - (o) Specialty food market (bakery, butcher, candy/confections, fish market, produce, dairy, etc.).
 - (p) Sporting goods sales and rental.
 - (q) Music store.
 - (r) Office supply.
 - (s) Optical goods shop.
 - (t) Pet grooming and supplies shop.
 - (u) Tobacco shop.
 - (v) Wine and liquor shop.
- (2) General retail: a retail use involving the sale of goods or merchandise to residents living in the community, many of whom will access the store by vehicle. A use in this category typically occupies an area between 5,000 square feet and 10,000 square feet. General retail includes such uses as:
- (a) Neighborhood retail uses.
 - (b) Appliance and electric sales and service.
 - (c) Computer software sales and leasing.
 - (d) Department store.
 - (e) Home furnishings and accessories sales and rentals.
 - (f) Medical supply store and rental.
 - (g) Vehicle supply shop (no service for any motorized vehicles).
- (3) Large-scale retail: a retail use involving the large-scale sale of goods to residents living within the region. These uses are almost exclusively accessed by automobile and therefore additional consideration should be given to parking and traffic issues when developing this use. The goods or merchandise sold may be of the same type or a variety of types and typically occupy an area greater than 10,000 square feet. This includes such uses as:
- (a) General retail uses.
 - (b) Commercial equipment and supply: a retail use involving the large-scale sale of goods marketed primarily to Commercial or industrial businesses, but available to the general public. This use may include bulk sales, outdoor storage, and frequent Commercial vehicle and consumer traffic. Commercial equipment and supply include such uses as:
 - [1] Building materials.
 - [2] Machine sales and rental.

- (c) Outdoor sales lot: a retail use where a significant portion of the goods are stored displayed either temporarily or permanently outdoors. Outdoor sales lots include such uses as:
 - [1] Sales and rental.
 - [2] Farm supply and machinery sales.
 - [3] Nursery and garden center.
 - [4] Vehicle sales and rental.
- F. Service uses: a category of uses that provides patrons with services and limited retail products related to those services. Visibility and accessibility are important to these uses, as many customers do not utilize scheduled appointments.
 - (1) Neighborhood personal service: a service use that offers daily conveniences to residents in adjacent neighborhoods. A use in this category typically occupies an area of less than 5,000 square feet and includes such uses as:
 - (a) Arcade.
 - (b) ATM or bank. An automated teller machine (computerized, self-service machine used by banking customers for financial transactions, including deposits, withdrawals and fund transfers, without face-to-face contact with financial institution personnel), located outdoors at a bank, or in another location. Includes banks. Does not include drive-up ATMs or check-cashing stores.
 - (c) Bar or tavern: a business where alcoholic beverages are sold for on-site consumption, which is not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery ("brew-pub"), and other beverage-tasting facilities.
 - (d) Barber shop, beauty salon, and spa.
 - (e) Billiard hall.
 - (f) Dry cleaning, laundry, and laundromat.
 - (g) Fitness (including martial arts), dance studio, and gym.
 - (h) Locksmith.
 - (i) Mailing services.
 - (j) Nightclub: a facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc. Does not include adult-oriented businesses.
 - (k) Photocopying and printing.
 - (l) Photography studio and supplies (on-site processing permitted).

- (m) Restaurant (no drive-throughs).
 - (n) Tailor, seamstress, or shoe repair.
 - (o) Tanning salon.
 - (p) Training center.
 - (q) Travel agency and tour operator.
- (2) General services: a service use offering daily conveniences to residents living in the community. A use in this category typically occupies an area between 5,000 square feet and 10,000 square feet and includes such uses as:
- (a) Neighborhood personal services.
 - (b) Amusement center.
 - (c) Catering.
 - (d) Funeral home.
 - (e) Sales and repair of small goods and electronics.
 - (f) Theatre.
- (3) Arena: a large facility, partly or completely surrounded by tiers of seats of spectators, that is used for sporting events or other assembly purposes.
- (4) Day-care center: a premises licensed by the State of New York and receiving more than eight children for care during all or part of a day or night, not including the children of the operator of the day-care center.
- (5) Vehicular service: a business involving the servicing of vehicles and/or the storage and distribution of gasoline. A convenience store may also be included as a secondary use, as well as the sales of propane and kerosene. Vehicular service includes such uses as:
- (a) Vehicular service station.
 - (b) Automotive repair.
 - (c) Car wash, automatic or self-service.
 - (d) Tire sales and mounting.
- G. Office uses: a category of uses for businesses that involves the transaction of affairs of a profession, service, industry, or government. Patrons of these businesses usually have set appointments or meeting times; the businesses do not typically rely on walk-in customers.
- (1) Neighborhood office: an office use that typically occupies an area of less than 5,000 square feet and involves 20 or fewer employees at a given location.
 - (2) General office: an office use that typically occupies an area of greater than 5,000 square feet and more than 20 employees at a given location.

H. Infrastructure uses:

- (1) Parking lot: a lot that is solely used for the temporary parking of vehicles.
- (2) Utility and infrastructure: land utilized for utility and infrastructure needs.
- (3) Telecommunication antenna facility: a use of land that includes buildings, cabinets, structures, and facilities, including generating and switching station, repeaters, antennas, transmitters, receivers, towers, and all other buildings and structures relating to low-power mobile voice transmission, data transmission, video transmission and radio transmission, or wireless transmission.

I. Accessory uses and buildings. Accessory uses and buildings shall follow the standards of the existing Town of Cicero Zoning Code.

§ 210-86. Frontage Types.

This section identifies Frontage Types for the overlay districts. A "Frontage Type" refers to a Principal Building's front Facade and the area between the front Facade and public right-of-way. Table 210-86-1 below indicates, by district, allowable Frontage Types.

Table 210-86-1: Frontage Type Descriptions

	SECTION	PLAN	
	LOT FRONTAGE ← R.O.W. PUBLIC FRONTAGE	LOT FRONTAGE ← R.O.W. PUBLIC FRONTAGE	
a. Common Yard: a planted Frontage wherein the Facade is set back substantially from the Frontage Line. The resulting front yard can be defined by fence or hedge. A front porch is optional.			HG
b. Porch & Fence: a planted Frontage wherein the Facade is set back from the Frontage Line with an attached porch permitted to Encroach. The resulting front yard is typically small and can be defined by a fence or hedge.			HG DC
c. Forecourt: a Frontage wherein the main facade of the building is at or near the Frontage Line and a small percentage of it is set back, creating a small court space. The space could be used as an entry court or shared garden space for apartment buildings, or as an additional shopping or restaurant seating area. This frontage type should be used sparingly and should not be repeated within a block.			HG DC
d. Steep: a Frontage wherein the Facade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use.			HG DC
e. Shopfront & Awning: a Frontage wherein the Facade is aligned close to the Frontage Line and the canopy or awning element may overlap the sidewalk. The canopy is a structural, cantilevered, shed roof and is often retractable. The coverings should extend far enough from the building to provide adequate protection for pedestrians. Syn: Retail Frontage.			HG DC

§ 210-87. Lot and building standards.

This section consists of regulations controlling Lot dimensions, Setbacks, building Height, and parking placement. In order to maintain the distinctive character of the hamlet, these regulations focus on how buildings relate to Brewerton Road and specifically how the Facades of buildings enclose and give form to the streetscape and other public areas. This type of regulation, based on the "form" of buildings, regulates land use using Frontage Types. Frontage Types applicable to the Brewerton Road Corridor are shown on Table 210-86-1. See Tables 210-87-1 and 210-87-2 in addition to the text below for Lot and building standards specific to each district.

A. Building placement.

- (1) One Principal Building and one accessory building may be built on each Lot.

- (2) Facades shall be built parallel to a rectilinear Principal Frontage Line with a minimum Frontage build-out as specified on Tables 210-87-1 and 210-87-2.
- (3) In the case of an Infill Lot, Setbacks shall match one of the existing adjacent Setbacks. Build-to-Lines on Block Faces with existing buildings shall be established based upon the location of the existing building closest to the street, provided that such building complies with the Build-to-Line requirements of the district. If no existing buildings comply with the Build-to-Line requirements, the Code Enforcement Officer shall, in consultation with the applicant, establish a Build-to-Line for the Block Face.
- (4) Rear Setbacks for accessory buildings shall be a minimum of 12 feet measured from the center line of the Alley easement. In the absence of an Alley, the rear Setback shall be as shown on Tables 210-87-1 and 210-87-2.
- (5) Corner Lots shall be deemed to have two front yards with a Principal Frontage and a secondary Frontage. The Principal Frontage will include the Principal Entrance. Prescriptions for front yards pertain to both frontages of a corner Lot. [Intent: Buildings located on street corners should have Facades that relate to both streets. Buildings should use porches, sunrooms, bay windows, additional entries, and other elements typically used only on front Facades on both street-facing Facades.]

B. Building Height.

- (1) Building Height shall be measured in number of Stories, excluding Attics and raised basements.
- (2) Stories may not exceed 14 feet in Height from finished floor to finished ceiling.
- (3) Height shall be measured to the eave or roof deck.
- (4) Maximum building Height for Infill buildings is limited to two Stories higher than the lowest adjacent Principal Building. [Intent: Infill structures should not be significantly shorter or taller than adjacent buildings. This ensures that the Height of new buildings reinforces and enhances the existing character of the streetscape.]
- (5) An accessory structure shall not exceed the Height of the Principal Building.

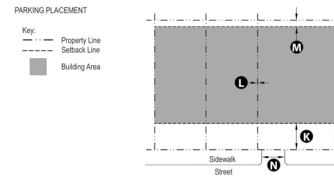
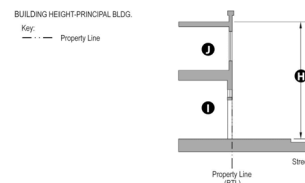
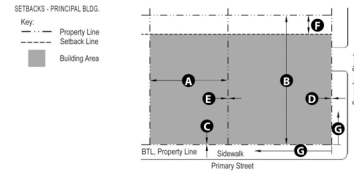
C. Allowable Encroachments.

- (1) Entrance porticos, open porches, and stoops may Encroach the front yard or side yard 50% of its depth. [Intent: Encroachments allow open-air porches, stoops, and balconies to Encroach into street-facing Setbacks to provide a transition from the public realm of the street to the private realm of the building.]
- (2) Bay windows and other similar enclosed building elements may Encroach up to two feet in Setbacks, but not within four feet of the building corners.
- (3) Uncovered decks, balconies, and trellises may Encroach into Setbacks not

deeper than eight feet and no closer than 18 inches from a Lot line.

- (4) Awnings, where permitted, may Encroach a sidewalk to within two feet of the Curb (or 10 feet maximum depth) but shall clear the sidewalk vertically by at least eight feet.

Table 210-87-1: Downtown Core (DC) Building and Lot Standards



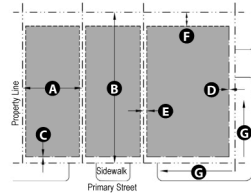
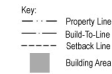
1. LOT DIMENSION		
Lot Width	18 ft. min.	A
Lot Depth	100 ft. min.	B
2. SETBACKS – PRINCIPAL BUILDING		
Build-To-Line (BTL) Principal	0 ft. min., 12 ft. max.	C
Build-To-Line Secondary	0 ft. min., 12 ft. max.	D
Side Setback	0 ft. min.	E
Rear Setback	8 ft. min.	F
Frontage Buildout	80% min.	G
3. SETBACKS-ACCESSORY BUILDING		
Front Setback	20 ft. min. + bldg setback	
Side Setback	3 ft. min.	
Rear Setback	3 ft. min.	
4. BUILDING HEIGHT		
Principal Building	4 stories max., 2 min.	H
Accessory Building	2 stories max.	
5. BUILDING USE (see Table 210-85-1 for specific uses)		
Ground Floor	Lodging, Civic, Retail, Service, Office	I
Upper Floor	Residential Lodging, Service, Office	J
6. FRONTAGE TYPES (see Table 210-86-1)		
Common Yard	not permitted	
Porch and Fence	permitted	
Forecourt	permitted	
Stoop	permitted	
Shopfront and Awning	permitted	
7. PARKING PLACEMENT AND ACCESS		
Front Setback	20'	K
Side Setback (Along Street)	0' (10')	L
Rear Setback	5'	M
Driveway Width (One-Way)	22' max. (11' max.)	N

Table 210-87-2: Hamlet Gateway (HG) Building and Lot Standards

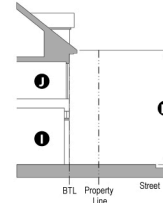
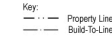


HAMLET GATEWAY (HG)

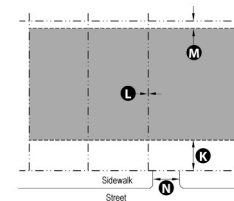
SETBACKS - PRINCIPAL BLDG.



BUILDING HEIGHT - PRINCIPAL BLDG.



PARKING PLACEMENT



1. LOT DIMENSION	
Lot Width	30 ft. min., 150 ft. max. A
Lot Depth	100 ft. min. B
2. SETBACKS – PRINCIPAL BUILDING	
Build-To-Line (BTL) Principal	6 ft. min., 24 ft. max. C
Build-To-Line Secondary	6 ft. min., 24 ft. max. D
Side Setback	3 ft. min. E
Rear Setback	8 ft. min. F
Frontage Buildout	50% min. G
3. SETBACKS-ACCESSORY BUILDING	
Front Setback	20 ft. min. + bldg setback
Side Setback	3 ft. min.
Rear Setback	3 ft. min.
4. BUILDING HEIGHT	
Principal Building	3 stories max., 2 min. H
Accessory Building	2 stories max.
5. BUILDING USE (see Table 210-85-1 for specific uses)	
Ground Floor	Residential, Lodging, Civic, Retail, Service, Office I
Upper Floor	Residential, Lodging, Service, Office J
6. FRONTAGE TYPES (see Table 210-86-1)	
Common Yard	permitted
Porch and Fence	permitted
Forecourt	permitted
Stoop	permitted
Shopfront and Awning	not permitted
7. PARKING PLACEMENT AND ACCESS	
Front Setback	20' K
Side Setback (Along Street)	0' (10') L
Rear Setback	5' M
Driveway Width (One-Way)	22' max. (11' max.) N

§ 210-88. Parking standards.

This section contains parking provisions to ensure there is balance between the need for adequate parking and the need to minimize the harm to community character that can result from requiring too many parking spaces. This section also contains parking lot standards and guidelines to ensure the hamlet's character is maintained and enhanced. In general, the intent is to provide shade, minimize paving and associated stormwater runoff, and improve the aesthetic look of parking lots.

A. Parking provisions.

- (1) All new development projects and those proposing additions of more than 10% to a structure's floor area shall provide parking as stated in Table 210-88-1.

Table 210-88-1: Parking Provisions						
Residential					Lodging	Other Use Categories
Studio Apartments	1 Bedroom	2+ Bedroom				
Provision						
1	Minimum required	0.75 space per DU	1 space per DU	1.5 spaces per DU	1 space per LU + additional required spaces*	6 spaces per 1,000 square feet gross floor area
2	Maximum allowed	1.5 spaces per DU	2 spaces per DU	3 spaces per DU	1 space per LU + additional required spaces*	6 spaces per 1,000 square feet gross floor area
3	Shared parking bonus	N/A	N/A	N/A	1 shared space = 2 spaces towards minimum requirements	1 shared space = 2 spaces towards minimum requirement
4	In-lieu fee	Permitted	Permitted	Permitted	Permitted	Permitted

LEGEND:	
DU:	Dwelling unit
LU:	Living or sleeping unit
Permitted: These elements are allowed by right, as indicated.	
*	Additional spaces shall be required for accessory uses such as restaurants, shops, etc., as specified by this table.

- (2) On-street parking, where permitted by the Town, along the adjacent frontage shall be counted toward the parking requirements.
- (3) Required off-street parking requirements may be satisfied in one or more of the following ways:
 - (a) Parking on the premises, in allowed areas only, with access from an Alley if available.
 - (b) Parking in spaces within 750 feet of the premises that are owned or controlled by the owner or operator of the establishment, or available on leased or shared-use basis, provided that adequate proof of such lease or shared use is submitted.
 - (c) Dedication of the rear portion of a Lot to the Town for municipal parking purposes, where such rear land can be combined with continuous rear

land to create usable municipal parking lots. In such cases, land dedicated for parking shall not be treated as part of the original Lot for purposes of calculating minimum Lot size. Payment of a parking space fee as provided in Subsection C below.

B. Shared access requirements.

- (1) Intent: to provide appropriate vehicular access to development in the Brewerton Road Corridor while minimizing its impact on pedestrian circulation and overall aesthetics of the Corridor.
- (2) Applicability. The following standard applies to all development along the Brewerton Road Corridor.
- (3) Shared access. When possible, adjacent developments should share points of access to minimize the number of access points. Shared access provisions must be set forth in a declaration of easement in a form approved by the Town.

C. Parking space fee in lieu of parking provisions.

- (1) Intent. The Town Board of Cicero recognizes that the provision of parking is a public function which benefits both the general public and the business community. While the need for parking is created by individual business establishments, the provision of parking is most efficiently accomplished by using municipal parking facilities for the mutual benefit of all businesses and their patrons. Since many businesses are located on parcels that are too small or otherwise inappropriate for on-site parking, the Town Board wishes to enable them to satisfy their parking requirements by providing off-premises municipal parking as an alternative to on-site parking. As the primary beneficiaries of public parking, these businesses shall contribute to the costs of establishing such parking facilities.
- (2) Applicability. The owner or operator of any nonresidential use may, in lieu of providing required on-site or off-site parking spaces, pay a parking space fee in an amount to be established and revised as necessary by the Town Board. Such fee shall cover the costs of acquiring land, site preparation, construction, surfacing, and striping of new municipal parking lots as well as the administrative, legal, engineering, surveying, financing, and other costs associated with such acquisition and construction. Upon payment, parking space fees shall constitute a trust fund to be used exclusively for the acquisition, construction, management, and maintenance of parking lots in the Hamlet of Brewerton, Town of Cicero.

D. Parking lot construction standards.

- (1) See also parking placement and access regulations for each overlay district (Tables 210-87-1 and 210-87-2).
- (2) See Table 210-88-2 for parking space dimensional requirements.

Table 210-88-2: Parking Space Dimensions					
Angle	Space Width (feet)	Space Depth*	Space Length (feet)	One-Way Aisle Width (feet)	Two-Way Aisle Width (feet)
Parallel	8	8'	20	12	22
30°*	9	18'	20	12	N/A
45°*	9	20'6"	20	14	N/A
60°*	9	22'	20	18	N/A
Perpendicular	9	18'	18	24	22

* Measured perpendicular to aisle

- (3) Parking lot stormwater shall be collected on site and discharged at a rate approved by the Town Engineer.
 - (4) Universal accessible vehicle parking shall be provided as necessary to meet the requirements of the Americans with Disabilities Act.
 - (5) Parking shall be accessed by Alleys or secondary Frontage when possible.
 - (6) Parking lots that Encroach the front yard or side yard shall be masked from the Frontage by a building, wall, continuous hedge, or fence between 3.5 feet and 4.5 feet in height. A wall, continuous hedge, or fence shall have openings no longer than necessary to allow automobile and pedestrian access.
 - (7) Parking lots shall be buffered from adjacent development with landscaping, utilizing shrubs, hedges and/or trees.
 - (8) One bicycle parking or storage space shall be provided for every 15 off-street vehicular parking spaces.
- E. Parking lot construction guidelines.
- (1) Wherever feasible, Shared Parking or the use of public parking lots is encouraged.
 - (2) The main pedestrian route from a parking lot to a building entrance should be easily recognizable, accessible, and demarcated by special paving or landscaping, such as a shaded promenade, trellis, or ornamental planting.
 - (3) Granite curbing is preferred, with the exception of the integral concrete curbing where adjacent to sidewalks.
 - (4) Parking lots should utilize permeable paving and biofiltration swales wherever possible.
- F. Parking lot lighting standards.
- (1) The exterior lighting fixture standard for parking lots shall be a minimum

twelve-foot and maximum eighteen-foot-high pole.

- (2) Parking lot lighting fixtures shall be of the cutoff type to prevent light from being emitted above a horizontal line relative to the point of light source.

G. Parking lot lighting guidelines.

- (1) All light poles, standards and fixtures should be compatible with the architectural theme of the building and/or facility they are intended to service.
- (2) The light source should be metal halide or an energy efficient white light lamp.
- (3) Whenever possible, light fixtures should be located at landscaped parking lot medians or islands. Lighting and planting plans should be coordinated to avoid light pole and tree conflicts.

H. Parking lot landscaping standards. There are no parking lot landscaping standards.

I. Parking lot landscaping guidelines.

- (1) Landscape islands should occur at the terminal ends of any freestanding rows or bays of parking. Freestanding rows or bays of parking are those that are not abutting the parking lot perimeter, and can have a single or double row of parking. See Illustration 210-88-1.

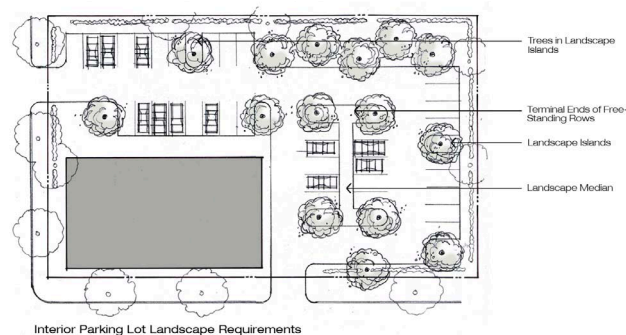


Illustration 210-88-1: Parking Lot Landscape Requirements

- (2) There should be no more than 11 continuous parking spaces in a row without a landscape island.
- (3) Landscape islands should be formed by a continuous granite or concrete Curb, with a ten-foot minimum width from back of Curb to back of Curb.
- (4) A minimum of one indigenous tree and a combination of shrubs and/or ground cover should be planted in each landscape island.
- (5) The minimum size shade tree should be four-inch caliper and 15 feet to 20 feet in height. Trees should have a minimum branching height of six feet.
- (6) Landscaping in parking lot interiors and at entries should not obstruct a driver's clear sight lines to oncoming traffic.

§ 210-89. Architectural standards and guidelines.

This section is intended to ensure that new, remodeled, expanded, and renovated buildings embody architectural characteristics that maintain desired human scale, rhythm, and characteristics of the Hamlet of Brewerton. These architectural regulations do not prescribe a particular style, but rather address specific building elements such as roofs, cladding, attachments, windows, and doors. They are based upon existing examples of architecture in the hamlet and expressed community preferences for preserving and extending the architectural character of the hamlet. The goal is to build on the best efforts of previous generations, while allowing for and encouraging creativity on the part of developers and designers. This is best accomplished when owners rely on the services of a qualified architect familiar with the historic and vernacular architectural character of the hamlet and other waterfront villages and hamlets in the Central New York region. For additions to and remodeling of the exterior of existing buildings, or where the standards in this section are inappropriate or unnecessarily burdensome, the Planning Board in the course of site plan review may waive them.

A. Massing.

- (1) Massing standards. In the Downtown Core Overlay District, any building over 50 feet wide must be broken down to read as a series of buildings no wider than 50 feet each.
- (2) Massing guidelines. Franchise architecture is discouraged.

B. Roofs.

- (1) Roof type and feature standards.
 - (a) Flat roofs are permitted in the DC Overlay District only.
 - (b) Mansard roof forms are not allowed.
 - (c) Mechanical systems proposed for rooftops may exceed the maximum height requirements provided they are screened from view as seen from adjacent streets and set back from the building Facade.
- (2) Roof type and feature guidelines.
 - (a) Flat roofs should be surrounded by a horizontal parapet wall no less than 30 inches higher than the highest point of the roof deck. Simple parapets with a stone or brick cap are allowed on rear and side elevations.
 - (b) Flat roofs should incorporate a cornice into street-facing Frontages. The cornice should wrap a minimum of two feet around exterior corners.
 - (c) Green roofs and rooftop gardens are encouraged on flat sections of a roof behind ornamented parapets, caps, or other cornice treatments in order to facilitate insulation and stormwater management, as well as add usable green space, or visual interest to the building.
 - (d) Pitched roofs should be simple, symmetrical gable-end and hip configurations that are easy to construct, minimize cost, and allow for simple shedding of rainwater and snow. The use of fascias, dormers, and

gables is encouraged to provide visual interest. All gables should be functional. Sloping roofs should ensure the fall of snow, ice or rain does not create a hazard for pedestrians.

- (e) The roof pitch of gable dormers should match the roof pitch of the main roof.
 - (f) Accessory building roofs should match the Principal Building in terms of style, detailing, and materials. They should contribute expressive and interesting forms that complement and add to the overall character of the hamlet.
- (3) Roof material standards. Roof materials prohibited: white or blue shingles, single-ply rolled roofs on pitched roofs, corrugated sheet metal roofing (unless used as an accent roofing material), authentic or simulated terra cotta barrel tiles or concrete tile.
- (4) Roof material guidelines.
- (a) Roof materials should match or complement the existing context of the project area.
 - (b) Desired roof materials that should be used include:
 - [1] Asphalt shingles. Projects using asphalt shingles should use the highest quality Commercial-grade materials, and be provided with adequate trim elements. Lightweight asphalt shingles should not be used.
 - [2] Wood shakes or shingles.
 - [3] Sheet metal shingles, such as copper, zinc, and alloys.
 - [4] Metal seam roofing. Finishes should be anodized, fluorocoated or painted. Copper, zinc, and other exposable metal roofs should be natural or oxidized.
 - [5] Tar and gravel, composition, or elastomeric roofs (at flat roof locations). Light, reflective colors are recommended to minimize heat gain within the buildings. Roof surfaces utilizing these materials should be screened from view from adjacent buildings and sites by parapet walls.

C. Cladding.

- (1) Cladding standards.
 - (a) Metal, white brick, and "T-111" plywood siding are prohibited.
 - (b) Except on side or rear walls, all forms of concrete block (including split face) are prohibited.
- (2) Cladding guidelines.
 - (a) Materials used should be appropriate to the architectural style and

building type. Authentic materials and methods of construction should be used to the degree possible. Where simulated materials are used for reasons of economy, they should be durable and closely match proportions, surface finishes, and colors of original materials.

- (b) No more than two wall materials should be visible on any exterior Facade, not counting foundation walls, columns, chimneys, and trim. If two wall materials are used, heavier-weighted materials (i.e., stone or brick) shall be located below lighter (i.e., wood, cementitious, etc.) with a horizontal joint. [Intent: Exterior wall materials should be used simply and with respect to their weight and characteristics. Masonry veneer should be treated as a load-bearing material and should not be used above siding.]
- (c) Vertical changes in material should only occur at inside corners.
- (d) Facades fronting more than one street should be equal in material.
- (e) Primary building cladding materials should be wood siding, cementitious siding (i.e., HardiPlank® equivalent or better), brick, and/or native stone (or synthetic equivalent). Use of vinyl on new construction is discouraged.
- (f) Foundations should be brick, stone, cast stone, or painted concrete.
- (g) Soffits should be continuous perforated wood or composite materials. Use of vinyl on new construction is discouraged.
- (h) Recommended trim materials include finished grade, painted, or stained wood. Bare lumber-grade wood, plywood, or vinyl are discouraged.
- (i) Balconies and porches visible from the street right-of-way should be built of wood, metal, or concrete. Pressure-treated lumber may be utilized for concealed structural members, and structures not visible from the street right-of-way. All exposed surfaces visible from the street right-of-way, including floor decks, stairs, railings, columns, brackets and any other structural and/or decorative roof support members, should be built with paint-grade finish lumber or metal. Porch stairs should have solid risers and sides enclosed with either solid wood construction or open lattice panels with maximum openings of four square inches.

D. Awnings.

- (1) Awning standards.
 - (a) Length. Awnings and canopies shall not exceed 20 feet in horizontal length and be centered within architectural elements, such as doors or columns. Awnings shall break at the vertical divisions of the structure (i.e., the break between the display windows and the entrance).
 - (b) Mounting height. The bottom of Awnings and canopies shall be at least eight feet above grade or sidewalk, except in the case of a hanging valance which may be seven feet above grade or sidewalk.

- (c) The highest point of a storefront Awning shall not be higher than the midpoint between the second-Story windowsills and the top of the first-floor storefront window or transom.
 - (d) Illumination. Natural lighting only; backlit Awnings are prohibited.
 - (e) Design. On multitenant Facades, Awning heights, projections and style of Awning shall be similar. Logo or tenant mark shall be limited to the valance of an Awning, or the front plane of the canopy.
 - (f) Fabrication. Awnings and canopies shall be made of fire-resistant canvas. Metal, plastic, vinyl and Plexiglas Awnings are prohibited.
 - (g) All ground floor Awnings and canopies or those that project into a public street right-of-way shall be retractable.
 - (h) Fixed Awnings may be used above the ground floor provided that they project no more than four feet maximum.
 - (i) Color shall be limited to three colors per building and shall be approved during site plan review.
- (2) Awning guidelines. The shape of Awnings should be designed to fit the building's architecture and relate to other Awnings that exist along the street. The cumulative effect of all of the Awnings along the street should be considered prior to adding a new one.

E. Windows.

- (1) Window standards. The use of bronze-tinted or reflective glass is prohibited.
- (2) Window guidelines.
 - (a) Windows located on the front or the street-facing Facade should be double-hung, single-hung, casement, or fixed windows. A maximum of two window types is recommended. The style of the windows shall match the associated building style.
 - (b) The height of the window unit should be at least 1.5 times the width of the window unit for single-hung, double-hung, or casement windows.
 - (c) Fixed windows should be limited to a maximum height and width of two feet.
 - (d) Window muntins and grill patterns, if used, should be vertically proportioned.
 - (e) Exterior windows on buildings clad in siding should be cased and not "picture framed." Casing, at a minimum, should include head casing, jamb casing, and a sill. Jamb and head casing should be a minimum of 3 1/2 inches. A sill shall extend the length of the bottom of the window unit and the jamb casing.
 - (f) Residential window frames should be wood, vinyl-clad wood, aluminum-

clad wood, or solid PVC, but all shall be indiscernible from wood at arm's length.

- (g) Ground-floor Shopfront windows should be single panes of glass not larger than six feet high by five feet wide.
 - (h) Ground-floor Shopfront window frames should be wood, custom metalwork, extruded aluminum, or hollow steel frame.
 - (i) Clear glass (providing a minimum of 88% light transmission) should be used on ground-floor windows. Tinted glass providing a minimum of 50% light transmission should be limited for use only in transoms and windows above the ground floor.
- (3) Shutter standards. Shutters shall be sized to match window openings and placed to appear operable.
 - (4) Shutter guidelines.
 - (a) Shutters should be louvered, paneled, or constructed of boards as appropriate to the style of the building.
 - (b) Shutters should be wood, fiber cement, or solid PVC and shall be indiscernible from wood at arm's length.

F. Doors.

- (1) Principal Entrance door standards. There are no Principal Entrance door standards.
- (2) Principal Entrance door guidelines.
 - (a) To contribute to the public and pedestrian realm, building entrances should be prominent and easy to identify and be architecturally treated in a manner consistent with the building style.
 - (b) Sliding doors and windows shall be prohibited along frontages, except to access porches serving residential or lodging uses on the second or higher Story.
- (3) Loading and service entrances standards. Service entrances shall not face Brewerton Road when a secondary street, Alley, or parking lot entrance location is possible. All service entrances and associated loading docks and storage areas shall be located to the side or rear of the building.
- (4) Loading and service entrances guidelines.
 - (a) Loading and service entrances should not intrude upon the public view or interfere with pedestrian activities.
 - (b) Portions of the building Facade containing service or truck doors visible from the public street right-of-way should be designed to include attractive and durable materials and be integrated into the architectural composition of the larger building Facade design. Architectural

treatments, materials, and colors should be extended from building Facade areas into the Facade portion containing truck doors to avoid creating a gap in architectural expression and to maintain a high quality appearance.

- (5) Garage door standards. Doors within garage doors (i.e., 'man-ways') are prohibited along street-facing Facades.
- (6) Garage door guidelines.
 - (a) Garage doors should face Alleys when available.
 - (b) For residential garage doors at Mixed-Use buildings and for all Commercial-use garage entrance doors, single-car garage doors are strongly recommended to avoid projecting an automobile-dominated appearance to a public street right-of-way.
 - (c) Where double-car-width doors are used, a width of 18 feet should not be exceeded.

G. Color.

- (1) Color standards. Fluorescent or neon colors shall not be used on exterior building cladding materials.
- (2) Color guidelines.
 - (a) Colors should be selected according to building style and historic precedent.
 - (b) Colors should be compatible with other buildings in the surrounding area. Colors of adjacent buildings should be taken into consideration, especially where new structures are adjacent to historic buildings.
 - (c) Typically, a storefront's palette should be no more than three colors; one base color, one trim color, and one accent color.
 - (d) Trim and accent colors that contrast with the base color are encouraged. Specifically, darker base colors with white trim work well. However, lighter base colors can effectively be combined with dark trim colors. Bright colors with intense and bright hues (e.g., primary colors) are not recommended as Facade colors.

§ 210-90. Landscape and lighting standards and guidelines.

This section consists of landscape standards and guidelines and lighting guidelines. The intent of the landscape standards and guidelines is to ensure development of Private Frontages complements public areas in the hamlet, including street rights-of-way. Specifically, there are standards and guidelines for paving, walls, fencing, and the screening of utility and service areas. The lighting guidelines recommend exterior lighting device features that are compatible with the hamlet's character.

A. General requirements.

- (1) Within the Brewerton Road Corridor, the following standards apply to landscaping vehicular areas, storage and refuse areas, and utility appurtenances.
 - (2) Applicability. This section applies as follows within the overlay districts:
 - (a) All new development.
 - (b) Existing development when:
 - [1] Any improvements to existing parking lots, loading facilities, and Driveways occur, including resurfacing, fencing, Curbs, walkways, and landscaping.
 - [2] Alteration to an existing principal or accessory structure that results in a change of 15% or more in the structure's gross floor area.
 - [3] A change in use or the intensity of a use on a Lot, such as increasing seating.
- B. Landscape: pavement standards.
- (1) Asphalt pavement use shall be limited to Driveways, parking areas, and loading areas.
 - (2) Sidewalks in the public right-of-way shall be concrete.
- C. Landscape: pavement guidelines.
- (1) The grading of all paved areas and adjacent nonpaved areas, the selection of paving materials, and the design of drainage facilities should consider paving permeability and be configured to allow water runoff to percolate back into native soil to the degree possible.
 - (2) Paved areas shall incorporate best management practices to control stormwater as outlined in the National Pollution Discharge Elimination System (NPDES) Guidelines.
- D. Landscape: frontage walls and fencing standards.
- (1) Chain link, barbed wire, and stockade fences are prohibited in any Frontage.
 - (2) Fences in the front yard shall be 30 inches to 42 inches high.
 - (3) Aboveground utility boxes, utility pedestals, and mechanical equipment shall not be located within the front yard. [Intent: Utilities should not dominate the front yard of a building. When possible, utilities should be located in areas that are hidden from the public street right-of-way by the sides and rears of buildings.]
- E. Landscape: frontage walls and fencing guidelines.
- (1) All walls should have a cap and base treatment.
 - (2) Frontage walls may occur as garden walls, planter walls, seat walls, or low

retaining walls.

- (3) All fences and walls should be built with attractive, durable materials that are compatible with the character of the hamlet.
 - (4) Fence materials should be wood or metal in a cast-iron style.
 - (5) For wood picket fences, a paint finish or vinyl coating should be applied.
 - (6) Metal fences should be black or dark green.
 - (7) Fences may be placed anywhere between six inches and two feet from a public sidewalk.
 - (8) Picket fences should not have opacity greater than 60%.
 - (9) Wood fences should to be painted white or coordinate with Principal Building palette.
- F. Landscape: utility and service area screening standards.
- (1) Utility, trash, recycling, food waste and service equipment, including satellite receiving dishes, transformers, and backflow devices, shall be located away from street rights-of-way and enclosed or screened from view by landscaping, fencing or other architectural means.
 - (2) Trash facilities and recycling containers shall be located within opaque structural enclosures.
- G. Landscape: utility and service area screening guidelines.
- (1) Large private mechanical equipment. Private mechanical equipment visible from the street right-of-way, which is equal to or greater than three feet in height, and is equal to or greater than six feet in any one direction, should be fenced with opaque wood or brick-faced masonry on all sides facing the right-of-way.
 - (2) Small private mechanical equipment. Private mechanical equipment visible from the street right-of-way smaller than three feet in height should have landscape screening and a shrub bed containing shrubs spaced no more than 36 inches on center.
- H. Landscape: plant material standards. There are no plant material standards.
- I. Landscape: plant material guidelines.
- (1) Plant materials should always be incorporated into new development site design to provide "softening" of hard paving and building surfaces.
 - (2) Mature, existing trees should be preserved whenever possible.
 - (3) Trees should be placed to maximize climate benefits and energy savings.
 - (4) Deciduous trees should be located on the west and southwest sides of buildings to allow sunlight to reach the building Facade during winter months, and to

provide shade during summer months.

- (5) Plant and landscape materials should be selected from native species as well as non-native/noninvasive species that are well adapted to the climatic conditions of the hamlet. They should be resistant to local parasites and plant diseases.
 - (6) Tree sizes should be suitable to Lot size, the scale of adjacent structures, and the proximity to utility lines.
 - (7) Both seasonal and year-round flowering shrubs and trees should be used where they can be most appreciated — adjacent to walks and recreational areas, or as a frame for building entrances and stairs.
 - (8) In general, deciduous trees with open branching structures are recommended to ensure visibility to retail establishments. More substantial shade trees are recommended in front of private residences.
 - (9) Evergreen shrubs and trees should be used for screening along rear property lines, around trash/recycling areas and mechanical equipment.
- J. Lighting: design standards. New area lighting fixtures should be of the cutoff type to prevent light from being emitted above a horizontal line relative to the point of light source. Exceptions may be made for uplit trees and architectural lighting.
- K. Lighting: design guidelines.
- (1) Pedestrian-oriented areas, including walkways and paths, should be illuminated to increase safety.
 - (2) All on-site and building-mounted lighting fixture design should be architecturally compatible with the building design.
 - (3) Commercial buildings and landscaping can be illuminated indirectly by concealing light features within buildings and landscaping to highlight attractive features and avoid intrusion into neighboring properties.
- L. Lighting: material and color guidelines.
- (1) Color and finish of lighting metalwork should match that of other site furnishings, and/or of the building's metalwork or trim work.
 - (2) A chemically compatible UV-protectant clear coat over paint or powder coat on metalwork is recommended for prevention of fading colors.
 - (3) Color of lighting source types in pedestrian-intensive areas should be warm white; energy efficient source types such as metal halide, induction lighting, compact fluorescent, and light-emitting diode (LED) are strongly encouraged.
- M. Lighting: luminaire type guidelines.
- (1) New fixtures should use a reflector and/or a refractor system for efficient distribution of light and reduction of glare.
 - (2) New fixtures should not cause glare or transmit it to upper stories of buildings.

House-side shields and internal reflector caps should be used to block light from illuminating residential windows.

N. Lighting: height guidelines.

- (1) For building-mounted lights, maximum mounting height should be approximately 12 feet above finished grade.
- (2) For pole-mounted lighting at walkways and entry areas, a pedestrian-height fixture eight feet to 12 feet in height from grade to light source should be used.
- (3) In general, height of light sources should be kept low to maintain pedestrian scale and prevent spill light from impacting adjacent properties.

O. Lighting: uplighting guidelines.

- (1) Building Facade uplighting, roof "wash" lighting, and landscape uplighting should be operated on timers that turn off illumination entirely after 2:00 a.m. nightly.
- (2) Shielding and careful placement should be used to prevent spill light from being visible to pedestrians, motorists, and nearby residential dwelling windows.
- (3) Adjacent to single-family homes, a combination of lower mounting height and luminaire shields should be used to protect residences from spill light and glare.
- (4) Illumination levels of Facade uplighting, roof wash lighting and landscape uplighting should use lower brightness levels where the illuminated Facades, roofs or landscaping face residential buildings.

§ 210-91. Signage standards.

A. General requirements.

- (1) Intent. This section seeks to enhance the economy and aesthetic appeal of the Brewerton Road Corridor through the reasonable, orderly, and effective display of signage.
- (2) Applicability. This section applies as follows within the Brewerton Road Corridor:
 - (a) All new development.
 - (b) Existing development, including:
 - [1] All proposed new signs.
 - [2] When improvements to an existing sign occur, including a change in location or in the type of signage.
- (3) General provisions. The following provisions are applicable to the overlay districts:

- (a) The total area of signage for one Lot shall not exceed one square foot for each foot of lineal building frontage. In all cases, individual signs are limited in square footage, as described in the standards below.
- (b) No sign shall be attached to any roof or mansard Facade.
- (c) No freestanding sign, projecting building sign, marquee sign, or any other sign or lighting device shall be erected on any municipal property or right-of-way.
- (d) A fixed or adhered advertising display upon any vehicle located on the property and visible from a public right-of-way shall be regarded as a sign subject to this article unless the vehicle is licensed, operable and regularly used in the normal course of the business.
- (e) Prohibited signs and conditions:
 - [1] Backlit or internally illuminated Awnings.
 - [2] Translucent (backlit) plastic sign faces (Downtown Core District only).
 - [3] Signs on rocks, trees and other parts of the natural landscape.
 - [4] Digital/electronic or changeable letter signs.
 - [5] Signs with sequin-studded lettering or lettering with fluorescent paint.
 - [6] Billboard signs.
 - [7] Sandwich board signs.
- (4) Nonconforming signs. Refer to § 210-92, for general provisions applicable to all signs in the Brewerton Downtown Core and Hamlet Gateway District.
- (5) Illumination. All signs shall be illuminated according to the following provisions unless otherwise stated:
 - (a) Signs shall be illuminated only by steady, stationary light sources directed solely at the sign or internal to it.
 - (b) Individual letters or logos may be internally illuminated; no other portion of the sign shall be internally illuminated.
 - (c) Exposed, reflective bulbs, fluorescent, incandescent, or strobe lights shall not illuminate signs.
 - (d) Window signs may not be internally illuminated except for neon or similar illuminated window signs.
- (6) Computation. The following standards generally apply to computing the area of signs by type and by building Lot:
 - (a) Exempt and temporary signs are not included in the maximum signage

area calculations, unless otherwise specified.

- (b) Height for freestanding signs is measured from the average grade at the Frontage Line to the top of the sign, sign cabinet, or cap, whichever is highest.
- (c) Supportive elements (i.e., columns, posts, foundations, finials, etc.) for monument signs are not included in the computation of total signage square footage.
- (d) For the purposes of determining area, Lot Width or frontage is measured along the Frontage Line.

[1] If the Lot is a corner Lot, the width shall be measured along the longer of the two front yards.

[2] Building frontage is the width of the front Facade of a building.

(7) Fabrication techniques.

- (a) Exposed conduit, tubing, or raceways are prohibited on new buildings.
- (b) All conductors, transformers, ballasts, and other equipment shall be concealed.
- (c) All attachment hardware, bolts, and clips shall be of corrosion-resistant materials to prevent staining of building surfaces.
- (d) Formed plastic, injection-molded, or easily damaged signage materials are prohibited.
- (e) Location of all openings for conduit and sleeves in sign panels of building shall be indicated by the sign contractor on drawings submitted to the Town.
- (f) Installation shall be in accordance with the approved drawings.
- (g) No sign-makers' labels or other identification will be permitted on the exposed surface of signs.

B. Flush-mounted signage. Flush-mounted signage consists of letters or marks mounted parallel to the building's Facade that are either mounted as individual letters, or contained in a sign panel. The following standards shall apply:

- (1) Number of signs: one per tenant per street front. Where a corner storefront faces both a street and a parking lot, a second sign is permitted to face the parking lot (corner lots).
- (2) Mounting height: twenty-foot maximum, provided it is below the sill line of the second floor windows or the lowest point of the Facade, whichever is less. A flush-mounted sign is permitted to exceed this height limit if the following condition exists:
 - (a) Where there is a second floor Commercial occupant that does not also occupy the first floor. All signs must be located below the cornice line,

or, in the case of a flat roof, below the roof parapet.

- (3) Depth of sign. Wall signs must not project more than 12 inches from the building wall.
 - (4) Method of illumination shall include:
 - (a) Natural lighting;
 - (b) External spot or flood lighting; it from above or below; or
 - (c) Halo-lit or backlit letters.
- C. Suspended signage. Suspended signage consists of letters or mark applied to a panel, hung from the underside of a canopy. The following standards shall apply:
- (1) Size: less than or equal to the distance of a canopy at a usable entry, or less than or equal to half the distance of the canopy for nonentry applications.
 - (2) Number of signs: two single-sided panels in the case of a usable entry; one double-sided panel per ground level occupant at beginning of occupied frontage for building attachment.
 - (3) Mounting height: topmost extension of sign to be less than or equal to six inches of overhang, bottom may not have less than 10 feet of vertical clearance above grade or sidewalk.
- D. Blade and shingle signage. A blade sign is typically mounted perpendicular to the building Facade using a rigid mounting bracket. A shingle sign is mounted perpendicular to a building's Facade, is typically suspended beneath an armature, and is able to swing from the axis of the pole. The following standards shall apply:
- (1) Maximum area of sign: 12 square feet.
 - (2) Number of signs: one per ground floor establishment, plus one for any public building entrance not serving a ground floor establishment. All signs shall be centered within architectural elements.
 - (3) Mounting height: twenty-foot maximum provided it is below the sill line of the second floor windows or the lowest point of the roof, whichever is less, and does not have less than seven feet of vertical clearance above grade or sidewalk.
- E. Banner signage. Banner signage consists of fabric or rigid material mounted with use of poles, typically oriented perpendicular to structure Facade.
- (1) Area of banner: less than or equal to 25 square feet.
 - (2) Banners shall be spaced no closer than 20 feet apart, and centered within architectural elements.
 - (3) Projection. Banners shall not project more than three feet into the public right-of-way.
 - (4) Mounting height. Bottom of banners shall be mounted at least 14 feet above

grade or sidewalk to avoid intrusion into blade sign or Awning zone, and not to extend beyond the third Story of the structure.

- (5) Only one banner sign is permitted per property.
- F. Monument signs. A monument sign is freestanding and not pole-mounted.
- (1) Monument signs existing as of (the adoption date) may be replaced. The replacement sign must be a monument sign with a maximum height of eight feet.
 - (2) Maximum area per sign panel face is 24 square feet.
 - (3) The sign shall be set back 10 feet from Driveways and side property lines; five feet from front and corner side property lines.
 - (4) One monument sign is allowed per Lot.
 - (5) Materials shall consist of wood, wood substitute, metal, and/or masonry.
- G. Pole-mounted signs. A pole-mounted sign is freestanding and may be mounted on a double set of poles, a single pole, or hanging from a single pole.
- (1) Maximum height is six feet.
 - (2) Maximum area per sign face is 18 square feet.
 - (3) The sign shall be set back 10 feet from Driveways and side property lines; two feet from front and corner side property lines. Pole-mounted signs cannot overhang property lines.
 - (4) One pole-mounted sign is allowed per Lot.
- H. Wall plaques. Wall plaques are small, pedestrian-oriented informative signs that may convey information such as hours of operation or take the form of directories, menu cases, or convey historical building information. The following standards shall apply:
- (1) Area of sign: up to six square feet in area, not projecting more than three inches from a building wall.
 - (2) Number of signs: two per usable entry.
 - (3) Mounting height: five feet on center above grade or sidewalk.
 - (4) Illumination: natural lighting only is permitted, except for menu cases, which may be internally lit.
- I. Street address plaque. This is a plaque mounted to the side of building at pedestrian level, or dimensional letters mounted above a door conveying at the minimum the numerical street address of the building. The following standards shall apply:
- (1) Area of sign: less than or equal to three square feet in area.
 - (2) Number of signs: minimum of one located at the main entry to the building.

- (3) Mounting height: five feet on center for wall-mounted, horizontally centered above door(s), or on the sides of a canopy. Numerals mounted overhead shall be no less than eight inches.
 - (4) Illumination: natural lighting only is permitted, except for halo-lit or backlit letters.
 - (5) Does not count toward total square footage.
- J. Permanent storefront window graphics. These are permanent window graphics with the tenant's mark or hours of operation. The following standards shall apply:
- (1) Area. Window signs shall not obscure the interior view of a retail establishment, and shall be no greater than 10% of the available window space.
 - (2) Does not count toward total square footage.

§ 210-92. Nonconforming uses and structures.

A. Purpose.

- (1) The purpose of this section is to establish rules that apply to uses and structures initiated legally under previous land use regulations but that no longer comply with this article. There are three types of nonconformity: nonconforming uses, nonconforming structures, and nonconforming Lots. In any given situation, more than one of these types of nonconformity may apply to a particular land use or structure, in which case the applicable rules for each type of nonconformity must all be followed.
- (2) The zoning districts established by this article are designed to guide the future use of the hamlet's land by encouraging the development of desirable Mixed-Use areas with appropriate groupings of compatible and related uses while simultaneously promoting and protecting the public health, safety and general welfare.
- (3) The continued existence of nonconformities is frequently inconsistent with the Brewerton Strategic Revitalization Plan and thus the gradual elimination of such nonconformities is desirable. Other nonconformities may continue to exist and may afford adaptive reuse opportunities that can contribute to neighborhood character, diversity and services.
- (4) The regulations of this section are intended to restrict further investments that would make nonconformities more permanent in their location as well as to afford opportunities for creative use and reuse of those other nonconformities that may ultimately contribute to a neighborhood and are consistent with the goals of the Brewerton Strategic Revitalization Plan.

B. Nonconforming uses.

- (1) Continuance. Any lawfully existing nonconforming use may be continued unless it is prohibited elsewhere in this article or by other applicable law, rule or regulation, subject to the regulations contained in this section. Ordinary repair and maintenance or replacement, and installation or relocation of

nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed in accordance with all applicable laws, rules, codes and standards.

- (2) Structural alteration or enlargement. No structure shall be structurally altered or enlarged unless the structure shall thereafter conform to the regulations of the zoning district in which it is located. No parking, yard, space or bulk nonconformity may be created or increased by reason of such alteration or enlargement.
- (3) Damage or destruction.
 - (a) When a structure is damaged or destroyed by any means, to the extent of more than 50% of the cost of replacement of the structure new, the structure shall not be restored unless its use thereafter conforms with the regulations set forth in this article as well as all other applicable laws, rules, codes and standards. No parking, yard, space or bulk nonconformity may be created or increased by reason of such replacement.
 - (b) When a structure is damaged or destroyed by any means to the extent of 50% or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided, however, that:
 - [1] No parking, yard, space or bulk nonconformity is created or increased by reason of such repair or restoration;
 - [2] A building permit is obtained and restoration is actually begun within six months after the date of such partial damage or destruction, unless extended by a Code Enforcement Officer for good cause, and is diligently pursued to completion.
 - (c) In no event shall any damage or destruction to such a structure by any means within the control of the owner be repaired or restored, except in accordance with this article.
- (4) Moving. No nonconforming structure or use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other Lot, unless the entire structure and/or use conforms to all regulations of the zoning district in which it is located after being so moved.
- (5) Expansion of use. No nonconforming use shall be expanded, enlarged or increased in intensity. Such prohibited activity shall include, but shall not be limited to:
 - (a) Expansion of such nonconforming use to any structure or land area other than that occupied by such nonconforming use on the effective date of this article, or any amendment hereto, which causes such use to become nonconforming.
 - (b) Expansion of such nonconforming use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this article, or any amendment hereto, which causes such use to become nonconforming.

- (c) An extension of the hours of operation of such use beyond the existing hours of operation at the adoption of this article.
- (6) Change in use.
 - (a) A nonconforming use in a structure designed for a use permitted in the district in which it is located shall not be changed to any use other than a use permitted in the zoning district in which the property is located.
 - (b) Once changed to a permitted use or to a more restrictive use in accordance with Subsection B(6)(a) above, the use shall not be changed back to the prior nonconforming use. The use is changed when an existing nonconforming use is terminated and a new use commences and continues for a period of seven consecutive days, including any change of use in violation of this subsection.
- (7) Abandonment or discontinuance.
 - (a) When the active operation of all or a portion of a nonconforming use is discontinued or abandoned for a period of six consecutive months, regardless of any intent to resume or not to abandon the use, the use or portion thereof shall not be reestablished or resumed. The active operation of a use shall be the typical or normal activities associated with the use. In the case of abandonment or discontinuance of all of a nonconforming use, any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such structure is located. In the case of abandonment or discontinuance of a portion of a nonconforming use, the remaining occupied portion of the nonconforming use may continue subject to the provisions of this subsection.
 - (b) For the purpose of this section, the following circumstances, which shall not be exclusive, shall contribute towards evidence of discontinuance or abandonment of a use:
 - [1] Failure to maintain regular business hours, typical or normal for the use (past operations of the use and/or industry standards may be used to determine typical or normal hours); or
 - [2] Failure to maintain equipment, supplies or stock-in-trade, which would be used for the active operation of the use; or
 - [3] Failure to maintain utilities which would be used for the active operation of the use; or
 - [4] Failure to pay taxes, including, but not limited to, sales taxes, workers' compensation taxes, corporate taxes, etc., that would be required for the active operation of the use; or
 - [5] Failure to maintain required local, state or federal licenses or other approvals that would be required for the active operation of the use.
 - (c) Prior to a determination by the Code Enforcement Officer, based upon

evidence of any of the above circumstances or other relevant evidence that a nonconformity has been discontinued or abandoned, the owner or operator shall have the opportunity to apply for a certificate of nonconformity and, thereby, establish by relevant and credible evidence that the use has not been discontinued or abandoned.

- (d) The legality of one or more nonconforming uses located within a property shall not affect the determination that another nonconforming use on the same property has been discontinued or abandoned.
 - (e) An owner or operator shall have the opportunity to submit any evidence or proof that the property and its use has not been discontinued or abandoned. The Code Enforcement Officer shall then issue a written determination based upon the evidence of any of the above circumstances or other relevant evidence that a nonconformity has continued, been discontinued or abandoned.
- (8) Nonconforming accessories uses, structures and signs.
- (a) No nonconforming use or structure that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated.
 - (b) Signs which become nonconforming as a result of this article after its adoption shall be considered nonconforming uses under this article, and any increase in size, illumination, motion, or flashing of such signs shall be deemed to be an enlargement or extension producing an increase in nonconformity. Any nonconforming sign which is damaged or destroyed by fire or other casualty to an extent greater than 50% of the value of the sign as determined by the Code Enforcement Officer shall not be restored, reconstructed, or replaced except by a sign which conforms to this article. Nonconforming signs shall be brought into compliance with the provisions of this article within six months after its adoption.

C. Nonconforming structures.

- (1) Continuance. Any lawfully existing nonconforming structure may be continued unless it is prohibited elsewhere in this article or by other applicable law, rule or regulation, subject to the regulations contained in this section. Ordinary repair and maintenance or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed in accordance with all applicable laws, rules, codes and standards.
- (2) Enlargement, repair or alterations. Any nonconforming structure may be enlarged, maintained, repaired or altered, provided that no additional nonconformity is created or the degree of the existing nonconformity is not increased.
- (3) Damage or destruction.
 - (a) In the event that any part of a nonconforming structure which contributed

to its nonconformity is damaged or destroyed, by any means, to the extent of more than 50% of the cost of replacement of said part new, such part shall not be restored unless it shall thereafter conform to the regulations of this article.

- (b) When any part of a nonconforming structure is damaged or destroyed, by any means, to the extent of 50% or less of the cost of replacement of such part new, no repairs or restoration, except in conformity with the applicable zoning district regulations, shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- (4) Moving. No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other Lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

D. Nonconforming Lots of record.

- (1) In any district in which single-family dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this article, a single-family detached dwelling which complies with the yard, space and bulk requirements of the district in which it is located may be erected on a nonconforming Lot. This includes construction of a single-family dwelling on any Lot less than 50 feet in width, consisting entirely of one tract of land of not less than 5,000 square feet.
- (2) In any district in which single-family dwellings are prohibited, a nonconforming Lot of record may be used for any use permitted in the district in which it is located if site plan approval is granted in accordance with the provisions of this article.

E. Approval standards for nonconforming uses or structures. The Planning Board may grant site plan approval for the construction, reconstruction, enlargement, extension, moving and/or structural alteration of buildings and structures on a Lot having existing site development which fails to conform to the standards of this article if the Planning Board finds that the following standards are met:

- (1) The proposed construction will result in a general improvement of the Lot with regard to safe access, sight lines along the street, suitable drainage, architectural quality, and adequate landscaping; and
- (2) Nonconforming signs and lighting will be brought into a conforming or more nearly conforming condition; and
- (3) Landscaping will be improved within the required Setback area adjoining a residential district boundary line; and
- (4) There will be no increase in any nonconformity.

§ 210-93. Article definitions.

Definitions. These definitions are specific to the regulations outlined for the Brewerton Road Corridor and are in addition to the definitions included in the Town of Cicero Zoning Codes, § 210-4, Definitions and word usage. The defined terms will appear with the first letter(s) capitalized throughout the article.

ALLEY — A vehicular way at the rear or between two Lots provided for service and/or parking access.

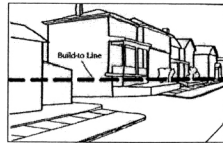
ATTIC — The area within the slope of a roof. An inhabited Attic shall not be considered a Story for purposes of determining building Height.

AWNING — Roof-like structures, above storefront windows or entries, sometimes containing a mark or signature of a tenant.

BLOCK — The aggregate of Lots and Alleys, circumscribed by streets.

BLOCK FACE — The building Facades on one side of a Block. The Block Face provides the context for establishing streetscape continuity and architectural harmony.

BUILD-TO-LINE (BTL) — A line stated as a Setback dimension, along which a building Facade must be placed.



Build-to-Line

CIVIC — A term defining not-for-profit organizations dedicated to arts, culture, education, religious activities, government, transit, municipal parking facilities and clubs.

COMMERCIAL — A term defining workplace, office and retail use collectively.

CURB — The edge of the vehicular pavement that may be raised or flush to a swale. It usually incorporates the drainage system.

DRIVEWAY — A vehicular lane within a Lot, often leading to a garage.

ENCROACH — To break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a Setback, into the Public Frontage, or above a height limit.

ENCROACHMENT — Any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a Setback, into the Public Frontage, or above a height limit.

FACADE — The exterior wall of a building that is set along a Frontage Line.

FRONTAGE LINE — The property lines of a Lot fronting a street or other public way, or a park or green.

FRONTAGE TYPE — See Frontage Type standards, § 210-86.

FRONT PORCH — A roofed structure, that is not enclosed, attached to the Facade of a

building.

HEIGHT — A limit to the vertical extent of a building that is measured in number of stories. Height limits do not apply to masts, belfries, clock towers, chimney flues, water tanks, elevator bulkheads, and similar structures, which may be of any height approved by the Zoning Code Enforcement Officer.

INFILL — (Noun) New development on land that had been previously developed, including most Greyfield and Brownfield sites and cleared land within the regulating plan area. (Verb) To develop such areas.

LOT — A parcel of land accommodating a building or buildings of unified design.

LOT WIDTH — The dimension of a Lot measured along the Frontage Line.

MIXED USE — Multiple functions within the same building or the same general area through superimposition or within the same area through adjacency.

PRINCIPAL BUILDING — The main building on a Lot, usually located toward the Frontage.

PRINCIPAL ENTRANCE — The main point of access for pedestrians into a building.

PRINCIPAL FRONTAGE — On corner Lots, the Private Frontage designated to bear the address and Principal Entrance to the building, and the measure of minimum Lot Width.

PRIVATE FRONTAGE — The privately held front yard between the Frontage Line and the Principal Building Facade.

REGULATING PLAN — A plan that identifies the districts and the standards by which a Lot may be developed.

SETBACK — The required minimum distance between a property line and a building or appurtenance.

SHARED PARKING — Any parking spaces assigned to more than one use, where persons utilizing the spaces are unlikely to need the spaces at the same time of day.

SHOPFRONT — The portion of a building at the ground floor that is made available for retail or other Commercial use. Shopfronts shall be directly accessible from the sidewalk.

STORY — A habitable floor level within a building, typically eight feet by 14 feet high from floor to ceiling.

ZONING CODE OR ZONING ORDINANCE — The Town of Cicero Zoning Code.

