Chapter 410, ZONING

[Adopted by the City Council of the City of Binghamton 8-7-2006 by Ord. No. 06-31 (Appendix A of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Commission on Architecture and Urban Design -- See Ch. 18, Art. VI.
Landmarks Preservation Commission -- See Ch. 18, Art. XII.
Building construction -- See Ch. 200.
Unsafe buildings -- See Ch. 203.
Erosion control -- See Ch. 227.
Flood damage prevention -- See Ch. 240.
Housing and property maintenance -- See Ch. 265.
Collateral loan brokers and secondhand dealers -- See Ch. 275, Arts. II and III.
Noise -- See Ch. 292.
Use of rights-of-way -- See Ch. 327.
Sewer use -- See Ch. 342.
Solid waste -- See Ch. 350.
Subdivision of land -- See Ch. 360.
Water -- See Ch. 405.

ARTICLE I, Title; Purpose and Intent

§ 410-1. Title.

This chapter shall be known and cited as the "Zoning Ordinance of the City of Binghamton, New York."

§ 410-2. Purpose and intent.

The purpose of this chapter is to implement the policies of the City of Binghamton as expressed in the Comprehensive Plan adopted by City Council on May 5, 2003. It is intended that the provisions of this chapter shall be held to be the minimum requirements adopted for, among others, the following purposes:

A. To promote the public health, safety and general welfare of the citizens.

B. To provide adequate light, air, and privacy, and to secure safety from fire and other dangers.

C. To prevent the overcrowding of land and the undue concentration of population.

D. To protect natural features such as forested areas and water and drainage courses, and to minimize the hazards to persons and damage to property resulting from the accumulation or runoff of storm and flood waters.

E. To protect and conserve the existing or planned character of all parts of the City and, thereby, aid in maintaining their stability and value, and to encourage the beneficial development of all parts of the City.

F. To provide a guide for public policy and action that will facilitate the economical provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to use of land and buildings throughout the City.

G. To minimize conflict among uses of land and buildings, and to bring about the gradual conformity of uses of land and buildings throughout the City to the concepts of a well-considered plan.

H. To divide the City into districts and to prescribe for each such district the trades, industries and land use activities that shall be permitted, excluded or subjected to special regulations before buildings are altered or erected, or land is used.

I. Pursuant to and in accordance with the provisions of § 20(24) of the General City Law, to regulate and limit the height, bulk and location of buildings hereafter erected, to regulate and determine the area of yards, courts and other open spaces, and to regulate the density of population in any given area.

J. To safeguard the heritage of the City of Binghamton by preserving significant districts and landmarks which reflect periods of its cultural, social, economic, political, artistic and architectural history.

K. To promote the preservation, rehabilitation, restoration and use of historic landmarks and buildings for the education, pleasure and general welfare of City residents.

ARTICLE II, Definitions

§ 410-3. Applicability of article.
For the purpose of this chapter, meanings of the following words and phrases shall be as defined in this Article II.

§ 410-4. Interpretation.
Words used in present tense shall include the future tense. The singular number shall include the plural number and the plural number the singular number. The word "building" shall include the word "structure." The word "shall" is mandatory; the word "may" is permissive.

§ 410-5. Terms defined. [Amended 3-2-09 by Ord. No. 9-2009; Amended 7-20-09 by Ord. No. 23-2009; Amended 12-21-2011 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No. 13-49; Amended 2-3-2016 by Local Law 16-02]
As used in this chapter, the following terms shall have the meanings indicated:
ABUTS, ABUTTING -- Having a common property line or zoning district line; adjoining, touching.
ACCESSORY BUILDING -- A building subordinate to the main building on the lot and used for purposes customarily incidental to that of the main building. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
ACCESSORY USE -- A use that is customarily incidental and subordinate to the principal use on a lot, and located on the same zoning lot. An accessory use may not be accessory to another accessory use.
ADJACENT -- To lie near or close to; in the neighborhood or vicinity of but not necessarily touching.
ADULT BOOKSTORE -- An establishment having as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals or coin-operated machines which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined in this section), or an establishment with the equivalent of 100 lineal feet of shelving or counter space devoted to the sale or display of such material.
ADULT ENTERTAINMENT ESTABLISHMENT -- An establishment having as a substantial or significant portion of its stock-in-trade, including, but not limited to, the presentation, characterized by emphasis on the description or depiction of specified anatomical areas or specified sexual activities (as defined in this section), of the following activities: live shows; motion-picture films or sound recordings presented to a common audience in an enclosed common area; visual or audio material presented by coin- or slug-operated, or electronically or mechanically controlled, still or motion-picture machines, projectors or other image-producing devices to five or fewer persons per machine at any one time; any business enterprise serving food, beer, wine, or liquor whose entertainers, waiters, or waitresses appear in a state that displays any specified anatomical areas (as defined in this section); or any business enterprise that offers services requiring

or allowing the client or customers to display any specified anatomical areas, except medical and health establishments.
ADULT NOVELTY STORE -- An establishment having as a substantial or significant portion of its stock-in-trade, including, but not limited to, articles of clothing, mechanical devices and accessories which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined in this section), or an establishment with a segment or section exclusively devoted to the sale or display of such material.
ADULT RESIDENTIAL CARE FACILITY -- Residential facilities for adults where minimal medical care and personal hygiene are provided to residents on a twenty-four-hour basis for persons who, by reason or limitations associated with age or physical disabilities, are unable to live independently.

A. There are two types:
   (1) Facilities for four or fewer adults: licensed and periodically inspected by the Broome County Department of Social Services.
   (2) Facilities for five or more adults: licensed and periodically inspected by New York State Department of Social Services.

B. See also "convalescent home" or "foster homes for adults."

AGRICULTURE -- The growing of crops, fruits, plants, vines, trees or shrubs for commercial sale and accessory uses customarily incidental to such activities. (See also "garden, noncommercial," "garden, community or neighborhood," and "greenhouse, commercial.")
ALLEY -- A dedicated public thoroughfare affording a secondary means of access to abutting property and not intended for general traffic circulation.
ALL-TERRAIN VEHICLE or ATV -- Any recreation vehicle with three or more tires, weighing under 850 pounds, 48 inches or less in width, having a wheelbase of 61 inches or less, traveling on low-pressure tires of 10 psi or less. This includes: go-karts, motor scooters and midget autos.
ALTERATIONS -- Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another. Normal repairs and maintenance shall not be considered as alterations.
ALTERNATIVE DOMESTIC ENERGY SUPPLY INSTALLATION -- The installation of a device designed to provide alternative sources of energy, including but not limited to windmills and solar panels.
AMUSEMENT ARCADE -- An indoor amusement and recreation establishment wherein the principal use is the provision of electronic or mechanical game devices available to the public on a commercial (pay in order to play) basis, or a restaurant, bowling alley, billiard parlor, transportation terminal, hotel, or motel which contains eight or more such electronic or mechanical games.
AMUSEMENT GAME -- Any mechanical, electric or electronic device used or designed to be operated for entertainment or as a game of skill by the insertion of a piece of money, coin, token or other article, or by paying money to have it activated. This definition does not include:

A. A jukebox.

B. Amusement park rides.

C. Bowling alleys.

D. Any device maintained within a private residence for use of the occupants thereof and their guests.

E. Any device the possession or use of which is prohibited by law.

F. Pool tables.

G. Adult bookstores or novelty stores.

ANIMAL CLINIC -- Any structure where animals or pets are given medical or surgical treatment, but not including boarding or kenneling of animals.
ANIMAL HOSPITAL -- A building used for the treatment, housing, kenneling, or boarding of small household pets such as dogs, cats, rabbits, ferrets, and birds by a veterinarian.
ANTENNA AND SATELLITE DISH -- A structure or device utilized for the receiving and/or transmitting of communication signals, not enclosed within a building or structure, and any form of satellite receiving dishes. It shall specifically exclude customary VHF and UHF television antennas and television/radio transmission towers licensed for public broadcast by the Federal Communications Commission.
ART GALLERY -- A structure or building utilized for the display of artwork, including paintings, sculptures, and paintings for sale to the public.
AUTOMATIC TELLER MACHINE -- Any establishment or device whose purpose is the performance of financial transactions to a customer without the aid of a teller.
AUTOMOBILE BODY SHOP -- A shop in the business of making substantial repairs to the shell or body of any automobile, and of major or substantial painting of the shell or body, and where the following services may also be carried out: general auto repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame or fender straightening and repair, overall painting and undercoating. The shop must be licensed by New York State.
AUTOMOBILE DETAILING BUSINESS -- An establishment that specializes in the installation of pin striping, window tinting, and decals on passenger vehicles. Accessory cleaning, washing, and waxing may be performed, but no repairs of any kind are permitted.
AUTOMOBILE hand washing BUSINESS -- Any structure or land where the washing and/or waxing of automobiles or other motor vehicles is carried on manually by high-pressure spraying in a self-service manner.
AUTOMOBILE MECHANICAL WASHING BUSINESS -- Any structure or land where the washing and/or waxing of automobiles or other motor vehicles is carried out by a chain or other conveyor system with water jets, blowers and/or steam cleaning devices.
AUTOMOBILE REPAIR, PRIVATE NONRESIDENTIAL -- The repair of motor vehicles owned by anyone other than the registered owner of that vehicle.
AUTOMOBILE REPAIR SHOP -- A place where the following services may be carried out: general auto repair, engine rebuilding, and rebuilding or reconditioning of motor vehicles. Automobile repair stations shall not include collision services or painting and undercoating of motor vehicles. The sale of engine fuels may or may not also be carried on. The shop must be licensed by the New York State Department of Motor Vehicles.
AUTOMOBILE FUEL STATION -- Any establishment dispensing motor vehicle fuel from underground storage tanks, pipes, compressors, batteries or electrical transmission facilities, into vehicles including, but not limited to, gasoline, diesel fuel, Gasohol, hydrogen, compressed natural gas, electricity, or any combination thereof, or retailing minor accessories directly to the public on the premises and where minor mechanical repair of automobiles, may occur. Automobile service stations shall not include sale or storage of automobiles or trailers, new or used. The facility must be licensed by the New York State Department of Motor Vehicles.
AUTOMOBILE/VEHICLE SALES FACILITY -- A commercial establishment of which the principal use is sales of automobiles, light trucks and/or vans. [See the definitions of "motor vehicle sales, new," "motor vehicle sales, used (major)," and "motor vehicle sales, used (minor)."]
AUTOMOBILE WRECKING YARD -- See "vehicle salvage facility."
AUTOMOTIVE PARTS AND ACCESSORIES ESTABLISHMENT -- A business that sells new, used, and reconditioned automotive parts and accessories. Auto parts may be reconditioned on-site, but no auto repairs or installations are allowed. This definition shall be distinctive from "junkyard" and "vehicle salvage facility."

AWNING/CANOPY -- A roof-like cover made of canvas or similar material which projects from the wall of a building for the purpose of shielding a doorway or window from the elements, not including a marquee. An awning or canopy may or may not have signage.
BAKERY, RETAIL -- A building or structure utilized for the baking of breads and/or pastries for sale on-premises.
BAKERY, WHOLESALE -- A building or structure utilized for the baking of breads and/or pastries for sale off-premises.
BANK AND FINANCIAL INSTITUTIONS (WITH OR WITHOUT DRIVE-THROUGH) -- A building or structure utilized for direct transactional services to the public, including the maintenance of checking and savings accounts, certificates of deposits, etc., and the providing of related incidental financial services associated with a bank; does not including check cashing stores or collateral loan brokers. [Amended 12-4-2006 by L.L. No. 2-2006]
BANK, DRIVE-THROUGH -- A bank where transactions are made to customers within an automobile outside the confines of a building.
BANQUET/CATERING FACILITY -- An establishment which serves food and drink and provides entertainment to paying customers and their invited guests for weddings, bar mitzvahs, birthdays and other similar occasions.
BARBERSHOP/BEAUTY PARLOR -- An establishment for the cutting and care of hair and/or fingernails, tanning, facial make-up consulting, waxing, one or any combination of the above and other beauty-related services.
BASEMENT -- That habitable space of a building that is partly below grade which has more than half of its height, on average, measured from floor to ceiling, above the finished grade of the ground around the building (See also "cellar."); counted as 1/2 story in determining building height.
BED-AND-BREAKFAST HOME -- An owner-occupied one- or two-family home that provides one to five rooms for paying guests on an overnight basis. Guest occupancy periods shall not exceed 21 consecutive days. The occupancy of such a bed-and-breakfast home is limited to two persons or one family per lodging unit or guestroom.
BED-AND-BREAKFAST INN -- An owner-managed dwelling that provides six to 10 guest rooms, limited to two persons or one family per lodging unit or guest room, on an overnight basis for periods not to exceed 21 days. A bed-and-breakfast inn is not a multiple-family residence.
BEDROOM -- Any room in a dwelling that is to be used for sleeping.
BILLBOARD -- See Article XI, § 410-60B(2).
BILLIARD PARLOR/POOL HALL -- An establishment where more than 50% of the business is dedicated to billiards.
BIORETENTION -- An integrated stormwater management practice that uses the chemical, biological, and physical properties of plants, microbes and soils to remove or retain pollutants from stormwater. Bioretention areas may or may not have an under drain.
BIORETENTION AREAS -- shallow depressions with a designed planting soil mix and a variety of plant material, including trees, shrubs, grasses.
BOARDINGHOUSE -- An owner-occupied dwelling with up to three roomers or lodgers in the same household, who are lodged with or without meals, and in which there are provided such services as are incidental to the use of the dwelling as a temporary residence for part of the occupants. (See also "rooming house.")
BOWLING ALLEY -- A building or structure utilized primarily for the sport of bowling, and may include the incidental sale or dispensing of food and drink and the sale or rental of bowling equipment.
BREW PUB -- A restaurant containing a microbrewing facility for the brewing and storage of beer only, primarily for consumption on premises. Such brewing facilities shall be accessory to a restaurant.
BUFFER STRIP -- A strip of land, generally adjacent to a property line, in which a screen of plantings with or without solid fencing is installed and maintained by the owner of the property. Such screen shall be planted with deciduous or evergreen trees and shrubs in any combination deemed appropriate which is dense enough and high enough to be a buffer between properties. (See § 410-18.)

BUILDING -- A structure where space is covered or enclosed for the use, shelter, storage or protection of persons, animals, in-ground swimming pools or property of any kind, and which is permanently affixed to the land.
BUILDING AREA -- The total area, as measured on a horizontal plane at the main grade level, of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, steps and paved areas.
BUILDING HEIGHT -- The vertical distance from finished grade to the highest point of a flat roof, the upper deck line of a mansard roof, or to the mean height between the low and high points of other roof types. For purposes of this definition, "finished grade" shall be the average between the high and low grade measured five feet from the structure.
BUILDING LINE -- The line formed by the intersection of the ground and a vertical plane that coincides with the most projected exterior surface of a building, on any side.
BUILDING, PRINCIPAL -- A building within which is conducted the principal use or activity of the lot on which said building is located.
BUILDING SUPPLY YARD -- A retail or wholesale establishment supplying building or lumber materials to contractors and the public where such materials stored, sold or displayed are located both indoors and outdoors.
BULK REGULATIONS -- Zoning requirements related to such things as lot area and size, yard dimensions, height, percentage of lot covered and regulations other than land use. Such requirements are generally set forth in §§ 410-28 and 410-33, Schedules IA and IIA, of this chapter.
BUS DEPOT -- A lot containing a building or structure utilized for the boarding and exiting of buses, the selling of transport tickets, and the incidental sale or dispensing of food and drink, but specifically excluding any bus garage or the servicing or repairing of buses.
BUSINESS -- An activity, occupation, employment or enterprise which requires time, attention, labor and materials and wherein merchandise is exhibited or sold, or services offered.
BUSINESS OFFICE -- A building or portion thereof utilized to accommodate the activities of a business. Uses include, but are not limited to, an insurance agency, real estate agency, abstract business, and computer-related services. (See "business.")
CANOPY -- See "awning."
CARPORT -- A roofed vehicle shelter with two or more open sides; an accessory building.
CATERING SERVICE -- Preparation and delivery of food and beverages exclusively for off-site service without provisions for on-site consumption by consumers.
CAUD -- Commission on Architecture and Urban Design created by Chapter 18, Art. VI.
CELLAR -- An uninhabitable space partly underground but having more than half of its floor-to-ceiling height below the average outside ground level. A cellar is not counted as a story in determining building height as required by §§ 410-28 and 410-33, Schedules IA and IIA. (See also "basement" and "dwelling, earth sheltered.")
CLINIC, MEDICAL, DIAGNOSTIC OR TREATMENT CENTER -- A building or portion thereof, the principal use of which is for offices of one or more practitioners and related support staff for the provision of medical, dental and/or optical services. This definition is meant to encompass a more intensive multiservice type of medical office in comparison to individual or group private practice of medicine. Services may include but are not limited to out-of-hospital examinations, on-site testing, treatment, including surgery, emergency room services, sophisticated testing equipment and twenty-four-hour accommodations for patients and their families. For the purpose of this chapter, this definition is also meant to include health maintenance organizations (HMOs) and medical surgery centers. (See also "professional office, health-related.")
CLUB OR LODGE, MEMBERSHIP -- An organization catering exclusively to members and their guests, or land and buildings used for recreational, social or athletic purposes. Such activity shall not be conducted primarily for gain, and no merchandising, business activities or commercial sales shall be conducted except as required generally for the membership and purposes of such club.
CLUSTER DEVELOPMENT -- The subdivision of an area into lots which are smaller than would customarily be permitted by this chapter; where the density of development is no greater than would be permitted in the district by conventional development, and where the residential land produced by the smaller lot size is used for common recreation and open space.

COMMUNITY CENTER -- A cultural, educational or recreational facility designed for neighborhood-wide or City-wide use and operated on a not-for-profit basis.
COMMUNITY RESIDENTIAL FACILITY -- Any noninstitutional residential facility that provides a supervised residence for children or adults and which is not subject to the New York State site selection law. Such residences may provide varying degrees of assistance, ranging from full or partial supervision, counseling, meals, and other services, which include but are not limited to:

A. FAMILY CARE -- Residences in private homes in which a family or individual cares for a small number (three or fewer) of mentally ill adults.

B. FAMILY CARE RESIDENCES -- Lodging and care for mentally retarded or developmentally disabled adults or children in private homes which are certified to provide such care by the State of New York. Existing family care residences have a maximum of 10 beds. Newly created residences are limited to six or fewer persons. The site selection law does not apply.

C. COMMUNITY RESIDENCE FOR YOUTHS (GROUP HOME) -- Homes for youths above the number typically placed in a foster home, generally eight or more youths; not a residence for mentally or physically disabled children or youths; licensed by the New York State Department of Social Services, Division for Youth, or other sponsoring agencies. Typically, the state has a locally based sponsor that is often a nonprofit social service agency.

D. CONTROLLED SUBSTANCE COMMUNITY RESIDENCE -- Group home or apartment for drug or alcoholic patients where there is periodic supervision by counselors; certified by the NY State Division of Alcoholism.

E. COMMUNITY RESIDENCE, OTHER -- A community residence, other than those listed in Subsection A through D above, that is not subject to the New York State site selection law.

COMMUNITY RESIDENTIAL FACILITY FOR THE DISABLED -- A facility subject to licensing by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities which provides a residence for up to 14 mentally disabled persons, including residential treatment facilities for children and youth. Such facilities are subject to the New York State site selection law. Such facilities include, but are not limited to, the following: community residence, supervised; community residence, supportive; individual residential alternative; intermediate-care facility, family care, and residential school.
CONDOMINIUM -- A building project of single dwelling units, which may consist of one or more buildings wherein the real property title and ownership are vested in an owner having an interest with others in the common usage areas and facilities which serve the project. Administration and maintenance of common usage areas and facilities must be provided for.
CONFORMING BUILDING -- Any building designed or intended for a land use or activity which is permitted by right or by special permit in the district in which such building is located and which complies with all the bulk regulations of this chapter, or any amendment thereof, for such district. (See also "bulk regulations.")
CONSERVATION -- The continuation of land in its natural state or any use that will maintain the land in essentially its natural state.
CONSTRUCTION EQUIPMENT SALES, STORAGE, AND MAINTENANCE -- A lot utilized for the purpose of storage, rental, and sales of construction equipment, including trucks associated with construction and the maintenance, repair, and servicing of the same. The facility must be licensed by the New York State Department of Motor Vehicles.
CONTIGUOUS -- See "abuts."
CONTRACTOR'S OFFICE AND YARD, BUILDING -- A property that is used as the office and yard of a building trade contractor. A building trade contractor shall be defined as any contractor who is in the

business of constructing or remodeling any building or structure. This definition includes electrical, plumbing, and HVAC contractors.
CONTRACTOR'S OFFICE AND YARD, HEAVY CONSTRUCTION -- A property that is used as the office and yard of a heavy construction contractor. A heavy construction contractor shall include, but is not limited to, bridge builders, water and sewer installers, concrete installers, blacktop paving companies, excavation and filling, building demolition, and road reconstruction contractors.
CONVALESCENT HOME -- Any licensed establishment where aged or infirm persons are provided with shelter, food and health care, on a twenty-four-hour basis, for compensation; corresponds to the New York State definition of "self-care or extended-care nursing home." Not included in this definition are establishments for the care of the mentally ill. There are two types of homes:

A. HEALTH-RELATED NURSING FACILITIES -- For medically needy persons who do need medical care but not of the skilled variety. Residents are able to take limited care of themselves and even leave the home for periods of time.

B. SKILLED NURSING FACILITIES -- These are nursing homes where the patient is in need of the attention of skilled medical professionals and is not able to attend to his or her own needs or can do so only to a very limited degree. Nursing homes can only be built or expanded with the approval of New York State. The state has very specific policies on the number of nursing home beds allowed various regions of the state. This definition does not include licensed care in private homes. (See also "adult residential care facility," "foster homes for adults," "community residential facility," and "community residential facility for the disabled.")

CONVENT -- A residence of a religious order, which may include facilities for assembly and education. (See also "monastery.")
CONVERSION -- The changing of use or occupancy by alteration, addition, or by other reorganization.
COVERAGE, BUILDING -- That percentage of a lot actually covered by the ground level area of a building and any upper floor projections where the projection is greater than five feet.
COVERAGE, LOT -- That percentage of a lot actually covered by the ground-level building area plus any structural upper floor extensions greater than five feet, plus any paved area used for parking and driveways.
CREMATORY -- A building containing facilities designed for or capable of incinerating deceased human or animal remains.
CRISIS RESIDENCE -- See "community residential facility" or "halfway house."
CULTURAL FACILITIES/MUSEUMS -- An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or primarily used for musical, dance, dramatic, or other live performances or a museum or gallery operated primarily for the display rather than sale of works of art.
DAY CARE -- Day care as regulated by the New York State Department of Social Services provides for day-care services as follows:

A. FAMILY DAY CARE -- As used in § 390 of the Social Services Law, day care of children shall mean care provided for three or more children away from their own homes for less than 24 hours per day in a family home which is operated for such purpose, for compensation or otherwise, for more than five hours per week. A permit or certificate, as appropriate, is issued by the New York State Department of Social Services to regulate this type of care.

B. DAY-CARE CENTER (FACILITY) --
   (1) As used in 18 NYCRR § 418.1 et seq., day care of children shall mean care provided for three or more children away from their own homes in a day-care center, excluding those children receiving family day care as defined in "family day care." Such care shall be for more than three hours or fewer than 24 hours per day per child to any child accepted for care therein. The term "day care of children" includes services provided with or without compensation or payment.

(2) Scope.

(a) "Day-care center (facility)" shall mean a place, person, association, corporation, institution, or agency which provides day care as defined in 18 NYCRR § 418.1(a) and in which parents, guardians, or others responsible for care place children. The name, description, or form of the entity which operates a day-care center shall not affect its status as a day-care center.

(b) The term "day care center" shall not refer to care provided in:

[1] A day camp as defined in the State Sanitary Code (10 NYCRR Chapter 1).

[2] An after-school program operated for the primary purpose of religious education.

[3] A facility:

[a] Operated by a public school district; or

[b] Providing day services under an operating certificate issued by the Department of Social Services; or

[c] Providing day services under an operating certificate issued by the Department of Mental Hygiene.

(3) Permit (license) is a document issued by the Department authorizing a place, person, association, corporation, institution, or agency to provide care for children in a day-care center in accordance with the regulations of the Department.

DAY CARE, ADULT GROUP -- Provision of daytime care in a residential or nonresidential structure to more than six adults whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment but who do not require the level of care provided by nursing homes or medical facilities.

DAY CARE, ADULT HOME -- Provision of daytime care in a dwelling unit to adults whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment but who do not require the level of care provided by nursing homes or medical facilities. The dwelling unit must be owner-occupied, and care cannot be provided to more than six adults at one time.

DEPARTMENT STORE -- A retail institution over 5,000 square feet that offers a variety of non-food goods for sale under one roof.

DEPENDENT RELATIVE -- A person who, for economic or medical reasons, is dependent on another person who is related by blood, marriage or adoption.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of mobile buildings; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DORMITORY, OFF-CAMPUS -- A building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories.

DRIVEWAY -- That space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.

DRY-CLEANING ESTABLISHMENT -- A retail establishment used primarily for the purposes of picking up or dropping off clothing by customers for dry-cleaning purposes, and in which only those clothes dropped off by the customers at such an establishment and no other are dry cleaned within the premises.

DRY-CLEANING PLANT -- An establishment in which clothing dropped off by customers at the establishment, and from other establishments, is dry cleaned within the premises.

DUST -- Solid particulate matter capable of being airborne or gasborne.

DWELLING

A. A building or portion thereof which meets the following criteria:

(1) Designed, used or intended to be used exclusively as year-around and complete living quarters for one family or household.
(2) Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
(3) Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.

B. For purposes of this chapter a dwelling does not include a hotel, motel, rooming house, dormitory, fraternity, sorority, camping trailer, tourist home or similar building.

DWELLING, ACCESSORY -- Living space located within an owner-occupied dwelling and containing no separate exterior entrance and not more than 325 square feet of area.
DWELLING, EARTH-SHELTERED -- A one- or two-unit dwelling specifically designed and constructed to use earth as a barrier and temperature moderator. In such dwellings, the roof and exterior walls may be covered by earth if at least one exterior wall is exposed to light and air and has the outside ground level at or below the lowest habitable floor level for at least half of the length of such exposed wall.
DWELLING, MANUFACTURED HOME -- A one-unit dwelling which has the following distinguishing characteristics:

A. Manufactured as a movable or portable dwelling for year-round occupancy and for installation on a masonry or concrete foundation, or a mobile home stand, or piers, with or without a basement or cellar.

B. Designed to be transported on its own chassis and wheels and connected to utilities after placement on a stand, foundation or piers.

C. May contain parts that can be folded, collapsed or telescoped when being towed and expanded later to provide additional living space.

D. May be constructed in two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing.

E. Bears the approval of the Department of Housing and Urban Development.

DWELLING, MODULAR -- A dwelling which is constructed by a method or system of construction whereby the basic structure or its components are wholly, or in a substantial part, manufactured in manufacturing facilities, designed to be transported to a lot, but not on its own chassis or wheels, for assembly and permanent installation on a foundation; a modular home. For purposes of this chapter, a manufactured home is not to be construed as a modular home. Modular dwellings must contain the insignia of approval from the State Fire Prevention and Building Code Council.
DWELLING, MULTIPLE-UNIT -- One or more buildings, or portions thereof, on a single lot, containing three or more dwellings. For purposes of this chapter, this definition includes apartments, elderly housing, rental townhouses, cooperative housing and condominiums.
DWELLING, ONE-UNIT -- A building or portion thereof containing no more than one dwelling.
DWELLING, TOWNHOUSE -- A dwelling containing two or more dwelling units each located on its own individual tax parcel, each of which has one or two side walls in common with side walls of abutting dwelling units and are party or lot-line walls.
DWELLING, TWO-UNIT -- A building or portion thereof containing no more than two dwellings; a duplex or twin.
EASEMENT -- The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.
ELDERLY HOUSING -- See "dwelling, multiple-unit."

ELECTRIC VEHICLE CHARGING STATION—a public or private parking space that is served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle. For Electric Vehicle Charging Stations operating as a primary commercial use for retail to the public, see "AUTOMOBILE FUEL STATION."
ELEEMOSYNARY/PHILANTHROPIC ORGANIZATION -- Any organization of, relating to, or supported by charity.
ESSENTIAL SERVICES (PUBLIC FACILITIES) -- The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electric, steam, fuel or water transmission of distribution system collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety and welfare. Telecommunications facilities and telecommunications towers are not public facilities.
EXTRACTIVE USE -- Any operation, other than in connection with foundations for a structure, or highway construction, which involves: (1) a volume of earth movement exceeding the average of one foot per square foot of lot area, or 1,000 cubic yards, whichever is the lesser; or (2) a change of 10 feet or more in ground elevation from previously existing grade. See also "quarry, sandpit, gravel pit, topsoil stripping."
FAMILY -- Any number of individuals related by blood, marriage or adoption; or any number of individuals not related by blood, marriage or adoption living together and who meet the indicias for a functional and factual family equivalent.
FUNCTIONAL AND FACTUAL FAMILY EQUIVALENT -- A group of unrelated individuals living together and functioning together as a traditional family. In determining whether or not a group of unrelated individuals comprise a functional and factual family equivalent, a petition shall be presented before the Zoning Board of Appeals, which will consider, among other things, the following factors:

A. Whether the occupants share the entire dwelling unit or act as separate roomers.

B. Whether the household has stability akin to a permanent family structure. The criteria used to determine this test may include the following:
    (1) Length of stay together among the occupants in the current dwelling unit or other dwelling units.
    (2) The presence of minor, dependent children regularly residing in the household.
    (3) The presence of one individual acting as head of household.
    (4) Proof of sharing expenses for food, rent or ownership costs, utilities and other household expenses.
    (5) Common ownership of furniture and appliances among the members of the household.
    (6) Whether the household is a temporary living arrangement or a framework for transient living.
    (7) Whether the composition of the household changes from year to year or within the year.
    (8) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

FAMILY CARE RESIDENCE -- See "community residential facility."
FAMILY DAY CARE -- See "day care."
FAST-TRACKING -- A type of construction which divides the design stage into component parts, with each story or stage of the building or structure requiring approval by the Supervisor of the Office of Building and Construction prior to construction. Each story or stage of the building or structure can be built before the design for any subsequent story needs to be completed or approved. Fast-tracking does not exempt the owner from any other provisions of this chapter or any other City ordinance. The initial application for fast-tracking shall include the submission of architectural preliminary drawings of the conceptual plan and design, including at least ground plan dimensions and building height, which shall not be altered at any later stage except by express written consent of the Supervisor of the Office of Building and Construction.

FEED WAREHOUSE -- An establishment that stores and sells bulk quantities of feed (corn, grain, etc.). The storage of products may include, but is not limited to, the use of silos.
FLEA MARKET, LONG-TERM -- A periodic market held in an open area or structure where an individual or group of individual sellers offer goods for sale to the public for a period of time greater than three consecutive days and less than 30 days.
FLEA MARKET, SHORT-TERM -- An occasional market held in an open area or structure where groups of individual sellers offer goods for sale to the public for a period of three consecutive days or less.
FLOOD or FLOODING -- A general and temporary condition of partial or complete inundation of normally dry areas from an overflow of streams or rivers or other bodies of water caused by severe storms or unusual and rapid surface water runoff.
FLOOD BOUNDARY AND FLOODWAY MAP -- The official map of FEMA prepared as part of the flood insurance study for the City on which the boundaries of the five-hundred-year flood, the one-hundred-year or base flood and the floodway in the City of Binghamton have been delineated June 1, 1977, as noted on the map titled "Flood Hazard Boundary Map" or "Flood Insurance Rate Map" and including the flood hazard area and regulatory floodway area.
FLOOD HAZARD AREA -- The area of the one-hundred-year floodplain that, on the average, is likely to be flooded once every 100 years (i.e., that has a one-percent chance of being flooded each year) and is delineated on the Flood Insurance Rate Map (FIRM) and Flood Hazard Boundary Map issued by the Federal Insurance Administration, Department of Housing and Urban Development.
FLOODPLAIN MANAGEMENT AREA -- All that land adjacent to a body of water which has been or hereafter may be covered by a base flood.
FLOODPLAIN, SUBSTANTIAL IMPROVEMENT

A. Any repair, reconstruction or improvement of a structure within the floodplain, the cost of which equals or exceeds 50% of the market value of the structure either:
    (1) Before the improvement or repair; or
    (2) If the structure has been damaged and is being restored, before the damage occurred.

B. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

C. The term does not, however, include either:
    (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
    (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a state inventory of historic places.

FLOODPROOFING -- Any combination of structural and nonstructural additions, changes or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
FLOOR AREA, GROSS -- The floor area within the inside perimeter of the exterior walls of the building, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.
FLOOR AREA RATIO -- The numerical value obtained by dividing the total floor area of the building or buildings on the lot by the area of such lot. When applicable, the floor area ratio designated for any district, when multiplied by the lot area in square feet, shall determine the maximum permissible total floor area of the building or buildings on the lot in such district.

FOOD DELIVERY ESTABLISHMENT -- A business serving ready-to-eat foods and supplying delivery services to customers via company and/or employee vehicles.
FOSTER CARE HOME -- Private single-family residences licensed by the Broome County Department of Social Services and/or the New York State Department of Social Services. There are two types of residences:

A. FOSTER HOMES FOR YOUTHS, NONINSTITUTIONAL -- Residential and family-oriented living environments for up to six children below the age of 16, or age 21 if the child was in foster care prior to age 16. The number six includes any natural or adopted children already in the family unit and living at home. The number six limit may be waived by Social Services if the foster children are related. This would allow related foster siblings to reside together even though the household's total number of children might exceed the six-person limit. (For six or more children, see "community residential facility.")

B. FOSTER HOMES FOR ADULTS -- Homes are intended to serve the more seriously medically ill adult who would otherwise qualify for nursing home care. The foster care provider would be trained to handle basic personal care services with supportive nursing services available; generally, four or fewer beds per home.

FOOD SALES, GENERAL – the retail sales or beverages for off-site preparation and consumption. This classification includes but is not limited to the following:

A. Supermarkets that offer a variety of food items for home consumption such as a combination of fresh fruits, vegetables, breads, meat, dairy products, cereals, pastas, and prepackaged foods. Generally, supermarkets are a minimum five thousand (5,000) square feet and have a minimum twenty percent (20%) of net retail floor area devoted to the display of fresh fruits and vegetables/and or fresh meats, whichever is greater.

B. Food stores typically containing less than five thousand (5,000) square feet in floor area specializing in particular or distinctive food items, including, but not limited to retailers whose primary business maintains an inventory of specialty, gourmet, health, or ethnic food items. Examples of activities in this classification include but are not limited to the following:
   (1) Gourmet food store
   (2) Bakery, retail
   (3) Butcher
   (4) Specialty food store
   (5) Fish and poultry shop
   (6) Produce market
   (7) Delicatessen (may include sandwich shops in conjunction with the sale of other delicatessen products)
   (8) Health food store

FRATERNITY OR SORORITY HOUSES -- A place of residence or similar structure that is occupied by a nationally chartered membership organization or a local chartered organization and used, occupied and maintained for persons enrolled in a college, university, or other educational institution, and which may or may not be recognized and subject to controls by such educational institution.
FRONTAGE -- The greater of:

A. The distance between side lot lines measured along the street right-of-way line; or

B. A line parallel to the street right-of-way line at the distance specified for front yard depth.

FUNERAL HOME -- A building used for the preparation of the deceased for burial or cremation, which may also include facilities for the display of the deceased and ceremonies connected therewith before burial or cremation. (See also "crematory.")
GARAGE, PRIVATE RESIDENTIAL -- An accessory building, or part of a principal building if attached thereto by a wall or roof, intended primarily for the storage of one or more motor vehicles owned and used by the occupant of the dwelling to which it is accessory or attached.
GARAGE SALE -- Household goods and clothing for sale to the general public, which are displayed in the garage, yard or porch of a private residence; a yard, porch, lawn or rummage sale. (See also "flea market, short-term.")
GARAGE, STORAGE OR OFF-STREET PARKING -- A building or portion thereof, or land, used exclusively for the temporary storage of motor vehicles, and where motor fuel is not sold and vehicles are not equipped, repaired, hired or sold.
GARDEN, COMMUNITY OR NEIGHBORHOOD -- An area used by several individuals or families, operating in association with each other and under sponsorship by a nonprofit or voluntary organization, for seasonal production of vegetables and other garden produce for home consumption by the individuals or families directly engaged in such production.
GARDEN, NONCOMMERCIAL -- An area used for the individual growing of fruit, vegetables and flowers which are not to be sold commercially. (See also "garden, community or neighborhood" and "greenhouse, commercial.")
GARDEN POND -- A body of water used in part with the property's landscaping. Garden ponds are not to be considered as swimming pools.
GASOLINE, CONVENIENCE MARKET -- The retail sale of self-service motor fuel at a facility that also offers for sale convenience goods such as food, beverages and sundries, often on a twenty-four-hour-a-day basis.
GOLF COURSE -- A recreational facility consisting of at least nine holes, each with tee and green, located on a parcel of land containing at least 15 acres, as distinguished from golf driving ranges and miniature golf courses.
GRADE, ESTABLISHED STREET -- The permanently established elevation of the center line of a street in front of the midpoint of a lot.
GRADE, FINISHED -- The finished grade at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks, and roads adjoining the wall at that point.
GREENHOUSE, COMMERCIAL -- Any building or structure in which light, temperature and humidity can be controlled for the growing and protection of flowers and other plants which are to be sold commercially.
GREENROOF, VEGETATED ROOFTOP -- A layer of planting medium and vegetation, with a waterproof membrane and drainage system, integrated into the roof of a building in order to capture rainwater, reduce building energy consumption, and/or provide habitat or recreational amenity. Includes the following categories:
EXTENSIVE -- Lightweight veneer systems including a soil medium of approximately 2 to 3 planted within thin layers of drought tolerant self-seeding sedums, grasses, mosses and meadow flowers requiring little or no irrigation, fertilization or maintenance after establishment, not intended for recreation, or to accommodate the weights of people, larger shrubs nor trees. Depending on the plant selection, additional water collection cisterns, irrigation, fertilizations and/or maintenance may be necessary.
INTENSIVE -- Thicker soil medium supporting a wide variety of plant materials, including trees, shrubs, grasses and groundcovers, typically intended for human interaction.
GREEN SPACE -- That portion of any lot treated in such a manner as to provide light, air, and landscaped open space for the recreational and visual enjoyment of the occupants of any building on said lot. Green space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, fountains, pools, watercourses, and wooded areas, but shall not include required parking spaces and service areas or vehicular surfaces other than access drives which are not used for vehicular parking.

GROSS DENSITY -- The total number of persons or objects per unit of land area. "Land area" means all the land within the lot or area boundaries, including private roads, recreation areas, easements and natural features.
GROUP HOME -- See "community residential facility" and "community residential facility for the disabled."
HABITABLE ROOM -- Any enclosed room in a dwelling. For purposes of this chapter, a bathroom, closet, cellar, hallway, utility room or storage space shall not be considered a habitable room.
HALFWAY HOUSE (see also "COMMUNITY RESIDENTIAL FACILITY") -- A twenty-four-hour supervised residence for drug and alcoholic patients certified by the NY State Division on Alcoholism. Residents often hold jobs, use outside treatment services and are segregated by age and sex in the house. The site selection law does not apply.
HEALTH-RELATED NURSING FACILITIES -- See "convalescent home."
HEALTH/SPORT CLUB -- A building or portion of a building designed and equipped for the conduct of sports, exercise, instructional activities, leisure-time activities or other customary and usual recreational activities, operated for profit or not for profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee.
HEAVY VEHICLE MAINTENANCE AND STORAGE FACILITY -- Any area, lot, parcel, building or structure or part thereof used primarily for the storage and maintenance of trucks, buses, and other heavy equipment.
HOME OCCUPATION -- A business, profession, occupation, or trade conducted by the occupant of a dwelling or accessory structure and which is clearly incidental and secondary to the use of the residence. See § 410-29N and O.
HOMELESS SHELTER -- See "mission."
HOMES FOR ADULTS -- See "adult residential care facility" or "foster homes for adults."
HOSPICE -- A community of both professional and lay volunteers whose goal is to care for people in the final stages of life and to help them live as fully and comfortably as possible until they die. Such service can occur in a private residence or a special facility used for the purpose.
HOSPITALITY HOUSE -- A residence similar in function to a bed-and-breakfast inn or bed-and-breakfast home which provides low-cost, short-term housing for the families of patients admitted to long-term care units at local hospitals or nursing homes.
HOSPITAL, MEDICAL CENTER -- A facility serving the comprehensive (preventative and illness-related) health needs of the community and region and providing health services, medical and surgical care to persons suffering from illness, disease, injury, abnormal physical or mental conditions or pregnancy. Services provided by the facility will include diagnosis, treatment, rehabilitation, research, education, health promotion and wellness. Such a facility may include diagnostic/research laboratories, emergency service, outpatient service, space and equipment for training and housing interns, nurses, medical technicians and other related personnel, professional medical offices, overnight accommodations for patients' relatives, child care, administrative offices and businesses related to the hospital function and not the public in general.
HOTEL -- A commercial, profit-oriented operation offering transient lodging accommodations to the general public and providing additional services such as restaurants, bars, meeting rooms, ballrooms, and recreation facilities.
HOUSING -- See "dwelling."
HOUSE TRAILER -- See "trailer, travel or camping."
HUMAN SERVICE AGENCY -- An organization providing assistance to people in obtaining services to meet their needs. Services provided may include, but are not limited to, one or more of the following: information, guidance, counseling, therapy, group social activity, remedial instruction, self-help, and support. Services may not include the provision of alcohol.
IMPERVIOUS SURFACE -- Any surface from which most water runs off, including, but not limited to, paved streets, graveled or paved areas such as driveways, parking areas, packed earth material, walkways, roof surfaces, and patios.
INDUSTRIAL, HEAVY -- An establishment that involves basic processing and manufacturing of materials or products predominantly from extracted or raw materials. Examples of activities in this classification included but are not limited to the following:

A. Any manufacturing use with large-scale facilities for outdoor oil and gas storage
B. Battery manufacturing and storage
C. Lime and gypsum products manufacturing
D. Non-ferrous metals production, processing, smelting and refining
E. Painting, coating and adhesive manufacturing
F. Synthetic dye and pigment manufacturing
G. Urethane and other open-cell foam product manufacturing
H. Petroleum, bi-fuel, and coal products manufacturing and refining
I. Primary metal smelting
J. Vinegar, yeast and other pungent, odor-causing items production
K. Leather tanning
L. Cement and asphalt manufacturing
M. Explosives manufacturing
N. Fertilizer and other agricultural chemical manufacturing

INDUSTRIAL, LIGHT -- An establishment engaged in the assembly, packaging, storage and distribution of products from finished products or parts and the small-scale production of artisan and/or custom products. This classification includes but is not limited to the production or assembly of:

A. Cameras and photographic equipment
B. Custom cabinets
C. Custom clothing
D. Custom sign-making
E. Custom furniture and refinishing
F. Professional, scientific, measuring, and controlling instruments
G. Medical, dental, optical and orthopedic instruments and appliances, and similar items
H. Handcraft, art objects, and jewelry
I. Musical instruments
J. Production apparel manufacturing
K. Computer and electronic products
L. Pharmaceutical production
M. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast)
N. Electrical equipment and appliances, and components
O. Furniture and related products
P. Sporting and athletic goods

INDUSTRIAL, MEDIUM -- An establishment engaged in the processing, fabrication, treatment, packaging, storage and distribution of predominantly previously prepared materials, or finished products or parts, but excluding basic processing or manufacturing from predominantly new or extracted materials. Examples of activities in this classification include but are not limited to the following:

A. Glass manufacturing
B. Metal foundries
C. Wood product manufacturing
D. Heavy equipment manufacturing
E. Paper finishing
F. Pipe production facilities
G. Textile mills
H. Tire retreading and recapping
I. Wood product manufacturing

INDUSTRIAL, RESEARCH AND DEVELOPMENT – An establishment engaged in scientific research for the design, development, engineering, and testing of high technology electronic, industrial or scientific products in advance of full-scale manufacturing of final products. The only manufacturing uses in this classification consist of the creation of prototype products, plans, or designs for the primary purpose of research, development, or evaluation, rather than for sale or distribution.

INDUSTRIAL PARK -- A tract of land that is planned, developed and operated as an integral facility for a number of individual industrial uses, with consideration to transportation facilities, circulation, parking, utility needs, aesthetics, and compatibility.
JUICE BAR -- See "tavern, nonalcoholic."
JUNKYARD -- A lot, with or without buildings, used for the collecting, dismantling, storage, salvaging, or sale of wastepaper, rags, scrap metal, junked automobiles, materials, equipment, machinery or vehicles or parts thereof. The deposit or storage of two or more wrecked or broken motor vehicles, which would not qualify for inspection by the State of New York, or the major parts of two or more such vehicles shall be deemed to make the lot a junkyard; an auto salvage yard.
KENNEL, COMMERCIAL -- Any lot or premises, or portion thereof, on which more than four dogs, cats, and other household domestic animals are kept for sale, or on which more than two such animals are boarded for compensation.
KENNEL, RESIDENTIAL -- The raising of domestic animals for private use only. No sales or breeding of the animals is permitted. Animals kept on the property shall be owned by the occupant of the property. See § 410-19C.
LABORATORY, RESEARCH AND TESTING -- See Industrial, Research and Development.
LANDSCAPED AREA -- An area of grass, trees, shrubs or other natural greenery, or containing any form of landscaping or architectural treatment.
LAND USE ACTIVITY -- The specific purpose for which land or a building is used or designed or intended to be used and maintained. (See also "use, principal.")
LAUNDROMAT -- A business that provides coin-operated self-service-type washing, drying, and ironing equipment, provided that no pick-up or delivery service is maintained.
LEAD AGENCY -- The agency which has responsibility to coordinate the environmental review of a proposed action in accordance with the New York State Environmental Quality Review Act and the regulations of the City of Binghamton.
LOADING SPACE -- Any off-street space available for the loading or unloading of goods. See Article X for dimensional requirements.
LODGING HOUSE -- See "rooming house."
LOT -- A parcel of land, with or without buildings or structures, delineated by lot lines and having access to a street as defined in this chapter.
LOT AREA -- An area of land the size of which is determined by the limits of the lot lines bounding said area and which is usually expressed in terms of square feet or acres. Acreage within a right-of-way for streets is excluded for purposes of determining gross area.
LOT, CORNER -- A lot fronting on two or more streets at their intersection.
LOT COVERAGE -- See "coverage."
LOT DEPTH -- The average horizontal distance between the front and rear lot lines.
LOT, FLAG -- A lot that meets the minimum area requirements of this chapter and is connected to a public right-of-way by a strip of land at least 20 feet wide and containing an access drive.
LOT, INTERIOR -- A lot other than a corner lot.
LOT LINE, FRONT -- In the case of a lot abutting only one street, it is the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street right-of-way line as the front lot line.
LOT LINE, INTERIOR -- A lot line which does not abut a street.
LOT LINE, REAR -- The lot line which is generally opposite the front lot line. If the lot comes to a point at the rear, the rear lot line shall be deemed to be the point of intersection of the side lot lines. Rear yard measurements shall be made from such point.

LOT LINES -- The property lines bounding a lot as defined herein.
LOT LINE, SIDE -- The property line or lines extending from the front lot line to the rear lot line.
LOT, THROUGH -- A lot having frontage on two parallel or approximately parallel streets. Both street lines shall be deemed front lot lines.
LOT WIDTH -- The average horizontal distance between the side lot lines, measured parallel to the front lot line. See also § 410-12D.
LOT OF RECORD -- A platted parcel of land, the dimensions of which are shown on a document or map on file with the City Assessor's Office and which parcel of land actually exists as so shown. In no case shall a portion of an original platted lot constitute a lot of record.
MAIN BUILDING FACADE -- That portion of a building which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets, the main building facade shall contain the main entrance to such building.
MARQUEE -- A permanent structure overhanging a walkway attached to or supported by a building advertising an event to be shown at the property.
MAUSOLEUM -- A building for interring human or animal remains above ground.
MENTALLY HANDICAPPED -- Having a subaverage intellectual functioning IQ of 70 or below.
MENTALLY ILL -- Having a variety of emotional, personality and psychotic conditions.
METHADONE FACILITY -- A facility licensed by the appropriate government agencies to use the drug methadone in the treatment, maintenance, or detoxification of persons.
MICROBREWERY -- A brewing establishment which brews fewer than 15,000 barrels or fewer than 30,000 kegs per year.
MISSION/HOMELESS SHELTER -- A nonprofit, charitable or religious organization providing boarding and/or lodging and ancillary services on its premises to primarily indigent, needy, homeless or transient persons.
MOBILE HOME -- See "dwelling, mobile home."
MONASTERY -- A residence of a religious order, which may include facilities for assembly and education. See also "convent."
MONUMENT MANUFACTURING -- An establishment that performs the cutting, etching, and grinding of masonry material for the purpose of sales to a retail outlet. Incidental retail sales are permitted.
MOTEL -- An establishment providing transient accommodations and containing six or more rooms with at least 25% of such rooms having immediate access to a parking lot without the necessity of passing through the main lobby of the building.
MOTOR TRUCK FREIGHT TERMINAL -- An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.
MOTOR VEHICLE RENTAL/LEASING -- The use of any structure or land or portion thereof, for the rental/leasing of new or used automobiles, panel trucks, vans or recreational vehicles as licensed and regulated by the State of New York.
MOTOR VEHICLE SALES, NEW -- The utilization of land or buildings or portions thereof for the storage, display, and retail sale of new motor vehicles, including incidental leasing or rental of new or used motor vehicles. This term shall also include motor vehicle maintenance and repair service accessory thereto and shall include the incidental sale of used motor vehicles when such vehicles are stored and displayed on the same premises utilized for the retail sale of new motor vehicles. The business must be licensed and regulated by the State of New York.
MOTOR VEHICLE SALES, USED (MAJOR) -- The utilization of land or buildings or portions thereof for the retail sale of five or more used motor vehicles at any one time. This term shall not pertain to the incidental sales of used motor vehicles when such vehicles are stored and displayed on the same premises used for new motor vehicle sales. Incidental reconditioning, repair, and inspections are permitted. The business must be licensed and regulated by the State of New York.
MOTOR VEHICLE SALES, USED (MINOR) -- The utilization of land or buildings or portions thereof for the retail sale of four or fewer used motor vehicles at any one time. This term shall not pertain to the incidental sales of used motor vehicles when such vehicles are stored and displayed on the same premises

used for new motor vehicle sales. Reconditioning, repair, and inspection of motor vehicles are not permitted. The business must be licensed and regulated by the State of New York.
NEW CONSTRUCTION -- Construction on a parcel of land which has been completely cleared of previous construction or upon which no construction has previously occurred. An addition to an existing structure, whether attached or detached, shall be considered to be new construction; the restoration or remodeling of an existing structure shall not be considered new construction.
NIGHTCLUB -- An establishment where alcoholic beverages may be sold and consumed on the premises and where live entertainment and/or centrally controlled recorded performances take place and which may contain a stage, staging area and/or designated dance floor. A nightclub does not include live dancing of undressed or semi-dressed persons.
NONALCOHOLIC NIGHTCLUB -- An establishment where no alcohol is served or consumed on the premises and where live entertainment and/or centrally controlled recorded performances take place and which may contain a stage, staging area, and/or designated dance floor. A nonalcoholic nightclub does not include live dancing of undressed or semi dressed persons.
NONCONFORMING LOT -- A lot of record existing on the date of enactment of this chapter, or amendments thereto, which does not comply with the minimum frontage or area requirements for the zone in which it is located.
NONCONFORMING USE OR ACTIVITY -- A building or use of land existing on the date of enactment of this chapter, or amendments thereto, which does not comply with the permitted use, setback, height, yard or other regulations of the zone in which said building or use is located.
NOXIOUS MATTER OR MATERIAL -- A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects to the physical or economic well-being of individuals.
NUISANCE -- An actionable activity arising from a use of land, producing a material annoyance, inconvenience, and/or discomfort to the detriment of the public health, safety, and/or welfare.
NURSERY -- Any place used as a garden for the open cultivation and growing of trees, shrubs and other plants, for the purpose of sale or resale, including the replanting of said plants grown at places other than the nursery.
NURSING HOME -- This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a twenty-four-hour basis of more than five persons who are not capable of self-preservation.
PARCEL DELIVERY -- For the purpose of this chapter, any business supplying delivery services via company or employee vehicles.
PARISH HOUSE -- The residence of the clergy associated with a place of worship.
PARKING, ANCILLARY -- A parking area which is ancillary to the principal use not situated on the same lot as such parking area, which is not operated as a separate commercial enterprise available to the public at large and which is created to provide part of the required parking for the principal use.
PARKING AREA, PUBLIC -- A parking area that is not accessory to a principal use and is operated as a separate commercial enterprise available to the public at large.
PARKING SPACE, OFF-STREET -- A paved or surfaced space available for the parking of one motor vehicle on a transient basis and not located on an existing street or street right-of-way. (See Article X.)
PARK, PLAYGROUND and PLAYING FIELD -- A tract of land designated and used by the public for active and passive recreation.
PARTY WALL -- A common wall which extends from its footing below grade to, or through, the roof and divides two buildings.
PAWNSHOP/SWAP SHOP -- An establishment in which the proprietor licensed by the City of Binghamton trades merchandise or lends money on the security of personal property pledged in his or her keeping. See also Chapter 275, Licenses and Permits, Article II, Collateral Loan Brokers.
PERFORMANCE STANDARDS -- A set of criteria and measurements which:

A. Establishes environmental controls by which proposed land uses and activities can be evaluated and which helps to encourage positive or neutral impacts on the community.

B. Controls smoke and particulate matter, noise, odor, toxic or noxious matter, vibration, fire and explosion hazard, glare or heat, or radiation hazard generated by or inherent in certain uses of land or buildings.

PERSONAL SERVICE ESTABLISHMENT -- A building or facility where personal services such as a dry cleaner, laundry, barber or beauty shop, tailor, shoe repair and similar activities are offered to the public for profit.
PERSONAL INSTRUCTION AND IMPROVEMENT – The provision of informational, instructional, personal improvement and similar services. Examples of activities in this classification include, but are not limited to yoga, martial arts, driving school, job training, and other instructional classes.
PET GROOMING SHOP -- A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed, except that no animals shall be kept, boarded, etc., overnight.
PLACE OF PUBLIC ASSEMBLY -- All buildings or portions thereof, the spaces used or intended to be used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes. Manufacturing establishments and similar employment centers are not considered places of public assembly for purposes of this chapter. The facility is open to the public as a theater, meeting hall, hearing room, amphitheater, auditorium, or in any other similar capacity.
PLACE OF PUBLIC WORSHIP -- A building or area of public assembly for worship and qualifying for property tax exemption by the State of New York such as a church, synagogue, or mosque.
PORCH/DECK -- A structure, projecting out from or attached to the exterior wall of a principal building or structure, which may or may not have a roof but is often open to the weather.
PRESCHOOL DAY-CARE CENTER -- See "school, nursery."
PROFESSIONAL OFFICE -- The office of one or more members of a recognized profession maintained for the purpose of conducting the business of that profession. Retail or commercial sales are not permitted. The business is licensed by New York State to engage in the trade as certified by the issued license. Example uses include, but are not limited to, offices for lawyers, architects, engineers, and accountants. This definition does not include an office where the principal activity is medical, dental and/or optical treatment. (See also "business office" and "professional office, health-related.")
PROFESSIONAL OFFICE, HEALTH-RELATED -- A building or portion thereof accommodating the offices of an individual or group in the private practice of medicine, dental or optical services, physical therapy, and chiropractors. Primary services include examination, consultation and limited testing and treatment. For the purposes of this chapter these offices shall not provide emergency room or overnight patient service, any type of twenty-four-hour service, or retail sales. However, optical care products may be sold or serviced as part of an ophthalmologist's or optician's practice. For the purposes of this chapter, this definition is meant to distinguish between the larger and more diversified medical facility as defined in "clinic, medical, diagnostic or treatment center."
PROPRIETARY HOMES -- See "adult residential care facility."
PUBLIC BUILDING -- A structure, the majority of which is maintained and/or utilized by a public agency and allows access for the general public.
QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING -- A lot or land or part thereof, used for the purpose of extracting stone, sand, gravel, topsoil and similar material as an individual or commercial operation, and exclusive of the process of excavation and grading in preparation for the construction of a duly authorized building, parking area or roadway. (See also "extractive use.")
RADIO AND TELEVISION TRANSMITTING STATION -- A structure that is used for the transmission or reception of communication signals, but does not have a studio or production area. Accessory devices such as antennas and satellite dishes are permitted.
RADIO INSTALLATIONS, AMATEUR (HAMS) -- Any devices, including poles, antennas, support towers and wires, placed in the yard area of a lot to be utilized by amateur radio operators licensed by the Federal Communications Commission.

RAIL FREIGHT TERMINAL -- Any land or structure the use of which provides for the loading of cargo onto trains, the unloading of cargo from trains, or breaking down or aggregating freight into smaller or larger loads for transfer to other vehicles.
RAILROAD FACILITY -- An area of land and any structure or portion thereof used for the transfer of railroad cars from one engine to another, associated repair and maintenance of the railroad cars and engines, and accessory structures.
RAILROAD RIGHT-OF-WAY -- All of any area of land containing railroad tracks, sidings, car yards, classification yards and auxiliary facilities used or available to be used for train operations.
RAILROAD STATION -- Any land or structure used for the selling of transport tickets, and/or boarding or exiting of trains, and/or incidental selling or dispensing of food and drink.
RECOVERY HOME -- See "community residential facility."
RECREATION USE, COMMERCIAL INDOOR -- A building or group of buildings used for recreational purposes and operated as a business and open to the public for a fee, including, but not limited to, bowling alleys, skating and roller rinks, pool and billiard halls, indoor rifle and pistol ranges, indoor batting cages, recreation centers, indoor swimming pools, tennis courts, and similar uses.
RECREATION USE, COMMERCIAL OUTDOOR -- Land and structures used for recreational purposes and operated as a business and open to the public for a fee, including, but not limited to, a golf course or club, a swimming club, tennis and racquetball club, a miniature golf course, a golf driving range, outdoor batting cages, outdoor skating or roller rinks, sports or athletic fields and stadiums, canoeing, water skiing, and similar uses. Not included in this definition are outdoor or drive-in theaters or facilities for automobile or animal racing.
RECREATION USE, RACETRACK -- Any ground, area or track, whether paved or unpaved, upon which races, contests or demonstrations of skill or stunts are conducted for the enjoyment or entertainment of the residents of the parcel, and/or their invitees, or for the gratification of the contestants, which employ all-terrain vehicles, go-karts, motor scooters, midget autos, motorcycles, or other motorized vehicles; this definition shall not be read to include the operation of riding lawnmowers, when being used to cut grass or perform lawn work, motorized wheelchairs or snow blowers.
RECREATION VEHICLES -- Vehicles that can be used for recreation, such as boats, motor homes, all other types of campers, motorcycles, all-terrain vehicles, and personal watercraft.
RENTAL SERVICE STORE -- The use of any building or lot or portion thereof for the rental of new or used merchandise to the general public. Items to be rented include, but are not limited to, tents, wedding accessories, costumes, household cleaning equipment, and small machinery such as chain saws and weed whackers. This definition shall specifically exclude the rental of motor vehicles, recreational vehicles, and large heavy machinery.
REPAIR SHOP, SMALL APPLIANCES -- Any building or structure utilized for the repair of small equipment such as toaster ovens, VCRs, televisions, watches, clocks, and microwaves, but specifically excluding large appliances such as laundry machines, refrigerators, stoves, and lawnmowers.
RESIDENTIAL STORAGE SHED -- Any structure utilized for the storage of residential household equipment. See also § 410-19.
RESIDENTIAL VEHICLES -- All passenger vehicles used on a normal day-to-day basis for personal activity. Residential vehicles shall not include construction vehicles, nonresidential trailers, dump trucks, paneled trucks, semi-trucks, tractor-trailers, excavation equipment, tow trucks, job trailers, front-end loaders, bulldozers, construction compressors or any other similar vehicle.
RESPITE CARE -- Short-term care for members of the general public whose ability to independently perform the normal activities of daily life is limited by age or physical or other impairment.
RESPITE CARE FACILITY -- Residential facility that provides respite care to members of the general public.
RESTAURANT, DRIVE-THROUGH -- A use which, by design of facilities or procedures, encourages or permits customers to receive food service or products while remaining in their vehicle. A drive-through establishment may be either a primary or accessory use.
RESTAURANT, FULL SERVICE-- A restaurant serving customers who are seated principally at tables and where waited on when seated, or waiting on themselves by means of a buffet, for both food and beverages,

and where a variety of meals are offered. Further, where any bar area is secondary and incidental to food service, containing not more that one seat for every five table seats, and where the bar does not remain open for extended periods of time for alcohol consumption after the normal menu food service has closed, nor allows seated patrons to acquire beverages except by a waiter or waitress.

RESTAURANT LIMITED SERVICE/CAFE-- Restaurants that generally provide food or beverage services to patrons that order and pay before eating or drinking. Food and beverages may be serviced in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may not be provided. Examples of these activities include, but are not limited to, coffee shops and cafes and restaurants that do not fall under the definition of Full Service Restaurant or Drive-Through Restaurant.

RETAIL BEVERAGE/RECYCLING CENTER -- A facility whose principal purpose is the retail sale of beverages and the recycling of used cans and bottles. The recycling portion of the facility must occupy at least 25% of the building.

RETAIL CRAFT/HOBBY SHOP -- A retail establishment in which the goods or services available have been made or are performed by a skilled worker who practices a recognized trade or handicraft, including but not limited to coopers, cabinetmakers and furniture makers, potters, ceramists, glassblowers, silversmiths, jewelry makers, antique and furniture finishers, restorers or reupholsterers. Such establishments may include workshop areas as an accessory use, provided the establishment maintains a retail storefront.

RETAIL DRIVE THROUGH -- A use which, by design of facilities or procedures, encourages or permits customers to receive service or obtain products while remaining in their vehicle. A drive-in establishment may be either a primary or accessory use.

RETAIL NEIGHBORHOOD CONVENIENCE OUTLET -- A small retail facility established to accommodate the shopping needs of a limited area or neighborhood and providing basic commodities and personal services needed on a day-to-day basis. The total square footage of such facility shall not exceed 900 square feet.

RETAIL OR SERVICE BUSINESS, GENERAL -- A facility established and operated to provide for the broad or more specialized shopping and service needs of a large population base and drawing market support from several neighborhoods, the entire City or the surrounding region.

RETREAT HOUSE -- Any establishment which provides facilities generally including food and lodging, for group religious, meditation, instructional or other group study purposes.

RIFLE AND PISTOL RANGE, COMMERCIAL INDOOR -- A commercial establishment used for the firing of rifles or pistols aimed at targets, within a fully enclosed building.

RINGLEMANN CHART -- A chart described in the United States Bureau of Mines Information Circular 6888 or its successor, and on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke.

RINGLEMANN NUMBER -- The number appearing on the Ringlemann Chart ascribed by the observer to the density of the smoke emission. Where the density of the light-obstructing capacity of the smoke as observed falls between two consecutive Ringlemann numbers, the lowest number shall be considered the density of the smoke observed.

ROOMING HOUSE -- A building other than a single-family residence, originally constructed for the provisions of lodging rooms with or without meals but with no cooking facilities in the individual rooms, for at least three but not more than 10 persons; a lodging house.

SCHOOLS, BUSINESS/COMMERCIAL/TRADE/VOCATIONAL -- Noncollegiate public or private institutions offering specialized business, commercial and/or clerical courses or similar curricula, but not academic training.

SCHOOLS, COLLEGES, UNIVERSITIES AND PROFESSIONAL -- Public or private institutions of higher learning authorized to grant academic degrees, associate academic degrees, certificates and/or diplomas, and requiring for admission at least a high school diploma or equivalent general academic training; also includes off-campus sites controlled by the college.

SCHOOL, NURSERY -- A facility established to provide daytime care or instruction for two or more children under six years of age and operated on a regular basis, whether or not for profit.

SCHOOL, PRIVATE -- A building or buildings, or part thereof, controlled and operated by a religious or other organization, whether or not for profit, and offering a program or curriculum which meets state requirements for kindergarten, primary, secondary or higher education and which does not secure the major part of its funding from property taxation or governmental agencies.
SEASONAL SALES -- The sale of seasonal items such as Christmas trees, holiday and seasonal decorations, and lawn ornaments for a period of less than one month per year from a residence or commercial establishment.
SELF-SERVICE STORAGE WAREHOUSE -- Any building or group of buildings comprised of one or more individual storage compartments, which are rented or leased to individuals or businesses for storage of nonhazardous materials, personal property and equipment.
SETBACK -- The required minimum horizontal distance between the lot or property line and the nearest front, side, or rear line of the building, including terraces or any covered projection thereof, excluding steps.
SHOPPING CENTER -- Any group of more than two commercial uses which:

A. Are designed as a single commercial group, whether or not located on the same lot;

B. Are under common ownership or management;

C. Are connected by common party walls, partitions, canopies or other structural members to form one continuous structure or, if located in separate buildings, are interconnected by walkways and access ways designed to facilitate customer interchange between the uses;

D. Share a common parking area; and

E. Otherwise present the appearance of one continuous commercial area.

SIGN -- Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixture, colors, illumination or projected images. "Sign" does not include the flag of any nation, state or city, or fraternal, religious or civic organizations. "Sign" does not include merchandise, pictures or models of products or services incorporated in a window display, works of art which in no way identify a product or scoreboard located on an athletic field.
SITE PLAN -- A rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in Article IX of this chapter, which shows the arrangement, layout and design of the proposed use as shown on said plan. A detailed site plan shall be submitted with each application for a permit. The site plan must include but is not limited to: all buildings, structures, and appurtenances on site and their use or function; all uses adjacent to the property lines of the site; the locations of all storm drain openings, adjacent waterways or wetlands; information regarding slope, natural drainage, curbing, impounding and how a spill will be retained upon the site property; and the scale of the site plan.
SITE SELECTION LAW (PADAVAN BILL) -- State legislation designed to set out procedures superseding local zoning ordinances for the site selection of certain types of community residence (group home) facilities in municipalities. The procedure involves the sponsoring agency notifying the chief executive officer of the municipality where the proposed residence is to be located and giving the officer the opportunity to comment on the proposal. Once a residence has successfully completed the site selection process, it is considered a family unit and is subject only to the regulations in this chapter governing those units. Those community residences governed by the site selection law are noted in this chapter. Other residences not subject to this law must comply with the special conditions associated with their use.
SKILLED NURSING FACILITIES -- See "convalescent home."
SOBERING-UP CENTER -- See "crisis residence."
SOLAR ACCESS -- A property owner's right to have sunlight shine on his or her property.
SORORITY HOUSE -- See "fraternity/sorority house."

SPECIAL CONDITION -- A use which will be permitted in a particular zoning district only when it is determined that any conditions or standards which may be applied to such use have been met. (See §§ 410-29 and 410-34.)
SPECIAL USE or SPECIAL USE PERMIT -- An authorization, with or without specific accompanying conditions, given via the permit process as outlined in this chapter, allowing utilization of land in a way specifically delineated therein, as a permitted exception to this chapter.
SPECIFIC ANATOMICAL AREAS

A. Less than completely and opaquely covered:
    (1) Human genitals, pubic region;
    (2) Buttock; and
    (3) Female breast below a point immediately above the top of the areola; and

B. Human male genitals in discernibly turgid state, even if completely and opaquely covered.

SPECIFIC SEXUAL ACTIVITIES

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse, sodomy;

C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

SPONSORING AGENCY -- A person, nonprofit agency or governmental unit that plans to establish a residential facility to care for mentally ill, retarded or developmentally disabled persons or persons with alcohol and substance abuse problems.
STADIUM -- An open air area where sporting events, contests, concerts, and other similar events are held and which provides permanent seating.
STORAGE, OUTDOOR -- Land outside any building or roofed area used for the keeping of goods, supplies, raw materials or finished products.
STREET -- An existing federal, state, county, or City highway, road or street, or a way shown upon a subdivision plat approved by the City Planning Commission, or on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of the City Planning Commission and the grant to such Commission of the power to approve subdivision plats.
STREET FRONTAGE -- See "frontage."
STREET LINE -- The right-of-way line separating the street area from abutting property.
STRUCTURE -- A building or anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
STRUCTURE ALTERATION -- See "alterations."
STUDIO -- The workshop of an artist, sculptor, or photographer.
STUDIO, BROADCAST -- A place where radio, television or movies are produced.
STUDIO/EFFICIENCY APARTMENT -- A one-bedroom efficiency dwelling used as a single housekeeping unit, containing complete kitchen, bathroom, and toilet facilities.
SUBDIVISION -- The division of any parcel of land into four or more lots, plots, sites, or other divisions of land for immediate or future sale or for building development with or without streets or highways, and including resubdivision; a redivision of a lot, tract or parcel of land by any means, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs of devisees, transfers of ownership or building or lot development.
SUPERMARKET -- See “Food Sales, General”
SUPPORTIVE LIVING FACILITY -- See "community residential facility."
SWIMMING POOL, PRIVATE -- Any body of water or receptacle for water having a depth at any point greater than two feet, constructed, installed or maintained in or above ground, outside a residential building as an accessory use to a residence for swimming or bathing by the occupants thereof and guests.

TAVERN -- An establishment where alcoholic beverages are sold to be consumed on the premises, but not including restaurants where the principal business is the serving of food; may or may not have live entertainment.
TAVERN, NONALCOHOLIC -- Often referred to as "juice bars"; an establishment which exclusively serves nonalcoholic beverages. Clientele can include adults or minors below the age of 21. A nonalcoholic tavern may or may not have live dancing of undressed or semidressed persons.
TAXICAB/PERSONAL TRANSPORT BUSINESS -- A business that transports passengers by vehicle from one location to another location for a fee.
TELECOMMUNICATIONS FACILITY -- See § 410-42.
TELEPHONE SWITCHING FACILITY -- A telephone facility containing switching equipment where no public business offices, no repair facilities, except for equipment maintained in the building, and no storage or warehouse is maintained.
TEMPORARY STRUCTURE -- Any structure which is erected to be in place for not more than six months, including but not limited to tents, portable bandstands, reviewing stands, bleachers, mobile office units, construction sheds, sales offices for lots or dwellings, or other structures of a similar character.
TERRACE -- An uncovered flat platform of earth with or without a surface material or retaining walls.
THERAPEUTIC MASSAGE OFFICE -- A business whose principal function is massage therapy. The business must be licensed by New York State to engage in the trade as certified by the issued license.
THRIFT SHOP/SECONDHAND STORE -- A retail establishment that specializes in the sale of used merchandise.
TOWING SERVICE -- A business that specializes in towing or transporting disabled or wrecked vehicles, freeing vehicles stuck in the snow or mud, and similar activities. A towing service may also be an accessory use to an automobile repair shop.
TOWNHOUSE -- A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.
TRAILER, TRAVEL OR CAMPING -- A vehicle or portable structure designed and constructed for temporary dwelling purposes which may contain cooking, sanitary and electrical facilities and is normally transported from place to place by its owner. A trailer is not to be used as for residential occupancy and is limited to temporary use only; a recreation vehicle or motor home.
TRANSFER STATION, SOLID WASTE OR CONSTRUCTION AND DEMOLITION DEBRIS -- An establishment utilized for the temporary storage of debris from demolished buildings or structures, from which such material is transported to landfill and other disposal sites.
TRANSFER STATION/REDEMPTION CENTER, RECYCLABLE MATERIALS -- A completely enclosed facility for the bulk sorting and/or packaging of glass, paper, and other light recyclable materials.
TRANSIENT RESIDENT -- A person who pays for sleeping accommodations in a commercial, profit-making hotel, motel or tourist home for a period of seven or fewer consecutive nights; a transient guest.
UNREGISTERED AND/OR UNLICENSED VEHICLES -- Any vehicle, including a tractor and/or trailer, without a currently valid license plate or plates or which is in either a wrecked, discarded, dismantled, inoperative or abandoned condition and is not in a condition where it may be used on a public highway. An expired inspection sticker or lack of current inspection sticker shall be presumptive evidence that a vehicle is not in a condition capable of being used on a public highway. Vehicles capable of being driven on a public highway and offered for sale by an automobile dealer duly licensed or not licensed by the New York State Department of Motor Vehicles to sell automobiles shall not be considered “unregistered and/or unlicensed vehicles” when offered for sale at the dealer's place of business as stated in its application for an automobile dealer's license to the Commissioner of Motor Vehicles.
USE, NONCONFORMING -- See "nonconforming use or activity."
USE, PRINCIPAL -- The primary or principal purpose for which land, water, or a building is designed, arranged or intended to be used, or for which it is or may be occupied or maintained; land use or activity.
VARIANCE, AREA -- Zoning Board of Appeals authorization of a deviation(s) from restrictions concerning the dimensional or physical requirements of applicable zoning regulations and/or upon construction and placement of buildings and/or structures which are employed to serve a permitted statutory use.

VARIANCE, USE -- Zoning Board of Appeals authorization of a departure from the literal requirement(s) of this chapter in utilization of land for a purpose prohibited herein.
VEHICLE IMPOUND YARD -- Any lot or piece of land, including buildings, at which registered motor vehicles are impounded awaiting reclamation by their owners or transfers of vehicle title resulting from failure of reclamation by the owners. This term shall not include any vehicle dismantling or scrap metal processing and shall be distinguished from "junkyard" and "off-street parking garage."
VEHICLE SALVAGE FACILITY -- A building in which motor vehicles or parts thereof are dismantled in accordance with state regulations and licensing. This term shall not include dismantling conducted outdoors, with the exception of fuel tank removal as may be required by applicable fire safety regulations, nor shall this term include the outside storage of unregistered motor vehicles, motor vehicle hulks or parts, or other junk or discarded material. This term shall be distinct from the term "junkyard." The facility must be licensed by New York State Department of Motor Vehicles.
VENDING MACHINE -- A device or mechanism for dispensing merchandise or services to the public and designed to be operated by the purchaser.
VIDEO RENTAL SHOP -- A business specifically limited to the rental and sale of videos and games for home viewing, rental of VCRs, DVDs, and other similar equipment, and the sale of accessory equipment (blank tapes, dust covers, head cleaners, etc.). The sale of VCRs, VCR cameras, DVDs, televisions, stereos, computers and similar consumer home entertainment sales are strictly prohibited for video rental shops. This shall not include video booths for short-term previewing of videos.
VISION CLEARANCE TRIANGLE -- An area at street intersections which is to be kept free from visual obstructions so as to promote the safe movement of vehicular traffic. (See also § 410-17A.)
WAREHOUSE -- An establishment for the storage of goods and/or merchandise. See also "self-service storage warehouse."
WAYSIDE STAND -- A temporary structure, generally seasonal with the exception of a tent, designed for the display and sale of agricultural products, including barbecues and lunch stands.
WHOLESALE TRADE AND STORAGE -- An establishment or place of business engaged in the storage and selling of merchandise for or to retailers, to industrial, commercial, institutional or professional business users or to other wholesalers, or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies. This shall exclude lumber yards, building supply and garden supply centers engaged in sales of such materials primarily to the public.
YARD -- An open area on a lot which is open to the sky and is unoccupied by any land use or activity except as may otherwise be provided in this chapter.
YARD, FRONT -- A yard extending across the entire width of the lot between the front lot line and the front yard line.
YARD LINE -- An imaginary line which is parallel to the lot line along which a required yard must extend and which is not nearer to said lot line than the required minimum yard width or depth as set forth in this chapter.
YARD, REAR -- A yard extending across the full width of the lot between the rear yard line and the rear lot line.
YARD, SIDE -- A yard extending from the front yard to the rear yard and between the side yard line and the side lot line.
ZONING MAP -- The map or maps that are part of this chapter as set forth in Article III.
ZOO/AQUARIUM -- An establishment that displays living animals or plants to the public, usually for a fee.

ARTICLE III, Zoning Map; Types of Districts

§ 410-6. Zoning district map. [Amended 12-19-11 by LL. No. 11-005]

Zoning districts are bounded and defined as shown on the map entitled "Zoning Map, City of Binghamton, New York," dated March 2008, which map, and all amendments thereto, is adopted as part of this chapter and which, with all explanatory matter and dimensions thereon, is hereby made a part of this chapter and included herein.

§ 410-7. Certification and inspection of map.
The original of the Zoning Map, City of Binghamton, New York, dated, March 2008, shall be certified by the Director of the Planning Department. All changes and amendments to said map shall be promptly made by the Planning Department staff as directed by the City Council. The original of such Zoning Map and all amendments thereto shall remain on file in the Planning Department. Copies of the map shall be on file in the Office of the City Engineer, the Office of Building and Construction, and the Office of the City Clerk and shall be made available for public inspection and use during City office hours.

§ 410-8. Establishment of boundaries.
The following principles are intended to apply to the location of zoning district boundaries:

A. Boundary lines are intended to follow lot lines or the center line of streets, highways, alleys, railroads, watercourses or easements, or such lines as they may be extended, or to be parallel or perpendicular thereto, unless such boundary lines are otherwise fixed by dimensions, as shown on the Zoning Map.

B. Where a boundary is indicated as approximately following the edge of a river, pond or similar public water body, the mean high water line thereof shall be construed to be such boundary.

C. Where a boundary is indicated as approximately following a lot line or an extension thereof, such lot line or extension shall be construed to be such boundary.

D. Questions or disagreements concerning the exact location of a district boundary line shall be resolved by the Zoning Board of Appeals. (See Article XIV.)

§ 410-9. Annexed land.
Any land added to the incorporation area of the City of Binghamton by annexation shall be automatically classified in the R-1 Residential Single-Unit Dwelling District for zoning purposes pending adoption of a permanent zoning district designation.

§ 410-10. Types of districts. [Amended 12-19-11 by LL. No. 11.005]
The following types of zoning districts are hereby created and established in the City of Binghamton for the intent and purpose described below:

A. R-1 Residential Single-Unit Dwelling District. The intent of the R-1 Residential Single-Unit Dwelling District is to designate areas where low-density, one-unit dwellings constitute the existing and desired future developmental character and where substantial restriction on the use of land and the density of development is necessary to preserve present character and protect the economic value of existing and future investment. Development which occurs in the R-1 Residential Single-Unit Dwelling District should be comparable with existing population density and the environmental character of the surrounding area.

B. R-2 Residential One- and Two-Unit Dwelling District. The intent of the R-2 Residential One- and Two-Unit Dwelling District is to designate areas where a mixture of one-unit dwellings, two-unit dwellings, and townhouses creates a low to moderate population density. Restrictions on the intensity and type of residential and nonresidential development are necessary to preserve the desirable residential qualities of neighborhoods, to prevent overcrowding, and to reduce traffic congestion on existing streets. In some locations, the absence of appropriate utilities and access roads or extreme topographic conditions may restrict the intensity or type of development.

C. R-3 Residential Multi-Unit Dwelling District. The intent of the R-3 Residential Multi-Unit Dwelling District is to designate those areas where multiple-unit housing predominates and where a broad

range of available housing options and a moderate to high population density is the existing and desired future developmental character. Development restrictions will be aimed at achieving the highest concentration of population and the broadest range of housing opportunities in the City while improving land use efficiency, safety and environmental quality.

D. C-1 Service Commercial District. The intent of the C-1 Service Commercial District is to designate those areas where a concentrated mixture of commercial service, storage and light industrial processing activities, of City-wide or regional significance, is to be found. Restrictions and development standards are aimed at accommodating a variety of such commercial service uses while improving land use efficiency, safety, and environmental quality, particularly adjacent to residential areas and important natural features.

E. C-2 Downtown Business District. The intent of the C-2 Downtown Business District is to designate those areas where large retail stores, specialty shops and services, business services, financial institutions, offices, theaters, hotels, government buildings, and sports and entertainment facilities, which have primarily City-wide and regional significance, will be permitted at a relatively high level of development intensity. It is further intended that zoning regulations recognize, preserve, and promote the historic importance of large portions of the C-2 District and reflect the viability and desirability of downtown residential development.

F. C-3 Medical District. The intent of the C-3 Medical District is to designate those areas where medical services and facilities have developed within existing residential neighborhoods and where the continued availability of such services is desired. Restrictions and controls are aimed at promoting development which will be commensurate with the services needed but will not be detrimental to the character of adjacent residential neighborhoods.

G. C-4 Neighborhood Commercial District. The intent of the C-4 Neighborhood Commercial District is to designate those areas where general retail, service, and office activities provide convenience goods and service to several surrounding neighborhoods but not usually on a City-wide or regional scale. Nonresidential land uses have mixed with, and often superseded, residential development. Restrictions which discourage encroachment of nonresidential activities into adjacent residential areas and gradually improve traffic safety, land use efficiency, and visual quality will be in the best interest of the community.

H. C-5 Neighborhood Office District. The intent of the C-5 Neighborhood Office District is to designate those areas where professional offices and specialized commercial, personal service, civic, and cultural activities of City-wide and regional significance will be encouraged as alternative uses of existing large residential structures. Land use restrictions are aimed at preserving the architectural and historical character and visual quality of existing development while providing for compatible, efficient, and more intensive use of land and structures for housing and office purposes.

I. C-6 Limited Neighborhood Commercial District. The intent of the C-6 Limited Neighborhood Commercial District is to designate those areas where small-scale, commercial establishments coexist with residential neighborhoods for the purpose of providing adjacent residents with convenience goods and personal services. Restrictions and controls are aimed at limiting the size and range of permitted uses, assuring compatibility, and limiting further expansion of such districts into surrounding residential areas.

J. I-1 Urban Business Park District. The intent of the I-1 Urban Business Park District is to designate those areas which are appropriate for technology-based business and industrial uses. Regulations such as design standards will be used to manage the scale and character of development.

K. I-2 Light and Medium Industrial District. The intent of the I-2 Light and Medium Industrial District is to designate those areas which are suitable for light- and medium-density industrial development. Regulations such as performance standards will mitigate the negative impacts of traffic, noise, smoke, odor, and other potential nuisances while preserving the character of existing adjacent residential districts. It is intended that the industrial character of the land in this district be preserved by restricting incompatible uses.

L. I-3 Heavy Industrial District. The intent of the I-3 Heavy Industrial District is to designate those areas which are suitable for heavy industrial uses. Like the I-2 District, regulations such as performance standards will mitigate the negative impacts of traffic, noise, smoke, odor, and other potential nuisances while preserving the character of existing adjacent residential districts. It is intended that the industrial character of the land in this district be preserved by restricting incompatible uses.

M. Urban Village Overlay District. The intent of the Urban Village Overlay District is to protect housing stock and property values in the City of Binghamton, as well as designate those areas that are appropriate for mixed uses and subject to design guidelines to create a vibrant and cohesive neighborhood.

ARTICLE IV, General Regulations

§ 410-11. Applicability.

Except as may be provided elsewhere in this chapter to the contrary, the general regulations set forth in this Article IV shall apply to land use and development in the City of Binghamton. No land or building shall hereafter be used or occupied and no building or part thereof shall hereafter be constructed, enlarged or its use altered unless such action is in conformance with applicable regulations specified in this Article IV, in addition to the general and special regulations for the zoning district in which said action occurs.

§ 410-12. Lot regulations. [Amended 8-7-2013 by Ord. No 13-49]

A. Reduction. No lot shall hereafter be reduced or altered so as to result in a lot that does not meet the minimum area or yard requirements prescribed by this chapter.

B. Subdivision of a lot. Where a lot is hereafter formed by subdividing a lot already occupied by a building, such subdivision shall not create a nonconforming situation for the lot on which the existing building is located. No zoning or building and use permit shall be issued for a building or land use on the new lot thus created unless it complies with all the applicable provisions of this chapter.

C. Irregularly shaped lot. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape of such lot or parcel, the Board of appeals shall determine how the requirements shall be applied.

D. Undersized lots. When a lot of record which is legally in existence at the time of enactment of this chapter does not comply with the minimum lot regulations as specified in Schedule IA (§ 410-28) or IIA (§ 410-33), such undersized lot may be used for any of the uses listed in said schedules if side, rear and front yard setbacks, off-street parking and density requirements can be met, and access from a public street can be provided. The use of such lots shall be subject to any special conditions which might be applicable in the district.

E. Lot measurements. Measurements for lot depth and for setbacks shall be made from the property lines

F. Through lot. On through lots (see definition in § 410-5) both property lines shall be front lot lines, and front yard setbacks shall apply. For purposes of sitting accessory buildings, such as a private garage, the requirements for front yard setback shall also be applied.

G. Lot in multiple districts. Where one or more district boundary lines divide a lot or land in single ownership at the time of adoption of the Zoning Map, or any amendments thereto, the regulations applying in any one district may be extended into the remainder of the lot, but only when such extension has been approved by the Planning Department. See § 410-45B.

H. Two or more uses on one lot. When a residential and nonresidential use or activity occupy the same parcel (e.g., a business and a house), the more restrictive bulk regulations shall be applied.

§ 410-13. Yards and open space. [Amended 8-7-2013 by Ord. No 13-49]

A. Location. No yard or other open space provided for a specific building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. No yard or other open space on one lot shall be considered as a yard or open space for a building on any other lot.

B. Front yard setback. New buildings shall not be required to have front yards greater in depth than the average of the front yard setbacks of the two adjacent properties.

C. Side yard setback. When residential construction is in the form of a townhouse development, where each dwelling unit has one or both side walls in common with an adjacent unit, the side yard requirements of Schedules IA (§ 410-28) and IIA (§ 410-33) shall apply only to the end units in the row.

D. Terraces and porches. A terrace or porch shall not be considered in the determination of lot coverage or yard requirements, except as may be otherwise specified in this chapter, provided that such terrace or porch is without roof, awnings, screens, walls, parapets or other forms of enclosure. Such terrace or porch may have a guard railing or low wall which does not exceed 30 inches in height measured from the lowest level of the terrace or porch. No terrace or porch shall be located less than five feet from any side lot line and may not extend into the front yard by more than 10 feet. Under no circumstance shall the terrace or porch have less than a five-foot setback from the front property line. For lot coverage considerations, a terrace or porch will not be included in lot coverage calculations as long as the terrace or porch is not used as habitable space.

E. Projecting architectural features. Architectural features such as windowsills, belt courses, chimneys, cornices, eaves or bay windows may project into any required yard area by up to five feet, provided that no such projection shall not be located five feet to any line. The total length of any bay window projections on any wall shall not exceed 1/4 of the overall length of said wall.

F. Other projections. Open fire escapes, outside stairways, balconies and solar energy systems may project up to five feet into a required yard space, provided that such projections shall not be located five feet from any lot line.

§ 410-14. Fences, hedges and walls.

A. AA fence of masonry, wood or other material which creates a barrier may be located on the property or along any lot line when such fence is not greater than eight feet in height in any residential district and 10 feet in any nonresidential district. The eight-foot-high fence in residential districts may be installed beginning at the rear face of the residence or the rear face of the adjacent residence, whichever is greater, and extend to and along the rear property line. A six-foot-high fence is permitted from the rear face of the residence to the front property line, except as noted in Subsection A(6). The rear face of the residence shall not include any decks, porches, or enclosed porches.
    (1) All fencing shall be erected with standard fencing material consistent with the fencing industry.
    (2) Any nonstandard proposed fence is permitted, provided that a plan detailing the proposed fence is submitted for review and approval by the Building Bureau and/or Planning Department.
    (3) No fence shall be located within three feet of any door or window, unless the top of the fence is below the bottom sill of the window.
    (4) Barbed wire is permitted in any nonresidential property within any residential district or along any boundary line separating a residential and nonresidential district, provided it does not violate the provisions of § 410-17 of this chapter. (See also § 410-15B.)
    (5) No fence shall be erected so that any part of the fence will exceed the height requirements within Subsection A. This does not apply to decorative posts associated with the fence.
    (6) Fences surrounding tennis courts or recreation courts are limited to 12 feet in height.
    (7) Within 12 feet of the front property line or the distance to the front face of the residence, whichever is less, no solid fence, wall, natural plantings, or barrier with a height greater than three feet may be installed, constructed, or planted along any side property line when the solid fence, wall, natural plantings, or barrier is within 10 feet of a driveway.
    (8) On any corner lot, the height of any solid fence, wall, natural plantings, or barrier shall not exceed four feet along the front and side property lines adjacent to the street. The fence height must be reduced to three feet within the triangular area formed by the intersecting street lines and the straight line joining said street lines in accordance with § 410-17.

B. It shall be unlawful for any person to plant, set, have or maintain upon his or her premises adjacent to any street, sidewalk or footpath within the City any hedge fence unless the same shall be set at least two feet back from the line of the street, and be kept so trimmed not to project into or over said street, sidewalk, or footpath, or be separated from said street, sidewalk or footpath by a fence.

§ 410-15. Exceptions to height regulations.

A. Height. Unless such features are specifically regulated otherwise in this chapter, the height limitations of §§ 410-28 (Schedule IA) and 410-33 (Schedule IIA) shall not apply to flagpoles, monuments, church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, solar and mechanical equipment, radio antennas, amateur radio installations, utility lines and similar installations.

B. Fences, hedges and walls. The provisions of this chapter shall not apply to fences, walls, steps or natural plantings which are no higher than three feet above the natural grade where such features are located, except that there shall be no plantings between the sidewalk and curb on any lot. (See § 410-17.)

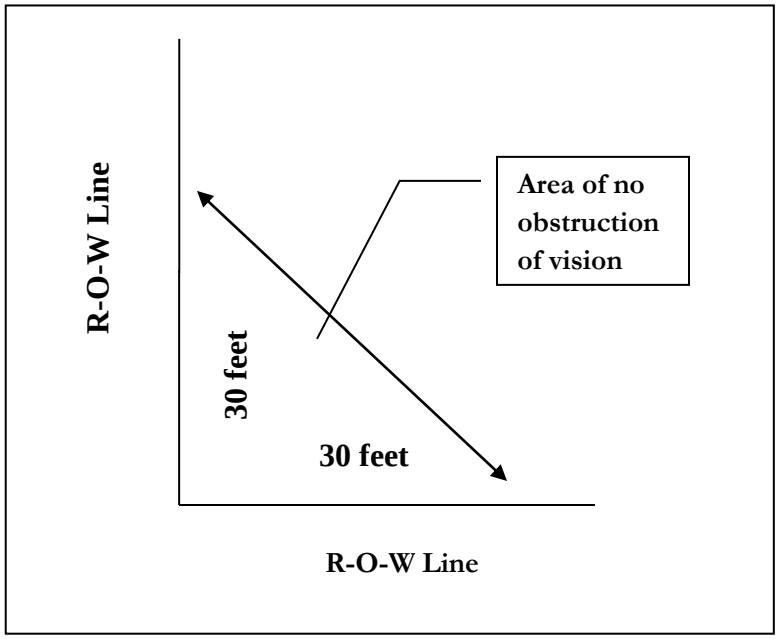
§ 410-16. Street frontage.

No permit shall be issued for any land use or structure unless the lot on which such land use is to be established, or structure is to be built, has at least 20 feet of frontage on, or a twenty-foot easement giving access to, an improved public street, which frontage or easement provides direct vehicular access to such land use or structure. For purposes of this chapter this twenty-foot width limitation does not apply to a townhouse subdivision.

§ 410-17. Visibility at intersections. [Amended 8-7-2013 by Ord. No 13-49]

A. Obstruction to vision. No solid fence, plantings, or other such barrier, between three (3) feet and seven (7) feet above the grade of the adjacent street line, shall be erected, planted, parked, or otherwise placed on any corner lot or at the intersection of a public or private driveway and a street within the triangular area formed by the intersecting right-of-way lines and the straight line joining said right-of-way lines at points which are a distance of 30 feet from their intersection.

B. The provision of subsection A of the section shall not apply to a permanent building or to trees which are trimmed to eliminate foliage for a distance of more than seven (7) feet above the grade of the adjacent street line.



C. Conformity. Any obstruction that was erected without proper approvals and does not conform to the requirements of this § 410-17, and which results in a dangerous obstruction to vision of motorists, shall be made to conform after an official notice of noncompliance has been issued by the Supervisor of Building and Construction.

§ 410-18. Buffer areas. [Amended 8-7-2013 by Ord. No 13-49]

A. Whenever a buffer strip is required by this chapter, it shall meet the following standards:
   (1) It shall be a minimum width of five feet along a lot line unless otherwise specified in this chapter as a special condition.
   (2) It shall contain a dense screen of plantings which will rapidly attain a height of at least six feet. The plantings shall have a minimum height of three feet at the time of planting.
   (3) Plantings shall be at least 50% evergreen and shall be of such spacing and arrangement as, in the judgment of the Planning Commission or Planning Department, will effectively screen the activities of the lot from adjacent areas.
   (4) The plan and specifications for such buffer shall be filed with the approval plan for the use of the lot.

(5) Required planting shall be properly maintained throughout the continuance of the use on the lot.

B. Notwithstanding the above, a buffer strip may be substituted by a wall or fence with a five-foot-wide landscaped strip of low plantings if approved by the Planning Department and/or Building Bureau.

§ 410-19. Accessory buildings and uses. [Amended 8-7-2013 by Ord. No 13-49]

A. Limitation. Any accessory building or use shall be limited such that it is compatible with, and incidental to, the principal building or use permitted on the lot. Such accessory structures or use shall not be established prior to establishment of the principal building or use. Only one private garage or carport is allowed per residential lot. In addition, only one accessory shed is allowed per residential lot, with a maximum area of 200 square feet and no dimension greater than 16 feet. Maximum height shall not exceed 10 feet.

B. Special permit. When a principal building or use requires a special permit, as set forth in §§ 410-27 and 410-32, any accessory use to such principal building or use shall also require a special permit. (See Article VIII.)

C. Keeping of animals. An accessory use in any district shall not include the sheltering, keeping or maintaining of hogs, goats, sheep, horses, ponies, mules, donkeys, cattle, chickens, rabbits or any animal not commonly considered a domestic pet, except that up to four chickens or rabbits may be kept and maintained in a manner that does not create odors or noise disturbing to occupants of adjacent properties.

D. Standards. Except as may be otherwise regulated elsewhere in this chapter, an accessory building hereafter erected, enlarged or moved on a lot shall comply with the following standards:

(1) Detached building. For purposes of providing fire separation a detached garage or other accessory building shall:

(a) Be at least five feet from the nearest principal building. If less than five feet, the proposed structure shall meet the standards of the New York Uniform Fire Prevention and Building Code.

(b) Be not more than 16 feet in height if detached from a one-story building and not more than 20 feet in height if detached from a two-story building.

(c) Be located not less than five feet from any rear lot line or any interior side lot line.

(d) Cover a ground area no larger than that covered by the principal building, or 676 square feet, whichever is less. Ground cover does not include appurtenances such as patio covers that are not used for vehicle storage and do not contain two or more walls.

(e) If the lot size is greater than 15,000 square feet, a garage with a maximum square footage of 1,008 square feet may be built.

(f) In the event a garage is destroyed by fire or demolished due to structural instability and a replacement garage is constructed in the exact same location and the exact same size, no area variances are required if the following conditions can be met:

[1] A minimum setback of one foot can be provided.

[2] There are no existing encroachments onto neighboring lots.

(2) Attached building. Garages or other accessory buildings attached to a principal building shall:

(a) Be no higher than the principal building.

(b) Comply with the yard requirements which would be applicable to any principal building on the lot.

(c) Cover a ground area no larger than that covered by the principal building, or 676 square feet, whichever is less. Ground cover does not include appurtenances such as patio covers that are not used for vehicle storage and do not contain two or more walls.

(d) If the lot size is greater than 15,000 square feet, a garage with a maximum square footage of 1,008 square feet may be built.

(e) In the event a garage is destroyed by fire or demolished due to structural instability and a replacement garage is constructed in the exact same location and the exact same size, no area variances are required if the following conditions can be met

[1] A minimum setback of one foot can be provided.

[2] There are no existing encroachments onto neighboring lots.

§ 410-20. Preexisting conditions.

Nothing in this chapter or any amendment thereto shall be construed as changing the plans or use of present buildings, or the construction, use or occupation of any building for which a building permit has heretofore been issued. All plans heretofore filed and approved, ratified, and confirmed and the rights to construction thereunder are hereby vested in the holders thereof.

ARTICLE V, Special Purpose Regulations

§ 410-21. Intent.

The intent of this Article V is to protect public health, safety and general welfare in the City of Binghamton by:

A. Restricting development in areas that are periodically subject to the damaging impact of flooding and high water;

B. Establishing a series of standards, measurements and thresholds designed to regulate the performance and operation of land use activities within the City and to minimize potentially negative environmental impacts of such activities;

§ 410-22. Applicability.

Standards and procedures set forth in this Article V shall apply to all affected land use activities, as applicable, in all zoning districts in the City of Binghamton. No land use activity regulated by the provisions of the article shall be construed to be permitted, and no building and use permit issued, until there is compliance with the specific provisions as set forth herein.

§ 410-23. Floodplain management.

A floodplain development permit shall be obtained from the Planning Commission before the start of construction or any other development within the area of special flood hazard as set forth in Chapter 240, Flood Damage Prevention.

§ 410-24. Performance standards. [Amended 7-20-09 by Ord. No. 23-2009; Amended 12-19-11 by LL. No. 005; Amended 8-7-2013 by Ord. No 13-49]

A. Purpose. The purpose of these performance standards is to regulate the potentially objectionable aspects of land uses or activities in the City of Binghamton by the application of specific standards

whenever possible. The objectives of these standards are consistent with the promotion of public health, safety and general welfare and include:

(1) To reduce to a minimum dissemination of smoke, gas, dust, odor or any other atmospheric pollutant outside the building in which the use or activity is conducted.
(2) To control noise perceptible beyond the boundaries of the immediate site of the use or activity.
(3) To prevent the discharge of any waste material into any watercourse.
(4) To prevent the dissemination of vibration or heat or electromagnetic interference beyond the immediate site of the use or activity.
(5) To eliminate physical hazard by reason of fire, explosion, radiation, or any similar cause, to property in the same or an adjacent district.

B. Noise control.

(1) All land uses shall comply with the noise standards established in Chapter 292, Noise. Maximum permissible continuous sound levels are listed in the following table:
(2) In addition, no person shall make, cause, allow, or permit the operation of any impulsive source of sound within any and all property in the City which has a peak sound pressure level in excess of 80 dBA. If an impulsive sound is the result of the normal operation of an industrial or commercial facility and occurs more frequently in any hour, the levels set forth in Table 1 shall apply.

Table 1
Maximum Permissible Continuous Sound Levels by Receiving Property Category
(DBA)

Sound Source Project Category	**Another Dwelling within a Multi-Dwelling-Unit Building**		**Residential**		**Commercial or Public Service Community Facility**	**Industrial or Public Service Community Facility**	**City Park**
	7:00 am – 10:00pm	**10:00pm – 7:00am**	**7:00 am – 10:00pm**	**10:00pm – 7:00am**	**All times**	**All times**	**8:00am – 9:00pm**
Any location within a multi-dwelling unit building	50	45	55	50	65	70	65
Residential (or public spaces or rights-of-way	55	50	55	50	65	70	65
Commercial, public service, or community service facility	55	50	55	50	65	70	65
Industrial or public service *industrial*	55	50	55	50	65	70	65

C. Vibration. No vibrations are permitted which are discernible to the human sense of feeling without instruments at any point along the property lines of the subject premises. The standard shall not apply to vibrations created during temporary construction work or from transportation facilities. In the event of a complaint, the Supervisor of the Office of Building and Construction shall measure the vibration using an appropriate measuring system.

(1) Maximum permitted steady state and impact vibration displacement (in inches):

Frequency (cycles per second)	**Vibration Displacement (inches)**	
	Steady State	Impact
Under 10	0.0005	0.0010
10 to 19	0.0004	0.0008
20 to 29	0.0003	0.0006
30 to 39	0.0002	0.0004
40 and over	0.0001	0.0002

(2) No activity shall cause or create a steady state or impact vibration on a lot line with a vibration displacement by frequency bands in excess of that indicated in the table above.

D. Fire and explosive hazards. All activities involving and all storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of Chapter 235, Fire Prevention, of the Code of the City of Binghamton, as well as state and local laws and regulations, shall also apply.

E. Fly ash, dust, fumes, and other forms of air pollution. Uses shall be so operated as to control the emission of particulate matter to the degree that it is not detrimental to or shall endanger human health, animals, vegetation, or property. All such regulations shall also comply with applicable federal and state regulations.

F. Smoke. Uses shall be so operated as to control the emission of smoke to the degree that it is not detrimental to or shall endanger human health, animals, vegetation, or property. All such activities shall also comply with applicable federal and state regulations. For purposes of grading the density of smoke, the Ringelmann Chart published and used by the United States Bureau of Mines shall be employed. Any emission of smoke shall not be of a density equal to or greater than number two on the Ringelmann Chart. In cases of smoke other than black in color, an approved density scale equivalent to the Ringelmann Chart shall be used.

G. Radiation. No operation, whether or not licensed by the United States Department of Energy, shall be conducted so as to exceed the standards established by said Commission for protection against radiation or which violates any regulation of any other administrative body charged with the responsibility of controlling radiation.

H. Electromagnetic radiation and interference. No activity, operation or use shall cause electromagnetic radiation interference that:
   (1) Adversely affects persons or the operation of any equipment across property lines; and
   (2) Is not in conformance with the regulations of the Federal Communications Commission.

I. Humidity and heat. Any activity producing humidity, in the form of steam or moist air, or producing heat, shall be carried on in such a manner that the steam, humidity, or heat is not perceptible at any lot line.

J. Outdoor lighting.

   (1) Purpose. The purpose of these standards is to require and set minimum standards for outdoor lighting which:
      (a) Provide for and control lighting in outdoor public places where public health, safety, and welfare are potential concerns.
      (b) Protect drivers and pedestrians from the glare of nonvehicular light sources.
      (c) Protect neighbors and the night sky from nuisance glare and light trespass from improperly selected or poorly placed, aimed, applied, maintained or shielded light sources.
      (d) Promote energy-efficient lighting design and operation.
      (e) Protect and retain the intended visual character of the various City of Binghamton venues.
   (2) Applicability.
      (a) All uses within the City of Binghamton where there is outdoor lighting, including, but not limited to, residential, multifamily residential, commercial, industrial, public and private recreational/sports, institutional uses, and sign, billboard, architectural and landscape lighting, shall be subject to these regulations.
      (b) Temporary seasonal decorative lighting and emergency lighting are exempt from all but the glare-control requirements of this chapter.
      (c) Emergency lighting, as may be required by any public agency while engaged in the performance of its duties, is exempt.
   (3) Criteria.
      (a) Illumination levels. Lighting, where required by this chapter, or otherwise required or allowed by the Supervisor of the Office of Building and Construction, shall have intensities, uniformities and glare control in

accordance with the recommended practices of the Illuminating Engineering Society of North America (IESNA).

(b) Lighting fixture design.

[1] Fixtures shall be of a type and design appropriate to the lighting application.

[2] For the lighting of predominantly horizontal surfaces such as, but not limited to, parking areas, roadways, vehicular and pedestrian passage areas, merchandising and storage areas, automotive-fuel dispensing facilities, automotive sales areas, loading docks, culs-de-sac, active and passive recreational areas, building entrances, sidewalks, bicycle and pedestrian paths, and site entrances, fixtures shall be aimed straight down and shall meet IESNA full-cutoff criteria. Fixtures with an aggregate rated lamp lumen output per fixture that does not exceed the rated output of a standard sixty-watt incandescent lamp, i.e., 1,000 lumens, are exempt from the requirements of this subsection.

[3] For lighting of predominantly non-horizontal surfaces such as, but not limited to, facades, landscaping, signs, billboards, fountains, displays, and statuary, fixtures shall be fully shielded and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway. Fixtures with an aggregate rated lamp lumen output per fixture that does not exceed the rated output of a standard sixty-watt incandescent lamp, i.e., 1,000 lumens, are exempt from the requirement of this subsection.

[4] "Barn lights," also known as "dusk-to-dawn lights," where visible from other properties, shall not be permitted unless fully shielded.

(c) Control of nuisance and disabling glare.

[1] All lighting shall be aimed, located, designed, fitted, and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.

[2] Floodlights and spotlights shall be so shielded, installed and aimed that they do not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway or pedestrian way.

[3] Parking facility and vehicular and pedestrian way lighting (except for safety and security applications and all-night business operations) for commercial, industrial and institutional uses shall be automatically extinguished no later than one hour after the close of business or facility operation. When safety or security lighting is proposed for after-hours illumination, it shall not be in excess of 33% of the number of fixtures required or permitted for illumination during regular business hours.

[4] Illumination for signs, billboards, building facades and/or surrounding landscapes for decorative, advertising or aesthetic purposes is prohibited between 11:00 p.m. and dawn, except that such lighting situated on the premises for a commercial establishment may remain illuminated while the establishment is actually open for business, and until one hour after closing.

[5] Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.

[6] The illumination projected from any use onto a residential property shall at no time exceed 0.5 footcandle, measured line-of-sight from any point on the receiving residential zoning district.

[7] The illumination projected from any property to a nonresidential property district shall at no time exceed 1.0 footcandle, measured line-of-sight from any point on the receiving property.

[8] Externally illuminated billboards and signs shall be lighted by fixtures mounted at the top of the billboard or sign and aimed downward. The fixtures shall be designed, fitted and aimed to place the light output onto and not beyond the sign or billboard.

[9] Except for certain recreational lighting, fixtures meeting IESNA full-cutoff criteria shall not be mounted in excess of 20 feet above finished grade. Fixtures not meeting IESNA full-cutoff criteria shall not be mounted in excess of 16 feet above finished grade.

[10] The United States and the state flag shall be permitted to be illuminated from dusk until dawn. All other flags shall not be illuminated past 11:00 p.m. Flag lighting sources shall not exceed 10,000 lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag.

[11] Under-canopy lighting, for such applications as gas/service stations, hotel/theater marquees, or fast-food/bank/drugstore drive-ups, shall be accomplished using flat-lens full-cutoff fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixture shall be below the light source at all lateral angles. The average illumination intensity in the area directly below the canopy shall not exceed 20 maintained footcandles, and the maximum intensity shall not exceed 40 maintained footcandles.

(d) Installation.

[1] Electrical feeds for lighting standards shall be run underground, not overhead.

[2] Poles supporting lighting fixtures for the illumination of parking areas and located directly behind parking spaces, or where they could be hit by snow plows, shall be placed a minimum of five feet outside paved area or tire stops, or placed on concrete pedestals at least 30 inches high above the pavement, or suitably protected by other means approved by the Supervisor of the Office of Building and Construction or the Planning Department.

[3] Pole-mounted fixtures for lighting horizontal tasks shall be aimed straight down.

(e) Maintenance. Lighting fixtures and ancillary equipment shall be maintained so as to always meet the requirements of this chapter.

(4) Plan submission. Lighting plans, when requested by the Supervisor of the Office of Building and Construction or the Planning Department, shall be submitted for building permits, variances, Series A Site Plan exception review, special use permits, and Series A plan review applications for review and approval.

(5) Compliance monitoring.

(a) Safety hazards.

[1] If the Supervisor of the Office of Building and Construction or any relevant City department judges that a lighting installation creates a safety hazard, the person(s) responsible for the lighting shall be notified and required to take remedial action.

[2] If appropriate corrective action has not been effected within 15 days of notification, the City of Binghamton may take appropriate legal action.

(b) Nuisance glare and inadequate illumination levels. When the Supervisor of the Office of Building and Construction or any relevant City department judges that an installation produces unacceptable levels of nuisance glare, skyward light, excessive or insufficient illumination levels or otherwise varies from this chapter, the City of Binghamton may cause notification of the person(s) responsible for the lighting and require appropriate remedial action

(6) Nonconforming lighting. Any lighting fixture or lighting installation existing on the effective date of this chapter that does not conform with the requirements of this chapter shall be considered as a lawful nonconformance. A nonconforming lighting fixture or lighting installation shall be made to conform with the requirements of this chapter when:

(a) Minor corrective action, such as reaiming or shielding, can achieve conformity with the applicable requirements of this chapter.

(b) It is deemed by the City of Binghamton to create a safety hazard.

(c) It is replaced by another fixture or fixtures, abandoned, or relocated.

(d) There is a change in use.

K. Odor. No land use or establishment shall be permitted to emit odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the lot from which they are emitted, either at ground level or habitable elevation. Any process involving creation or emission of any odors shall be provided with a secondary safeguard system, so control will be maintained if primary safeguard systems should fail.

L. Storage of unregistered and/or unlicensed vehicles. See Chapter 265, Housing and Property Maintenance, of the Code of the City of Binghamton, §§ 265-1 and 265-13H(1)(f).

M. Urban Village Overlay District in addition to the other requirements in this Chapter, shall include the following design guidelines.

(1) Public Right-of-way "Complete Streets"

(a) Guiding Principles: The public right-of-way is the term used to describe the publicly owned area between property lines. It can include a variety of elements, such as lanes for vehicle travel, parking, bicycling, walking areas, street furniture, bus stops, utility poles, planting strips, with landscaping and trees, and signs. Streets must balance the needs of pedestrians, bicycles, transit and the automobile in creating an attractive and viable neighborhood. Streets are for people first, commercial activity second, parking third, and through-traffic fourth. They should be "Complete Streets" which respect the pedestrian, bicycle, transit, automobile hierarchy. Urban Streets are the stages on which the public life of the community is acted out. Streets are the most important and pervasive public space and common ground, when it comes to making the Urban Village Overlay District a destination. Likewise, visible caring and upkeep are critical to the vitality of urban street life.

(b) Recommendations:

Sidewalks: The most profound way to change our streets is to change the balance between people and cars by seeking the widest possible sidewalks and calming traffic.

Crosswalks: Crosswalks should favor pedestrian movement at all major intersections.

Bike Lanes: Where bike lanes are desired, it should be at the expense of a care lane or a parking strip rather than at the expense of sidewalk width. Ideally, most streets in the Urban Village Overlay District should be "calm" enough to allow bike traffic in car lanes rather than in a separate bike lane.

Lighting: Lighting exists at two levels — street lighting and sidewalk lighting. Street lighting provides a base level of illumination. Sidewalk lighting provides lighting for pedestrians. Both should meet dark sky guidelines and define the street space. Sidewalk lighting should define the pedestrian space and be of pedestrian scale.

Street Trees: Trees should be consistently used to define the street space, provide shade in the summer, and create great environments for sidewalk cafes. The Binghamton Shade Tree Commission should be consulted for all street tree plantings.

Transit Stops: Transit stops should be provided with amenities, public services and proper signage to increase the use of public transportation.

(2) Parking

(a) General

[1] Where uses have different peak parking demands, shared parking agreements should be facilitated.

[2] Enclosed parking is encouraged. Parking lots are discouraged, but may be permitted when they adhere to design guidelines.

(b) Off-Street Parking

[1] Parking areas should not front on pedestrian oriented streets

[2] Parking should be located at the rear of the principal building with access from a driveway or shared alley, if possible

[3] For parcels located on the corner, parking shall be located to the rear of the structure

[4] Parking otherwise visible from the street should be screened with a wall or screening compatible with the building design and in accordance with §410-55 below. The City of Binghamton Planning Commission shall determine the effectiveness of the screening measures and their compatibility with the building

(3) Retaining Existing Buildings

(a) Background: The Greenest building is the one already built, according to Carl Elefante, FAIA. The reuse of existing buildings is inherently sustainable. Preservation maximizes the use of existing materials and infrastructure, reduces waste, and preserves the historic character of older towns and cities. The energy embedded in an existing building can be 30% of the embedded energy of maintenance and operations for the entire life of the building. Sustainability begins with preservation. Historic buildings were traditionally designed with many sustainable features that responded to climate and site. When effectively restored and reused, these features can bring about substantial energy savings. Taking into account historic buildings' original climatic adaptations, today's sustainable technology can supplement inherent sustainable features without compromising unique historic character

(b) Guiding Principles: The Urban Village Overlay District is intended to be a destination that attracts the community, visitors, workers and residents with these characteristics: unique, healthy, environmentally friendly and memorable. Retaining existing buildings supports each of these characteristics. Older buildings, properly maintained, enhance the uniqueness of the built environment and pedestrian scale; attract unique uses with architectural detail and small bay sizes; and conserve energy and natural resources (the greenest building is the one already built). Additionally, many people choose to visit and live in places that recognize the importance of saving the places that document our history and heritage with physical structures.

(c) Objectives

[1] Recognize existing contributing (character/cultural heritage) buildings as an economic development asset in the Urban Village Overlay District.

[2] Develop means to revitalize and retain existing contributing (character/cultural heritage) buildings in the Urban Village Overlay District.

[3] Use adaptive reuse of existing buildings to further neighborhood goals: create vibrant, attractive housing options, and celebrate the Westside experience.

(4) Residential Structures

(a) Guiding Principles: The character and quality of the Urban Village Overlay District is very dependent on internal flow and street patterns. This is necessary to create a neighborhood which encourages pedestrian circulation, reduces auto dependency and fosters interaction among neighbors. This approach to neighborhood creation will also foster the unity of the Urban Village Overlay District with a larger integrated community of the Westside Neighborhood

(b) Residential Walls and Façades: The design, form and materials of walls and facades play an important role in determining a building's overall character. A major goal of the Urban Village Overlay District is to provide a clear and appropriate visual aesthetic for the area. The use of traditionally appropriate façade treatments and designs is a vital aspect of achieving this aesthetic.

[1] Large surface expanses on walls should be articulated with varied reveal patterns (control joints), material/texture/color changes, architectural detailing, changes in plane/direction of siding materials, or other means. These measures create distinct shadow patterns resulting in the increased perception of depth and variety

[2] Materials that are inherently low maintenance and give a feeling of permanence such as brick, stone, concrete and concrete block are encouraged along the ground plane at pedestrian levels

[3] Exterior walls and facades should include a combination windows, trellises, arcades, canopies, roof overhangs, awnings, recessed or projected stories, balconies, reveals, wainscots, varied materials and/or other architectural elements. This articulation contributes to a building's character, provides visual diversity, enhances pedestrian scale and can aid in climate control

[4] Replacement windows should match existing openings, window styles and materials. If it is necessary to change window materials, traditionally appropriate materials should be used

[5] Windows should be recessed from the surrounding exterior wall and finished with architecturally appropriate trim and sill details.

[6] Building facades should have a balance of solid and transparent surfaces.

[7] Wood and composite siding painted in historically appropriate colors is encouraged.

[8] "Plinth" blocks at building bases and corners in poured concrete, cut stone, or masonry are encouraged.

[9] Corrugated fiberglass or metal ("tin") panels are not allowed.

[10] Plywood, hardboard or dimensional lumber is discouraged, especially on the front façade.

(c) Residential Accent Materials: Accents and architectural details are features on buildings that provide added visual interest, emphasis, variety and quality in appearance.

[1] Brick masonry, high quality man-made stone and natural stone in medium to light earth toned colors may be appropriate for the first-floor of the building

[2] The use of decorative columns, porch rails and spindles, decorative brackets, and other architectural ornamentation appropriate for the architectural style of the building is encouraged.

(d) Residential Refuse and Trash Enclosures

[1] Locate refuse container enclosures in rear and/or interior side yards to minimize their visibility from adjacent uses, streets and upper story uses.

[2] Refuse collection areas and enclosures should be six feet in height, should be architecturally compatible with the overall design theme of adjacent buildings using similar durable and non-combustible materials, textures, colors and form.

[3] The use of lattice or other roof structures should be incorporated into refuse enclosures design where possible.

(e) Residential Structure Orientation

[1] Residential buildings should have pedestrian access and visual orientation to the adjacent roadways. Front entrances shall face the street.

[2] Residential buildings should be oriented on the site to create interesting and safe common open space areas that promote neighborly interaction.

[3] Special building configurations should be considered for corner lots because they have street frontage on two sides. It is important to address both of the streets on which the building abuts. Orientation of the primary façade should take into account the location of entries on adjacent lots and lots across the street, as well as adjacencies to parks and other open spaces or urban design features. The driveway may access either, but orientation to the minor street is preferred.

[4] Porches. The purpose of providing a porch is to create a buffer and human scale layer between the sidewalk and the house. It is also to provide a social edge to the private dwelling in which people can choose to "see and be seen" along the neighborhood streets. It is recommended that the porch is raised 8"---12" or at least one step above adjacent grade. The porch can be integrated with second floor elements to provide balconies and decks. The front door must be clearly visible from the street.

(f) Residential Circulation and Parking

[1] Surface parking lots should be located away from the adjacent roadways and to the rear of the buildings. Parking is not allowed between the building and the street.

[2] All parking shall be in accordance with the City of Binghamton Zoning Code.

[3] In order to help reduce storm water run-off, the use of permeable surface materials as approved by the City of Binghamton Engineering Department is encouraged

(g) Residential Landscaping

[1] Front yards should consist of grass and include shrubs, low-plantings, and/or trees. Front yards should not be paved, except for areas required for driveways.

[2] Utility strips are located between the street curb and sidewalk within the public roadway right-of-way. These areas should be planted with grass. The planting of street trees is strongly encouraged.

[3] Tree species within utility strip should be installed per the recommendations of the City of Binghamton Shade Tree Commission

[4] Tree placement should be coordinated with streetlights, utilities, and entry drives.

[5] Trees should be located as to preserve sight lines at intersections and near signage

[6] Water-conserving plant materials should be used where practical.

[7] Clear sight lines should be maintained at entry drives and intersections per City standards

[8] Decorative rocks, cobble, crushed rock, permanent wood chips or gravel are not to be in lieu of ground cover material; however they may be used as accent material to stabilize drainage swales and channels

(h) Residential Fencing

[1] Front Yard (includes side yard areas 10 feet behind front façade)

[a] Front yard fencing is discouraged. Front yard fences and side yard fences within the front yard setback should not exceed a height of three (3) feet

[b] Fences should be mainly constructed of stained wood, masonry and/or metal, other fencing materials must be consistent with the materials and architecture of the home.

[c] Chain link fencing is discouraged

[2] Rear/Side Yard

[d] If residential side and rear yard fences are used, they should not exceed 6 feet in height.

[e] Fences should be mainly constructed of stained wood, masonry and/or metal, other fencing materials must be consistent with the materials and architecture of the homes.

(i) Residential Lighting: The lighting within the Urban Village Overlay District will have a major impact on the overall aesthetics and safety of the community. The lighting standards are intended to ensure a consistent level of light throughout the neighborhood without crating a monotonous effect. Each light standard and lamp type should be selected within the context of the entire community design objectives and with specific regard to the functional demands for its location. These lighting standards will provide a hierarchy of lighting effects which contribute to the overall cohesiveness of the community image. When used together with the other development guidelines, these standards will unify the project area.

[1] Light sources with a white color within the color temperature range of 2,700 – 4,500 degrees Kelvin are encouraged. Golden, yellow, blue, or reddish light sources should not be used. Blinking lights are not permitted.

[2] Light standards should be attractive to look at during daylight hours.

[3] Light sources should be located and directed to minimize glare to adjacent uses. Indirect wall lighting or "wall washing" is strongly encouraged rather than spot lighting from great distances.

[4] Building lighting should be carefully integrated into the building or concealed in the landscape as to hide the source at night and obscure the fixture in daylight

[5] Light fixtures should not project above the façade or roofline of the building

[6] Energy saving devices such as solar sensors and timers should be utilized. The use of energy efficient bulbs is encouraged

[7] These guidelines do not apply to seasonal decorative lighting and emergency lighting, except that such lighting should not result in a disabling glare as set forth in §410-24(J) of the Zoning Code.

[8] All exterior lighting must in all other respects conform to §410-24(J) of the Zoning Code

(5) Non-Residential Structures

(a) Guiding Principles: To establish an effective and vibrant Urban Village Overlay District, it is necessary allow for a mixed-used neighborhood which balances residential and commercial use. These design guidelines will help integrate non-residential use structures into the area while still allowing for the creation of a mixed-used neighborhood.

(b) Non-residential Walls and Facades: The design, form and materials of walls and facades play an important role in determining a building's overall character. A major goal of this guideline is to provide a balance between the residential character of the neighborhood and the desire for and requirements of commercial development.

[1] Large surface areas on exterior walls should be articulated to create distinct shadow patterns, depth, and variety. Wall surfaces should not exceed 250 square feet or have continuous runs greater than 50 linear feet without some form of articulation. At a minimum, wall surfaces should have clearly defined vertical divisions at approximately 15 to 30 foot intervals

[2] Materials that are inherently low maintenance and give a feeling of permanence such as brick, stone, poured concrete and decorative concrete block are encouraged along the ground plane and at pedestrian levels.

[3] Exterior walls and facades, especially at ground level, should include windows, trellises, arcades, canopies, roof overhangs, awnings, recessed or projected stories, balconies, reveals, wainscots, varied materials and other architectural elements. This articulation contributes to a building's character, provides visual diversity, enhances pedestrian scale and can aid in climate control. "Blank" walls are discouraged

[4] Any articulation and/or detailing of exterior walls at ground level should be integrated with landscape features (trees, plants, walls, trellises and unique land forms) to ensure appropriate transition from ground to wall plane.

[5] Any redesign of existing structures for non-residential uses should take into consideration any existing architectural elements or designs of the building in the new plans

[6] For new construction, the minimum height of a ground floor commercial space should be fifteen (15) feet measured from finished grade to the ceiling plate.

(c) Non-Residential Structure Openings: Building openings refers to windows, doors, skylights, storefronts, and other interruptions/penetrations in a building façade. The character and quality of a building is highly influenced by the size, scale proportion, edge detail, material and color of these elements.

[1] Fabric awnings are encouraged on storefronts and windows. Awnings' shapes and colors must complement the overall building

[2] Windows and/or doors located above the first level should be stacked over those on the first level

[3] Ground floor window openings for new construction of non-residential structures should be a minimum of 50-80% of the ground floor façade area. Second level and above windows should not exceed 50% of the total exterior wall surface.

[4] Ground floor windows openings for formerly residential structures converted to non-residential use should maintain the size, shape, and location of existing window openings.

[5] Windows should be recessed from the surrounding exterior wall and finished with architecturally appropriate trim and sill details.

(d) Non-Residential Utilities and Services

[1] For new construction of non-residential use structures, the burying of utilities lines is strongly encouraged whenever possible

[2] Locate refuse and recycling container enclosures in rear or interior side yards or parking lot landscape areas to minimize their visibility from adjacent uses, streets and upper story uses

[3] Refuse and recycling collection areas and enclosures should be six feet in height, shall be architecturally compatible with the overall design theme of adjacent buildings, using similar durable and non-combustible materials, textures, colors, and form

[4] The use of trellis or other substantial roof structures should be incorporated into refuse and recycling enclosure's design where possible.

[5] Refuse recycling collection areas and enclosures should be located for the convenience of users and refuse collection agencies while maintaining concealment from public right-of-way.

(e) Non-Residential Energy Conservation

[1] Building and related structures are encouraged to provide ample shade and air circulation for pedestrian users in the hot summer months, as well as thermal mass walls for natural heating in the cool winder months. This can most easily be accomplished by planting shade trees in the utility strip and on the south and west sides of the structure.

[2] All buildings are encouraged to incorporate energy-efficient technologies, e.g., photo voltaic solar energy collection panels, and construction systems and technologies to provide the highest possible energy efficient buildings

[3] The use of energy efficient light-bulbs is encouraged

(f) Non-Residential Structure Orientation: A key ingredient for creating a pedestrian-oriented development in the guidelines is the creation of distinctive buildings within the core commercial/retail parcels. These buildings provide opportunities for retail, office, and other facilities to co-exist in close proximity allowing residents to accomplish daily routines as a pedestrian rather than a motorist.

[1] Non-residential buildings should have pedestrian access and visual orientation to the adjacent roadways and/or open-space features

[2] Parking should be to the rear of the site with primary entrances oriented to public roadway. A secondary entrance off the rear parking lot is encouraged. This rear entrance is often an ideal location for an ADA accessible entrance.

[3] Special building configurations should be considered for corner lots because they have street frontage on two sides. It is important to address both the streets on which the building abuts. Orientation of the primary façade should take into account the location of entries on adjacent lots and lots across the street, as well as adjacencies may access either street, but orientation to the minor street is preferred.

[4] Commercial buildings should be oriented to maximize pedestrian linkages to adjacent transit stops.

(g) Non-residential Circulation and Parking

[1] Surface parking lots should be located away from the adjacent roadways and to the rear of the buildings

[2] All parking shall be in accordance with the City of Binghamton Zoning Code

[3] In order to help reduce storm water run-off, the use of permeable surface materials as approved by the City of Binghamton Engineering Department is encouraged.

(h) Non-Residential Street Tree Planting

[1] The intent is to create a heavy "canopy" over the sidewalk and to provide a visual buffer between residential and non-residential uses. Yard trees should

be located a minimum of 4'0" and a maximum 6'0" from the sidewalk; in utility strips, trees should be located in the middle of the strip between the street curb and the sidewalk

[2] Utility strips are located between the street curb and sidewalk within the public roadway right-of-way. These areas should be planted with grass. The planting of street trees is strongly encouraged

[3] Tree species within utility strips should be installed per the recommendation of the City of Binghamton Shade Tree Commission

[4] Tree placement should be coordinated with streetlights, utilities, and entry drives.

[5] Trees should be located as to preserve sight lines at intersections and near signage.

(i) Non-Residential Lighting: The lighting within the guidelines will have a major impact on the overall aesthetics and safety of the community. The lighting standards are intended to ensure a consistent level of light throughout the project area without creating a monotonous effect. Each light standard and lamp type should be selected within the context of the entire community design objectives and with specific regard to the functional demands for its location. These lighting standards will provide a hierarchy of lighting effects which contribute to the overall cohesiveness of the community image. When used together with the other development guidelines, these standards will unify the project area.

[1] Light sources with a white color within the color temperature range of 2,700-4,500 degrees Kelvin are encouraged. Golden, yellow, blue, or reddish light sources should not be used. Blinking lights are not permitted.

[2] Light standards should be attractive to look at during daylight hours.

[3] Light sources should be located and directed to minimize glare to adjacent uses and adjacent roadways.

[4] Shoebox style light fixtures are prohibited.

[5] Light standards should be located in planters on grade where possible. Large concrete footings that exceed 12 inches above grade are discouraged.

[6] Energy saving devices such as solar sensors and timers are strongly encouraged. The use of energy efficient bulbs is encouraged.

[7] Light fixtures should not project above the façade or roofline of the building

[8] These guidelines do not apply to seasonal decorative lighting and emergency lighting, except that such lighting should not result in a disabling glare as set forth in §410-24(J) of the Zoning Code.

[9] All exterior lighting must in all other respects conform to §410-24(J) of the Zoning Code.

(6) General Provisions. These Guidelines shall not supersede any other applicable City of Binghamton Codes, Ordinances, or General Laws. All projects located within the Urban Village shall comply with any other applicable City of Binghamton Codes, Ordinances, or General Laws.

N. Evidence of conformity. With respect to any application for a building permit, special use permit or variance and before a certificate of occupancy can be issued for any use, the Supervisor of the Office of Building and Construction may require the applicant, at his or her own expense, to provide such evidence as he or she may deem necessary to determine whether or not the proposed use will conform to the performance standards set forth above and, in connection therewith, the Supervisor of the Office of Building and Construction may obtain expert advice at the expense of the applicant, and payment in advance of the amount of such expense shall be a condition of further consideration of the application. Where appropriate, the Supervisor of the Office of Building and Construction

may require the installation, maintenance and operation by the applicant, at applicant's expense, of continuous recording instruments to demonstrate the operation or effect of operations of any machines, or devices used to control or lessen noise, vibration, glare, air pollution, water pollution, fire hazards or safety hazards.

O. Zoning Board of Appeals action. Upon receipt of the Supervisor of the Office of Building and Construction's report on a violation of performance standards, the Zoning Board of Appeals shall hold a public hearing to consider the matter in accordance with § 410-94. Upon a finding of the Zoning Board of Appeals that a violation exists or that corrective action is necessary to prevent the recurrence of a violation, the operator of the violating facility shall be ordered to cease and desist; and all permits, zoning clearances of any other approvals for the operation shall be voided and terminated until such time as the corrective action is taken and such action approved by the Zoning Board of Appeals.

P. Tobacco Sales Near Schools Prohibited. The sale of tobacco and tobacco products (including but not limited to: cigarettes, cigars, pipe tobacco, chewing tobacco, and electronic cigarettes) is prohibited within 500 feet of any property boundary of any public or private elementary or secondary school. The provisions of this section shall not preclude the occupancy, maintenance, and occupancy of any tobacco retailer that existed lawfully prior to the effective date of this Section. Such uses shall be subject to a nonconforming use regulations in Article XII.

ARTICLE VI, Residential Districts

§ 410-25. Intent. [Amended 8-7-2013 by Ord. No 13-49]

The intent of this Article VI is to identify the types of land uses which are permitted in the three residential zoning districts in the City of Binghamton. A list has been created which specifies the zoning district(s) in which each land use is allowed. Certain uses are permitted by right, while others require a special use permit from the Planning Commission. All uses are subject to the Article IX Site Plan Review and Approval. Bulk and density regulations for each zoning district are also established.

§ 410-26. General provisions. [Amended 8-7-2013 by Ord. No 13-49]

A. Schedule of regulations. Regulations relating to land uses in residential districts are set forth in Schedule I (§ 410-27). Regulations relating to lot size, setbacks, and similar bulk requirements are set forth in Schedule IA (§ 410-28). Regulations relating to off-street parking requirements are set forth in Schedule III (§ 410-53). Said schedules are hereby adopted and, with all explanatory matter thereon, are hereby made part of this chapter and included herewith.

B. Excluded uses or activities. A land use which is not set forth in Schedule I (§ 410-27) is not permitted in residential districts in the City of Binghamton. Notwithstanding the above, unlisted uses which are interpreted by the Zoning Board of Appeals to be similar to those which are listed by district in Schedule I (§ 410-27) may be processed in accordance with the appropriate provisions of this chapter. (See Article XIV.)

C. Site plan approval. When Schedule I (§ 410-27) specifies that a special use permit/Series A site plan review is required for a land use in a residential district, a building permit shall not be issued for such land use until a site plan has been approved in accordance with the provisions of Articles VI and IX of this chapter.

D. Any dwelling unit within any residential district must meet the definition of a family or the equivalent of a family (See definitions in § 410-5.)

§ 410-27. Schedule I: Land Uses in Residential Zoning Districts. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]
The following uses are permitted in residential zoning districts:

A. R-1 Residential Single-Unit Dwelling District.
   (1) Permitted by right, subject to Article IX
      (a) Principal uses:
         Adult residential care facility – four or fewer beds, subject to 410.29B
         Community residential facility –family care residences, subject to 410.29F
         Community residential facility--family care
         Community residence facility for the disabled
         Convent
         Dwelling, modular
         Essential services (public facilities)
         Foster care home
         Garden, community or neighborhood, subject to 410.29L
         Parish house, subject to 410.29R
         Public parks, playgrounds, playfields, golf courses, swimming pools, and tennis courts
         One-unit dwelling
      (b) Accessory uses:
         Accessory buildings
         Accessory dwelling, subject to 410.29A
         Alternative domestic energy supply installation, subject to 410.29C
         Amateur radio installations, subject to 410.29D
         Antenna and satellite dish
         Day care, family
         Electric Vehicle Charging Station, subject to 410.29W
         Garage sales, subject to 410.29W
         Garden, noncommercial
         Garden pond
         Hospice
         Kennel, residential private
         Minor home occupations, subject to 410.29O
         Private swimming pools and tennis courts
         Respite care (private residence)
         Storage of recreational vehicles, subject to 410.29X
         Storage of residential vehicles
         Temporary structures, subject to 410.29U
   (2) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan).
      (a) Principal uses
         Conversion or Construction of a Dwelling Unit resulting in or containing more than Four Bedrooms, subject to 410.29G
         Construction of a Structure with Dwelling Units with more than Four Bedrooms
         Dwelling, manufactured home, subject to 410-41A(10)
         Place of worship, subject to 410-41A(16)
         Private school: primary and secondary
         Public buildings, including elementary and secondary schools
         Townhouses with two units, subject to 410-41A(25)
   (3) Permitted with Planning Commission approval (special use permit and Series A site plan).

(a) Principal uses:

Conversion of Dwelling Unit to More than Four Bedrooms
Construction of a Structure with Dwelling Units with more than Four Bedrooms
Dwelling, manufactured home
Place of worship
Private school; primary and secondary
Public buildings, including elementary and secondary schools
Townhouses with two units

B. R-2 Residential One- and Two-Unit Dwelling District.

(1) Permitted by right, subject to Article IX.

(a) Principal uses:

Adult residential care facility--four or fewer beds, subject to 410.29B
Community residential facility--family care
Community residence facility for the disabled
Community residential facility--family care residences, subject to 410.29F
Convent
Dwelling, modular essential services
Dwelling, manufactured home, subject to 410.29K
Essential services (public facilities)
Foster care home
Garden, community or neighborhood, subject to 410.29L
Monastery
Parish house, subject to 410.29R
Public parks, playgrounds, playfields, golf courses, swimming pools, and tennis courts
One-unit dwelling
Townhouses with two units
Two-unit dwelling

(b) Accessory uses:

Accessory dwelling, subject to 410.29A
Accessory buildings
Alternative domestic energy supply installation, subject to 410.29C
Amateur radio installations, subject to 410.29D
Antenna and satellite dish
Day care, family
Electric Vehicle Charging Station, subject to 410.29W
Garage sales, subject to 410.29W
Garden, noncommercial
Garden pond
Hospice
Kennel, residential private
Minor home occupations, subject to 410.29O
Private swimming pools and tennis courts
Respite care (private residence)
Storage of recreational vehicles, subject to 410.29X
Storage of residential vehicles
Temporary structures, subject to 410.29U

(2) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan).

(a) Principal uses:

Conversion or Construction of a dwelling Unit resulting in or containing More than Four Bedrooms, subject to 410.29G
Places of worship, subject to 410-41A(16)
Private school: primary and secondary
Public buildings, including elementary and secondary schools
Townhouse with four or fewer dwelling units, subject to 410-41A(24)

(3) Permitted with Planning Commission approval (special use permit and Series A site plan).

(a) Principal uses:

Conversion of Dwelling Unit to More than Four Bedrooms
Construction of a Structure with Dwelling Units with more than Four Bedrooms
Place of worship
Private school; primary and secondary
Public buildings, including elementary and secondary schools
Townhouses with four or fewer dwelling units

C. R-3 Residential Multi-Unit Dwelling District.

(1) Permitted by right, subject to Article IX.

(a) Principal uses:

Adult residential care facility – four or fewer beds, subject to 410.29B
Bed-and-breakfast home, subject to 410.29E
Community residential facility – family care residences, subject to 410.29F
Community residential facility--family care
Community residence facility for the disabled
Convent
Day-care, adult group, subject to 410.29H
Day-care, adult home, subject to 410.29I
Day-care facility, subject to 410.29J
Dwelling manufactured home, subject to 410.29K
Dwelling, modular
Essential services (public facilities)
Foster care home
Garden, community or neighborhood, subject to 410.29K
Hospitality house, subject to 410.29M
Monastery
Multi-unit dwelling: new construction or conversion of existing building into three or more units
Parish house
Parking, ancillary, subject to 410.29S
Public parks, playgrounds, playfields, golf courses, swimming pools, and tennis courts
Single-unit residences
Townhouses with two units
Townhouse with four or fewer dwelling units, subject to 410.29V
Two-unit residences

(b) Accessory uses.

Accessory buildings
Accessory dwelling, subject to 410.29A
Alternative domestic energy supply installation, subject 410.29C
Amateur radio installations, subject to 410.29D
Antenna and satellite dish
Day care, family
Electric Vehicle Charging Station, subject to 410.29W

Garage sales, subject to 410.29W
Garden, noncommercial
Garden pond
Hospice
Kennel, residential private
Major home occupations, subject to 410.29N
Minor home occupations, subject to 410.29O
Private swimming pools and tennis courts
Respite care (private residence)
Seasonal sales, subject to 410.29T
Storage of recreational vehicles, subject to 410.29X
Storage of residential vehicles
Temporary structures, subject to 410.29U

(2) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan).

(a) Principal uses:

Adult residential care facility—five or more beds
Bed-and-breakfast inn
Boardinghouse
Community residential facility—community residences for youth (group homes)
Community residential facility—alcohol or drug user community support residences
Community residential facility—community residence, other
Convalescent/Nursing home: health-related nursing facility
Convalescent/Nursing home: skilled nursing facility
Conversion or Construction of Dwelling Unit resulting in or containing More than Four Bedrooms, subject to 410.29G
Construction of a Structure with Dwelling Units with more than Four Bedrooms
Hospice facility
Multi-unit dwelling: new construction or conversion of existing building into five or more units
Parking area, public, subject to 410-41A(15)
Place of worship, subject to 410-41A(16)
Private school: primary and secondary
Public buildings, including elementary and secondary schools
Recreation use, racetrack, subject to 410-41A (18)
Respite care facility
Retreat house
Rooming house, new construction or conversion of existing building
Townhouse with five or more dwelling units (subject to 410-41A(23)

(3) Permitted with Planning Commission approval (special use permit and Series A site plan).

(a) Principal uses:

Adult residential care facility – five or more beds
Conversion of Dwelling Unit to More than Four Bedrooms
Construction of a Structure with Dwelling Units with more than Four Bedrooms
Bed-and-breakfast inn
Boardinghouse

§ 410-27.1 Urban Village Overlay District [Added 12-19-11 by LL No. 11-5]

UVO Urban Village Overlay District. The use permitted by right and with Planning Commission approval in the underlying zoning districts are permitted in the Urban Village Overlay District, subject to the same

reviews and conditions; additionally, uses within the Urban Village Overlay District shall be subject to the Urban Village Overlay District design guidelines, as listed in §410-24 above.

§ 410-28. Schedule IA: Bulk Requirements in Residential Zoning Districts.
The following bulk requirements apply to residential zoning districts:

Schedule IA
Bulk Requirements in the Residential Zoning Districts

Minimum lot area per dwelling unit (square feet)	R-1	R-2	R-3
Single	10,000	6,000	6,000
Two-unit	NP	3,500 per DU	2,500 per DU
Multi-unit	NP	NP	2,000 per DU
Townhouse	5,000	3,000	2,000
Other permitted uses	10,000	10,000	10,000

Minimum lot width (feet)	R-1	R-2	R-3
Single	75	50	50
Two-unit	NP	60	60
Multi-unit	NP	NP	100
Townhouse	40	30	20
Other permitted uses	75	75	75

Minimum setbacks (feet)	R-1	R-2	R-3
Front	30	25	25
Side one	5	5	10
Total sides	15	15	25
Rear	15	15	25
Maximum lot coverage	40%	50%	70%
Maximum building height (feet)	35	35	45

Notes:
NP = Not permitted
DU = Dwelling unit

§ 410-29. Special conditions for certain land uses in residential districts. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]
Land uses listed in Schedule I as being "Permitted or "Permitted with Planning Commission approval" shall not be considered permitted until the Supervisor of the Office of Building and Construction or the Planning Commission is satisfied that there is compliance with applicable conditions as set forth below.

A. An accessory dwellings in the R-1, R-2, and R-3 Districts is permitted when:
   (1) Such dwelling is occupied by a person or persons included in the household residing in the principal dwelling on the lot.
   (2) Living space is located within an owner-occupied dwelling and contains no separate exterior entrance and no more than 400 square feet of area.
   (3) There is only one such dwelling on the lot.
   (4) There are no separate utilities (i.e., electric and heat).

B. An adult residential care facility (four or fewer beds) in R-1, R-2 and R-3 Districts is permitted when:
   (1) The facility is owner-occupied.
   (2) The facility is licensed by the appropriate agency.

C. An alternative domestic energy supply installation in the R-1, R-2, and R-3 Districts is permitted when:
   (1) No solar energy device which is not an integral part of the dwelling is located in any front yard area or on the front of the building.
   (2) Fencing or landscaping with a minimum height of four feet is provided around any ground-mounted solar device to partially screen it from public view.
   (3) The device has a minimum setback of five feet from any side or rear property line.

D. Amateur radio installations in the R-1, R-2, and R-3 Districts are permitted when:
   (1) A building permit is obtained from the Office of Building and Construction. An application for a permit shall include, at minimum, the following information:
      (a) A site plan, drawn to scale, showing the location of all buildings on the lot, lot lines, easements, if any, on the lot, and location of any existing poles on the lot (utility, flag, etc.).
      (b) Manufacturer's specifications for antenna support structures, details of footings, guys and braces.
      (c) The plan shall also clearly indicate the exact location of the radio installation devices on the lot and their dimensional characteristics such as height, width, safety mechanisms to prevent children or other trespassers from climbing the installation and a picture of the device.
      (d) Other information as the Supervisor of the Office of Building and Construction may deem relevant to meet all applicable City and state building codes.
   (2) Any installation shall only be placed in the rear and side yard area or on any roof of an existing structure and must conform to all side and rear setbacks. Additionally, any antenna span shall not encroach into any setback area.
   (3) The applicant shall provide the Office of Building and Construction with a copy of its operating license from the Federal Communications Commission (FCC) within 30 days of installation.
   (4) The permit is for the initial construction of the radio installation's support system. Future additions/replacements to the installation which do not affect its structural integrity do not require additional construction permits as long as they comply with all of the aforementioned conditions.

E. A bed-and-breakfast home in an R-3 District is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) An appropriate buffer strip shall be provided around parking areas containing more than four parking spaces.
   (3) The required front yard area may not be used for parking.
   (4) Lighting and landscaping shall be designed to maintain the residential character of the property.

F. A community residential facility (family care residences) in the R-1, R-2, and R-3 Districts is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) The facility is licensed by the appropriate agency.
   (3) The facility is owner-occupied.
   (4) There is no signage for the facility.

G. Conversion or Construction of Dwelling Units to more than Four Bedrooms.

(1) Intent. The intent of this section is to establish standards for the conversion of existing dwelling units to increase the number of bedrooms per dwelling unit and the construction of dwelling units containing more than four bedrooms. These standards are intended to reduce the overcrowding of dwelling units and buildings and overly dense development of neighborhoods and to ensure satisfactory amenities as conversions or construction takes place.

(2) Standard for Creating More than Four Bedrooms per dwelling unit.
Conversion of existing buildings or construction of new buildings to create more than four bedrooms per dwelling unit presents issues surrounding overcrowding, parking, open space and neighborhood character. Dwelling units that do not meet the standards established in this section may be permitted only after a Series A Plan/Special use permit review pursuant to Article 8 of the Zoning Ordinance.

(a) Minimum unit size. The dwelling unit, after conversion or construction, must meet all applicable specifications of the New York State Uniform Fire Prevention and Building Code, including minimum unit size.

(b) Minimum building size. No dwelling unit conversion or construction shall be permitted in a dwelling unit with less than 1,500 square feet of gross floor area.

(c) Minimum lot area requirements. No bedroom maybe added to a dwelling unit, if the property does not comply with the lot area requirements of the district in which the property is located.

(d) Parking regulations. No dwelling unit conversion shall be permitted unless the dwelling shall, following such conversion, comply with all off-street parking required by Article X of the Zoning Ordinance.

(3) Notwithstanding anything herein to the contrary, the Building Inspector may waive the requirements for a Series A Site Plan review for the temporary use of dining room, den, or living room as a bedroom as may be medically necessary and prescribed by an attending physician.

H. A day care, adult group, in the R-3 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A drop-off area is designated on the site plan.

I. A day care, adult home, in the R-3 District is permitted when:
(1) The facility is owner-occupied.
(2) There can be no more than six clients at any one time.

J. A day-care facility in the R-3 District is permitted when:
(1) A site plan is approved in accordance with applicable provisions of Article IX of this chapter.
(2) For new construction, an appropriate buffer strip shall be provided between such use and any abutting residential district or residential property.
(3) The facility must be licensed by the appropriate agency.
(4) The location of the recreation area must be identified on the site plan.

K. A dwelling, manufactured home, in the R-2 and R-3 Districts is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) A permanent foundation is installed. No posts, pillars, columns, etc. are permitted.
   (3) No skirting is permitted.

L. A garden, community or neighborhood, in the R-1, R-2, and R-3 Districts is permitted when:
   (1) A site plan is approved in accordance with applicable provisions of Article IX of this chapter.
   (2) Any compost piles must be located so as not to create a nuisance to adjoining residences.
   (3) The gardens must have a five-foot setback from all property lines.

M. A hospitality house in the R-3 District is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) An appropriate buffer strip shall be provided around parking areas containing more than four parking spaces.
   (3) The required front yard area may not be used for parking.
   (4) Lighting and landscaping shall be designed to maintain the residential character of the property.

N. Major home occupations in the R-3 District.
   (1) Purpose and intent. This subsection is designed to protect and maintain the character of established residential neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in residential dwellings. Furthermore, this subsection intends to ensure the clearly incidental or secondary status of the home occupation in relation to the residential use of the dwelling.
   (2) General requirements.
      (a) The home occupation is carried on wholly within the dwelling or accessory building.
      (b) There is no storage of materials or equipment associated with the home occupation outside the dwelling or accessory building. No home occupation shall have storage as its primary function.
      (c) There is no internal or external alteration of the dwelling that changes the character and appearance thereof as a dwelling.
      (d) No separate entrance is provided exclusively for the home occupation.
      (e) No offensive odor, noise, vibration, smoke, dust, heat, glare, or other objectionable emissions are produced. No home occupation shall produce magnetic or electrical interference or cause fluctuation in line voltage off the premises. In no case shall explosives or extremely hazardous materials be allowed on-premises in connection with a home occupation.
      (f) The home occupation does not generate traffic in any greater volume than would normally be expected in the surrounding residential neighborhood. This includes the use of delivery services to or from the premises. No deliveries shall be made from any vehicle having a gross vehicle weight greater than eight tons. Deliveries shall not be made before 7:00 a.m. or after 9:00 p.m.
      (g) No more than one additional off-street parking space shall be provided on-premises for clients and customers.
      (h) The occupation does not occupy more than 20% of the dwelling unit, with a maximum of 300 square feet, including accessory structures.
      (i) No more than one person who does not reside in the household can be employed or participate in the home occupation.

(j) No retail sales or displays for retail sale of commercially manufactured items are permitted on the premises.

(k) Signage is limited to one nonilluminated wall sign not exceeding one square foot. The sign must be compatible with the character of the residence, and it must be approved by the Planning Department. No other signage associated with the home occupation is permitted on-premises, except for vehicular signage that is limited to a total area of two square feet. Vehicular signage must be compatible with the character of the residence, and it must be approved by the Planning Department.

(3) List of major home occupations. The following is an illustrative list of uses that may meet the requirements of a major home occupation:

(a) Teacher/Instructor (such as dance, music, crafts) with a maximum ratio of one teacher to two students.

(b) Beauty salon/barber shop with a maximum of two chairs.

(c) Real estate agent or insurance agent.

(d) Family or marriage counselor.

(e) Office of a lawyer, engineer, accountant, or architect.

(f) Other similar uses which meet the requirements of a major home occupation.

(4) Permission to conduct a home occupation is not transferable to any other person or property, and shall expire upon discontinuance for a period of one year.

(5) The City of Binghamton reserves the right to inspect the premises at any reasonable time to determine if the home occupation is in compliance with the regulations of this subsection.

(6) Failure to comply with the regulations of this subsection shall result in the revocation of the home occupation permit.

(7) Fees for a major home occupation shall be as set from time to time by the City Council (See Exhibit J).

O. Minor home occupations in the R-1, R-2, and R-3 Districts.

(1) Purpose and intent. This subsection is designed to protect and maintain the character of established residential neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in residential dwellings. Furthermore, this subsection intends to ensure the clearly incidental or secondary status of the home occupation in relation to the residential use of the dwelling.

(2) General requirements.

(a) The home occupation is carried on wholly within the dwelling or accessory building.

(b) There is no storage of materials or equipment associated with the home occupation outside the dwelling or accessory building. No home occupation shall have storage as its primary function.

(c) There is no internal or external alteration of the dwelling that changes the character and appearance thereof as a dwelling.

(d) No separate entrance is provided exclusively for the home occupation.

(e) There are no exterior displays or signs identifying the home occupation. Vehicle signage not exceeding one square foot may be allowed by special condition approval.

(f) No offensive odor, noise, vibration, smoke, dust, heat, glare, or other objectionable emissions are produced. No home occupation shall produce magnetic or electrical interference or cause fluctuation in line voltage off the premises. In no case shall explosives or extremely hazardous materials be allowed on-premises in connection with a home occupation.

(g) The home occupation does not generate traffic in any greater volume than would normally be expected in the surrounding residential neighborhood. This includes the use of delivery services to or from the premises. No deliveries shall be made from any vehicle having a gross vehicle weight greater than eight tons. Deliveries shall not be made before 7:00 a.m. or after 9:00 p.m.

(h) The occupation does not occupy more than 20% of the dwelling unit or accessory structure, with a maximum of 300 square feet, including related storage.

(i) No individual who does not permanently and legally reside in the household may be employed or participate in the home occupation.

(j) No customers, clients, colleagues, or members of the public shall visit the residence in connection with the home occupation.

(k) No retail sales or displays for retail sales of commercially manufactured items are permitted on the premises.

(l) Commercial newspapers, radio, or television services shall not be used to advertise the location of the home occupation to the public.

(3) List of minor home occupations. The following is an illustrative list of uses that may meet the requirements of a minor home occupation:

(a) Office of a computer programmer, draftsman, typist, or copy reader.

(b) Office of a salesperson, provided that no retail or wholesale transactions are made on the premises.

(c) Telephone answering service.

(d) Workshop or studio for an artist, sculptor, photographer, craftsperson, writer, composer, musician, seamstress, dressmaker, or tailor.

(e) Homebound employment of a physically or mentally handicapped person who is unable to work away from home by reason of disability.

(f) Other similar uses which meet the requirements of a minor home occupation.

(4) Permission to conduct a home occupation is not transferable to any other person or property, and shall expire upon discontinuance for a period of one year.

(5) The City of Binghamton reserves the right to inspect the premises at any reasonable time to determine if the home occupation is in compliance with the regulations of this subsection.

(6) Failure to comply with the regulations of this subsection shall result in the revocation of the home occupation permit.

(7) Fees for a minor home occupation shall be as set from time to time by the City Council (See Exhibit J).

P. Monastery in the R-1, R-2, and R-3 Districts: see requirements for a convent.

Q. Multi-unit dwelling: new construction or conversion of existing building into three or four units in the R-3 District; permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.

(2) Each of the dwelling units thus created conforms to the minimum habitable floor area requirement of the State Building Code.

(3) To preserve the aesthetic quality of the street, no upper story means of egress shall be permitted on the street side of the building unless there is no feasible alternative.

(4) An appropriate buffer strip shall be provided around parking areas containing more than four parking spaces.

R. A parish house in the R-1, R-2, and R-3 Districts is permitted when:

(1) The parish house may include an office and related religious accessory uses of the church.
(2) The parish house shall only be inhabited by clergy and members of their family.

S. Parking, ancillary in the R-3 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A five-foot-wide landscaped strip is provided along all property lines.
(3) The parking lot must be adjacent to and controlled by the principal use.

T. Seasonal sales in the R-3 District are permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) The sale of seasonal merchandise is limited to 30 days each sale and may not occur more than twice a year.
(3) Hours of operation are limited to 8:00 a.m. to 8:00 p.m.
(4) Any signage must be approved by the Planning Department.
(5) There is no outdoor storage of merchandise after the sale is finished.

U. Temporary structures in the R-1, R-2, and R-3 Districts are permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) The structure must comply with setback requirements.
(3) The structure must be removed within six months of installation.
(4) Only one temporary structure may be located on a property at any given time.
(5) Approval to install a temporary structure may not be renewed for at least six months from the removal of any previous temporary structure. For unusual or complex projects, the Planning Department may determine that conditions warrant the waiving of this provision.

V. A townhouse with four or fewer dwelling units in the R-3 District is permitted when:
(1) A site plan is approved in accordance with Article IX of this chapter.

W. A garage sale in all residential districts is permitted when:
(1) Such activity is for a period not exceeding three (3) days and occurs not more than two (2) times in any calendar year.

X. Open, off-season storage of recreation vehicle, snowmobile, boat, trailer, and similar vehicle in all residential districts is permitted when:
(1) Such storage is not located in any front or side yard area in all districts.
(2) No more than three (3) such vehicles are stored on any single residential property.
(3) If such vehicle is stored on the same lot as a dwelling it shall be owned by the occupant of said dwelling.

Y. An Electric Vehicle Charging Station in the R-1, R-2, and R-3 districts is permitted when:
(1) If located in a private residential lot, the charging station is located within a legal garage or carport
(2) If located in an ancillary, public or commercial parking lot or garage, the charging station shall be:
(a) Illuminated during evening business hours
(b) Located in a legal parking space reserved exclusively for electric vehicles
(3) The charging station has complete instructions and appropriate warnings posted in an unobstructed location on or adjacent to the charging station

ARTICLE VII, Commercial and Industrial Districts

§ 410-30. Intent [Amended 8-7-2013 by Ord. No 13-49.]

The intent of this Article VII is to identify the types of land uses which are permitted in the commercial and industrial zoning districts in the City of Binghamton. A list has been created which specifies the zoning district(s) in which each land use is allowed. Certain uses are permitted by right, while others require a special use permit from the Planning Commission. All uses are subject to the Article IX Site Plan Review and Approval. Bulk and density regulations for each zoning district are also established.

§ 410-31. General provisions [Amended 8-7-2013 by Ord. No 13-49.]

A. Schedule of regulations. Regulations relating to land uses in commercial and industrial districts are set forth in Schedule II (§ 410-32). Regulations relating to lot size, yard setbacks, lot coverage, and similar bulk requirements for nonresidential uses are set forth in Schedule IIA (§ 410-33). Regulations relating to off-street parking requirements are set forth in Schedule III (§ 410-53). Said schedules are hereby adopted and, with all explanatory matter thereon, are hereby made part of this chapter and included herewith.

B. Excluded uses. Any land use which is not set forth in Schedule II (§ 410-32) is not permitted in a commercial or industrial district in the City of Binghamton. Notwithstanding the above, unlisted uses which are interpreted by the Zoning Board of Appeals to be similar to those which are listed in said Schedule II (§ 410-32) may be processed in accordance with the appropriate provisions of this chapter.

C. Site plan approval. When Schedule II (§ 410-32) specifies that a special use permit/Series A site plan review is required for a land use in a commercial or industrial district, a building permit shall not be issued for such land use until a site plan has been approved in accordance with the provisions of Articles VII and IX of this chapter. Other agencies involved in issuing required permits must be contacted by the applicant.

§ 410-32. Schedule II: Land Uses in Commercial and Industrial Zoning Districts. [Amended 8-7-2013 by Ord. No 13-49; Amended 10-23-2013 by Ord. No 13-77; Amended 2-3-2016 by Local Law 16-02]

A. C-1 Service Commercial District.

(1) All uses listed in the R-3 District. Residential uses shall not be located on the ground floor of any building with the exception of incidental pedestrian entrances that lead to one of these uses located on the upper floor of the building. The provisions of this section shall not preclude the operation, maintenance, and occupancy of any residential use that existed lawfully prior to the effective date of this Section. Such uses shall be subject to the nonconforming use regulations in Article XII. See Schedule I for the type of review required.

(2) Permitted by right, subject to Article IX:
Animal hospital, subject to 410-34B
Animal clinic
Antiques
Art gallery
Automotive detailing business
Automotive parts and accessories establishment
Auction house or gallery, subject to 410-34E.

Automatic teller machine (drive-up), subject to 410-34F
Automobile sales, used (minor), subject to 410-34G
Bank and financial institutions, subject to 410-34I
Bank, drive-through, subject to 410-34J
Bakery, retail
Banquet/Catering facility
Barbershop/Beauty parlor
Brew pub
Catering service
Cultural facilities/museums, subject to 410-34Q
Dry-cleaning establishment
Flea market, short term
Flea market, long term, subject to 410-34R
Food delivery establishment
Food sales, general, excluding Supermarkets
Greenhouse, commercial
Health/sport club, subject to 410-34S
Human service agency
Kennel, commercial, subject to 410-34U
Laundromat
Liquor store
Nightclub
Nonalcoholic nightclub
Office, business
Office, professional
Office, professional health-related
Oil change, lube, and related sales and service facility
Pawnshop/swap shop
Parcel delivery, subject to 410-29DD
Parking ancillary, subject to 410-29EE
Personal instruction and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, full service
Restaurant drive-through, subject to 410.29FF
Restaurant, limited service, cafe
Retail beverage/recycling center
Retail or service business, general
Retail neighborhood convenience outlet
Retail drive-through, subject to 410.29II
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Tire, muffler, brake, shock absorber, and related sales and service, subject to 410.29GG
Therapeutic massage office
Thrift shop/secondhand store
Towing service (with no accessory storage)

Travel agency
Video rental shop
Wayside stand, subject to 410.29OO
Wholesale trade and storage, subject to 410.29PP

(3) Permitted with Planning Commission approval, pursuant to Article VIII (special use permit and Series A site plan):
Alcohol or drug rehabilitation facility
Automobile fuel station, subject to 410-41A(7)
Automobile hand washing business
Automobile mechanical washing business
Automobile rental/leasing facility
Automobile repair shop, subject to 410-41A(4)
Automobile sales, new, subject to 410-41A(5)
Automobile sales, used (major), subject to 410-41A(6)
Bus depot
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Crematory
Department store
Dormitory, off-campus
Dry-cleaning plant
Eleemosynary/Philanthropic organization
Fraternity/Sorority house
Funeral home
Gasoline, convenience market
Halfway house
Hotel and motel, subject to 410-41A(11)
Industrial, light
Industrial, medium
Industrial, research and development
Laboratory, research and testing
Machine, sheet metal and welding shop, subject to 410-41A(12)
Microbrewery
Mission/Homeless shelter
Parking area, public, subject to 410-41A(15)
Printing or publishing facility
Radio and television transmitting station
Rail freight terminal, subject to 410-41A(17)
Railroad facility
Railroad station
Recreation use, commercial indoor
Recreation use, commercial outdoor
Recreation vehicles, sales and repair
Schools, business/commercial/trade/vocational
Schools, colleges, universities, and professional
Self-service storage warehouse, subject to 410-41A(19)
Shopping center, subject to 410-41A(20)
Supermarket
Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
Telecommunications facility, subject to 410-41A(21)

Zoo/Aquarium

B. C-2 Downtown Business District.

(1) All uses listed in the R-3 District. Residential uses shall not be located on the ground floor of any building with the exception of incidental pedestrian entrances that lead to one of these uses located on the upper floor of the building. The provisions of this section shall not preclude the operation, maintenance, and occupancy of any residential use that existed lawfully prior to the effective date of this Section. Such uses shall be subject to nonconforming use regulations in Article XII. See schedule I for the type of review required.

(2) Permitted by right, subject to Article IX:
Animal clinic
Animal hospital, subject to 410-34B
Antiques
Art gallery
Automotive detailing business
Automotive parts and accessories establishment
Auction house or gallery, subject to 410-34E
Automatic teller machine (drive-up), subject to 410-34F
Bakery, retail
Bank and financial institutions, subject to 410-34I
Bank, drive-through, subject to 410-34J
Banquet/Catering facility, subject to 410-34K
Barbershop/Beauty parlor
Brew pub
Catering service
Cultural facilities/museums, subject to 410-34Q
Dry-cleaning establishment
Flea market, short-term
Flea Market, long-term, subject to 410-34R
Food delivery establishment
Food sales, general, excluding Supermarkets
Greenhouse, commercial
Health/sport club, subject to 410-34S
Human service agency
Laundromat
Liquor store
Nightclub
Nonalcoholic nightclub
Office, business
Office, professional
Office, professional health-related
Parking, ancillary, subject to 410-29EE
Pawnshop/Swap shop
Personal instructions and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, full-service
Restaurant, limited service, cafe

Retail or service business, general
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Therapeutic massage office
Thrift shop/secondhand store
Travel agency
Video rental shop
Wayside stand, subject to 410-29OO
Wholesale trade and storage, subject to 410-29PP

(3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Bus depot
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Department store
Dormitory, off-campus
Eleemosynary/Philanthropic organization
Fraternity/Sorority house
Funeral home
Halfway house
Hotel and motel, subject to 410-41A(11)
Industrial, light
Industrial, medium
Industrial, research and development
Parking area, public, subject to 410-41A(15)
Printing or publishing facility
Radio and television transmitting station
Rail freight terminal, subject to 410-41A(17)
Railroad facility
Railroad station
Recreation use, commercial indoor
Recreation use, commercial outdoor
Schools, business/commercial/trade/vocational
Schools, colleges, universities, and professional
Shopping center, subject to 410-41A(20)
Supermarket
Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
Telecommunications facility, subject to 410-41A(21)
Zoo/Aquarium

C. C-3 Medical District.
(1) All uses listed in the R-3 District except townhouses: See Schedule I for the type of review required.
(2) Permitted by right, subject to Article IX:
Animal clinic, subject to 410-34A
Health/sport club, subject to 410.34S
Office complex (business/professional health-related), subject to 410.29Y

Office, business
Office, professional
Office, professional health-related
Parking, ancillary, subject to 410.29EE
Therapeutic massage office

(3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Alcohol or drug rehabilitation facility
Clinical, medical, diagnostic or treatment center
Hospital, medical center
Laboratory, medical-related research and testing
Methadone facility
Parking area, public, subject to 410-41A(15)

D. C-4 Neighborhood Commercial District.

(1) All uses listed in the R-3 District except townhouses: See Schedule I for the type of review required.

(2) Permitted by right, subject to Article IX:
Animal clinic
Animal hospital, subject to 410-34B
Antiques
Art gallery
Automotive detailing business
Automatic teller machine (drive-up)
Automobile sales, used (minor), subject to 410-34G
Automotive parts and accessories establishment, subject to 410-34H
Bakery, retail
Bank and financial institution, subject to 410.34I
Bank, drive-through, subject to 410-34J
Banquet/catering facility, subject to 410-34K
Barbershop/Beauty parlor
Billiards hall, subject to 410-34L
Brew pub
Catering service
Dry-cleaning establishment
Flea market, short-term
Flea market, long-term, subject to 410-34R
Food delivery establishment
Food sales, general, excluding Supermarkets
Greenhouse, commercial
Health/sport club, subject to 410-34S
Human service agency
Kennel, commercial, subject to 410-34U
Laundromat
Liquor store
Nightclub, subject to 410-34V
Nonalcoholic nightclub, subject to 410.29X
Office complex (business/professional health-related), subject to 410.29Y
Office, business
Office, professional
Office, professional health-related
Oil change, lube, and related sales and service facility, subject to 410.29CC

Parking, ancillary, subject to 410.29EE
Pawnshop/Swap shop
Personal instruction and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, drive-through, subject to 410.29FF
Restaurant, full service
Restaurant, limited service, café
Retail drive-through, subject to 410.29II
Retail beverage/recycling center
Retail craft/hobby shop
Retail neighborhood convenience outlet
Retail or service business, general
Retail sales of ice cream, candy, baked goods, gifts, flowers, and similar small items
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Therapeutic massage office
Thrift shop/secondhand store
Travel agency
Video rental shop
Wayside stand, subject to 410.29OO

(3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Automobile fuel station, subject to 410-41A(7)
Automobile hand washing business
Automobile mechanical washing business
Bowling alley
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Crematory
Cultural facilities/museums
Eleemosynary/Philanthropic organization
Fraternity/Sorority house
Funeral home
Gasoline, convenience market
Microbrewery
Miniature golf establishment, subject to 410-41A(13)
Parking area, public, subject to 410-41A(15)
Shopping center, subject to 410-41A(20)
Supermarket
Tire, muffler, brake, shock absorber, and related sales and service, subject to 410-41A(22)

E. C-5 Neighborhood Office District.

(1) All uses listed in the R-3 District except townhouses: See Schedule I for the type of review required.

(2) Permitted by right, subject to Article IX:
Antiques, subject to 410-34C
Art Gallery, subject to 410-34D
Bank and financial institutions, subject to 410-34I
Bank, drive-through, subject to 410-34J
Bakery, retail
Catering service, subject to 410-34P
Human service agency, subject to 410-34T
Office, professional, subject to 410-29AA
Office, professional health-related, subject to 410-29BB
Parking, ancillary, subject to 410-29EE
Personal service establishment
Restaurant, full service, subject to 410-29GG
Restaurant, limited service/café, subject to 410-29HH
Retail craft/hobby shop
Retail neighborhood convenience outlet
Retail sales of ice cream, candy, baked goods, gifts, flowers, and similar small items
Studio
Therapeutic massage office, subject to 410-29KK
Travel agency, subject to 410-29NN

(3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Cultural facilities/museums
Eleemosynary/Philanthropic organization
Funeral home
Parking area, public, subject to 410-41A(15)

F. C-6 Limited Neighborhood Commercial District.

(1) All uses listed in the R-3 District except townhouses: See Schedule I for the type of review required.

(2) Permitted by right, subject to Article IX:
Antiques, subject to 410-34C
Art gallery, subject to 410-34D
Bakery, retail
Catering service, subject to 410-34P
Food sales, general, excluding Supermarkets
Laundromat
Liquor store
Office, business, subject to 410-29Z
Office, professional, subject to 410-29AA
Office, professional health-related, subject to 410-29BB
Personal instruction and improvement
Personal service establishment
Retail craft/hobby shop
Retail neighborhood convenience outlet
Retail sales of ice cream, candy, baked goods, gifts, flowers, and similar small items
Restaurant, full service, subject to 410-29GG
Restaurant, limited service/café, subject to 410-29HH
Studio
Tavern, subject to 410-29JJ
Therapeutic massage office, subject to 410-29KK

Thrift shop/secondhand store, subject to 410-29LL
Travel agency, subject to 410-410.29NN
Wayside stand, subject to 410-410.29OO

(3) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Eleemosynary/Philanthropic organization

G. I-1 Urban Business Park District.

(1) Permitted by right, subject to Article IX:
Essential services
Health/sport club, subject to 410-34S
Monument manufacture and sales, subject to 410-34V
Multi-unit dwelling: new construction or conversion of existing building into three or four units
Parcel delivery, subject to 410-29DD
Parking, ancillary, subject to 410-29EE
Office, business
Office, professional
Office, professional health-related
Photocopy and related printing service
Restaurant, full service
Restaurant, limited service, cafe
Single-unit residences
Telephone switching facility
Two-unit residences
Wholesale trade and storage, subject to 410-29GG

(2) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Clinic, Medical, Diagnostic or Treatment Center
Convalescent/Nursing home: health-related nursing facility
Convalescent/Nursing home: skilled nursing facility
Hotel and motel, subject to 410-41A(11)
Industrial, light
Industrial, medium
Industrial park
Industrial, research and development
Laboratory, research and testing
Multi-unit dwelling: new construction or conversion of existing building into five or more units
Parking area, public, subject to 410-41A(15)
School, business/commercial/trade/vocational
Schools, colleges, universities, and professional
Telecommunications facility, subject to 410-41A(21)

H. I-2 Light and Medium Industrial District.

(1) Permitted by right, subject to Article IX:
Animal clinic
Animal hospital, subject to 410-34B
Antiques
Auction house or gallery, subject to 410-34E
Art gallery
Automotive detailing business
Automotive parts and accessories establishment
Automotive sales, used (minor), subject to 410-34G

Automatic teller machine (drive-up), subject to 410-34F
Bank and financial institution, subject to 41034I
Bank, drive-through, subject to 41034J
Bakery, retail
Banquet/Catering facility, subject to 410-34K
Barbershop/Beauty parlor
Building contractor office and yard, subject to 410-34M
Brew pub
Catering service
Contractor's office and yard, heavy construction, subject to 410-34O
Cultural facilities/museums, subject to 410-34R
Dry-cleaning establishment
Flea-market, short term
Food delivery establishment
Food sales, general, excluding Supermarkets
Greenhouse, commercial
Health/sport club, subject to 410-34S
Human service agency
Kennel, commercial, subject to 410-34U
Laundromat
Liquor store
Monument manufacture and sales, subject to 410-34V
Nightclub
Nonalcoholic nightclub
Office, business
Office, professional
Office, professional health-related
Oil change, lube, and related sales and service facility
Parcel delivery, subject to 410-29DD
Parking, ancillary, subject to 410-29EE
Pawnshop/Swap shop
Personal instruction and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, full service
Restaurant, limited service/cafe
Restaurant drive-through, subject to 410-29FF
Retail drive-through, subject to 410-29HH
Retail beverage/recycling center
Retail or service business, general
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Therapeutic massage office
Thrift shop/secondhand store
Tire, muffler, brake, shock absorber, and related sales and service, subject to 410-29MM
Towing service (with no accessory storage)

Travel agency
Video rental shop
Wayside stand, subject to 410-29OO
Wholesale trade and storage, subject to 410-29PP

(2) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Adult bookstore subject to 410-41A(1)
Adult entertainment establishment, subject to 410-41A(2)
Adult novelty store, subject to 410-41A(3)
Automobile fuel station, subject to 410-41(7)
Automobile mechanical washing business
Automobile rental/leasing facility
Automobile repair shop, subject to 410-41A(4)
Automobile sales, new subject to 410—41A(5)
Automobile sales, used (major), subject to 410-41(6)
Automotive hand washing business
Bakery, wholesale
Building supply yard, subject to 410- 41A(8)
Bus depot
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Construction equipment sales, storage, and maintenance, subject to 410-41A(9)
Crematory
Department store
Dry-cleaning plant
Eleemosynary/Philanthropic organization
Feed warehouse
Fraternity/Sorority house
Funeral home
Gasoline, convenience market
Heavy vehicle maintenance and storage facility
Hotel and motel, subject to 410-41A(11)
Industrial, light
Industrial, medium
Industrial park
Industrial, research and development
Laboratory, research and testing
Machine, sheet metal and welding shop, subject to 410-41A(12)
Microbrewery
Motor truck freight terminal, subject to 410-41A(14)
Parking area, public, subject to 410-41A(15)
Printing or publishing facility
Radio and television transmitting station
Rail freight terminal, subject to 410-41A(17)
Railroad facility
Railroad station
Recreation use, commercial indoor
Recreation use, commercial outdoor
Recreation use, racetrack
Recreation vehicles, sales and repair
Schools, business/commercial/trade/vocational

Schools, colleges, universities, and professional
Self-service storage warehouse, subject to 410-41A(19)
Shopping center, subject to 410-41A(20)
Supermarket
Tavern, nonalcoholic
Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
Telecommunications facility, subject to 410-41A(21)
Transfer station/redemption center, recyclable materials, subject to 410-41A(26)
Transfer station, solid waste or construction and demolition debris, subject to 410-41A(27)
Vehicle impound yard, subject to 410-41A(28)
Zoo/Aquarium

I. I-3 Heavy Industrial District.

(1) Permitted by right, subject to Article IX:
Animal clinic
Animal hospital, subject to 410-34B
Antiques
Art gallery
Automotive detailing business
Automotive parts and accessories establishment
Auction house or gallery, subject to 410-34E
Automatic teller machine (drive-up) , subject to 410-34F
Automobile sales, used (minor) , subject to 410-34G
Bank and financial institutions, subject to 410-34I
Bank, drive-through, subject to 410-34J
Bakery retail
Banquet/Catering facility, subject to 410-34K
Barbershop/Beauty parlor
Brew pub
Building contractor office and yard, subject to 410-34M
Catering service
Contractor's office and yard, building, subject to 410-34N
Contractor's office and yard, heavy construction, subject to 410-34O
Cultural facilities/museums, subject to 410-34Q
Dry-cleaning establishment
Flea market, short-term
Flea market, long-term, subject to 410-34R
Food delivery establishment
Food sales, general, excluding Supermarkets
Greenhouse, commercial
Health/sport club, subject to 410-34S
Human service agency
Kennel, commercial, subject to 410-34U
Laundromat
Liquor store
Monument manufacture and sales, subject to 410-34V
Nightclub
Nonalcoholic nightclub
Office, business
Office, professional
Office, professional health-related
Oil change, lube, and related sales and service facility
Pawnshop/Swap shop

Parcel delivery, subject to 410-29DD
Parking, ancillary, subject to 410-29EE
Personal instruction and improvement
Personal service establishment
Pet grooming shop
Photocopy and related printing service
Rental service store
Repair shop and sales, small appliances and office equipment
Restaurant, full service
Restaurant, drive-through, subject to 410-29FF
Restaurant, limited service, cafe
Retail beverage/recycling center
Retail or service business, general
Retail drive-through, subject to 410-29II
Studio
Studio, broadcast
Tavern
Taxicab/Personal transport business (no repairs or exterior storage of vehicles)
Telephone switching facility
Tire, muffler, brake, shock absorber, related sales and service, subject to 410-29MM
Therapeutic massage office
Thrift shop/secondhand store
Towing service (with no accessory storage)
Travel agency
Video rental shop
Wayside stand, subject to 410-29OO
Wholesale trade and storage, subject to 410-29PP

(2) Permitted with Planning Commission approval pursuant to Article VIII (special use permit and Series A site plan):
Adult bookstore, subject to 410-41A(1)
Adult entertainment establishment, subject to 410-41A(2)
Adult novelty store, subject to 410-41A(3)
Automobile fuel station, subject to 410-41(7)
Automobile mechanical washing business
Automobile rental/leasing facility
Automobile repair shop, subject to 410-41A(4)
Automobile sales, new, subject to 410-A(5)
Automobile sales, used (major) , subject to 410-41(6)
Automotive hand washing business
Bakery, wholesale
Building supply yard, subject to 410-41A(8)
Bus depot
Clinic, medical, diagnostic or treatment center
Club or lodge, membership
Community center
Construction equipment sales, storage, and maintenance, subject to 410-41A(9)
Crematory
Department store
Dry-cleaning plant
Eleemosynary/Philanthropic organization
Feed warehouse
Fraternity/Sorority house

Funeral home
Gasoline, convenience market
Heavy vehicle maintenance and storage facility
Hotel and motel, subject to 410-41A(11)
Industrial, heavy
Industrial, light
Industrial, medium
Industrial, research and development
Industrial park
Laboratory, research and testing
Machine, sheet metal and welding shop, subject to 410-41A(12)
Microbrewery
Motor truck freight terminal, subject to 410-41A(14)
Parking area, public, subject to 410-41A(15)
Printing or publishing facility
Radio and television transmitting station
Rail freight terminal, subject to 410-41A(17)
Railroad facility
Railroad station
Recreation use, commercial indoor
Recreation use, commercial outdoor
Recreation use, racetrack
Recreation vehicles, sales and repair
Schools, business/commercial/trade/vocational
Schools, colleges, universities, and professional
Self-service storage warehouse, subject to 410-41A(19)
Shopping center, subject to 410-41A(20)
Supermarket
Tavern, nonalcoholic
Taxicab/Personal transport business (with repairs and/or exterior storage of vehicles)
Telecommunications facility, subject to 410-41A(21)
Transfer station/redemption center, recyclable materials, subject to 410-41A(26)
Transfer station, solid waste or construction and demolition debris, subject to 410-41A(27)
Vehicle impound yard, subject to 410-41A(28)
Vehicle salvage facility, subject to 410-41A(29)
Zoo/Aquarium

§ 410-33. Schedule IIA: Bulk Requirements in Commercial and Industrial Zoning Districts.
The following bulk requirements apply to commercial and industrial zoning districts:

Schedule IIA
Bulk Requirements in Commercial and Industrial Zoning Districts

Commercial	C-1	C-2	C-3	C-4	C-5	C-6
Minimum lot area (feet)	6,000	6,000	6,000	6,000	6,000	6,000
Minimum lot width (feet)		50	50	50	50	50
Minimum front setback (feet)	15		15	15	15	15
Minimum side setback (feet)	10*		10*	5*	5*	5*
Minimum rear setback (feet)	20	20	20	20	20	20
Maximum lot coverage	70%**	90%	70%	70%	70%	70%
Maximum building height, principal (feet)	65	120	65	45	45	35

Maximum building height, accessory (feet)	24	24	24	24	24	24

Industrial	I-1	I-2	I-3
Minimum lot area (feet)	6,000	6,000	6,000
Minimum lot width (feet)	50	50	50
Minimum front setback (feet)	1	20	25
Minimum side setback (feet)	10*	10*	20*
Minimum rear setback (feet)	20	20	25
Maximum building height, principal (feet)	65	65	65
Maximum building height, accessory (feet)	24	24	24

Note:
* Minimum setback required, plus five feet per story or 15 of building height.
** Maximum lot coverage may be increased to 90% provided that any existing and/or proposed roof tops are vegetated greenroofs. A greenroof system shall cover the entire rooftop surface area of all principle buildings on site, except for areas necessary for rooftop equipment and access and were roof slopes exceed 30% for extensive greenroofs and 3% for intensive greenroofs.

§410-34. Special conditions for certain land uses in commercial and industrial zoning districts. [Amended 7-20-09 by Ord. No. 23-2009; Amended 8-7-2013 by Ord. No 13-49]
Certain land uses listed in Schedule II as being "Permitted by right shall not be considered permitted until the Supervisor of the Office of Building and Construction is satisfied that there is compliance with applicable conditions as set forth in this § 410-34.

A. An animal clinic in the C-3 District is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) There shall be no boarding of animals other than those recovering from medical procedures.
   (3) There shall be no outdoor exercise facilities.
   (4) Such facility shall be designed to accommodate small animals exclusively, such as dogs, cats, birds, ferrets, and rabbits.
   (5) There shall be no outdoor storage of refuse, feed, or other materials.
   (6) No noticeable odors shall be emitted from the site, and an odor-absorbing air filtration system is recommended.
   (7) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

B. An animal hospital in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) There shall be no outdoor boarding.
   (3) Such facility shall be designed to accommodate small animals exclusively, such as dogs, cats, birds, ferrets, and rabbits.
   (4) There shall be no outdoor storage of refuse, feed, or other materials.
   (5) No noticeable odors shall be emitted from the site, and an odor-absorbing air filtration system is recommended.
   (6) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

C. Antiques in the C-5 and C-6 Districts are permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) Any single establishment has a retail floor area no greater than 1,200 square feet, and the total building coverage of all establishments on the lot is no greater than 2,000 square feet.
   (3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

D. An art gallery in the C-5 and C-6 Districts is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

E. An auction house or gallery in the C-1, C-2, I-2, and I-3 Districts is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

F. An automatic teller machine (drive-up) in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) Off-street stacking of patrons' cars in any drive-in facility shall be provided at the rate of five cars per teller station.
   (3) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
   (4) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
   (5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

G. Automobile sales, used (minor) in the C-1, C-4, I-2, and I-3 districts are permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
   (2) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
   (3) No motor vehicles which are unregistered and/or unlicensed, or wrecked, or being disassembled shall be parked or stored longer than 10 days, and such vehicles shall be enclosed within solid fencing.
   (4) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
   (5) No business not incidental to the normal conduct of the used automobile sales business shall be conducted on the lot except as required by New York State law.
   (6) Off-street parking spaces shall be clearly designated for employee parking, customer parking, and display vehicle parking. All parking spaces must comply with the dimensional requirements described in Article X of this chapter.
   (7) The business shall be licensed by the New York State Department of Motor Vehicles.
   (8) The maximum number of unregistered and/or unlicensed vehicles allowed on site at any given time is one per every 250 square feet of enclosed fencing.

H. An automotive parts and accessories establishment in the C-4 District is permitted when:
   (1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.

(2) There shall be no repair of motor vehicles on the property.
(3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

I. Bank and financial institutions in the C-1, C-2, C-4, C-5, I-2, and I-3 Districts are permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

J. A bank, drive-through, in the C-1, C-2, C-4, C-5, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) Off-street stacking of patrons' cars in any drive-in facility shall be provided at the rate of five cars per teller station.
(3) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
(4) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side property lines.
(5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

K. A banquet/catering facility in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

L. A billiards hall in the C-4 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

M. A building contractor office and yard in the I-2 and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
(3) All outside storage of equipment and materials shall be enclosed by solid fencing.
(4) No required front yard shall be used for outdoor storage of equipment or materials.
(5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

N. A contractor's office and yard, building, in the I-2 and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
(3) All outside storage of equipment and materials shall be enclosed by solid fencing.

(4) No required front yard shall be used for outdoor storage of equipment or materials.
(5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

O. A contractor's office and yard, heavy construction, in the I-2 and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
(3) All outside storage of equipment and materials shall be enclosed by solid fencing.
(4) No required front yard is used for outdoor storage of material or equipment.
(5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

P. Catering service in the C-5 and C-6 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

Q. Cultural facilities/museums in the C-1, C-2, I-2, and I-3 Districts are permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

R. A flea market, long-term, in the C-1, C-2, C-4, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and alongside and property lines.
(3) A vendor's permit shall be obtained from the City Clerk's office.
(4) Visibility for pedestrians and motorists shall not be obstructed.
(5) All display tables shall have a minimum setback of five feet from all property lines.

S. A health/sport club in the C-1, C-2, C-3, C-4, I-1, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and - along side and rear property lines.

T. A human service agency in the C-5 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

U. A kennel, commercial, in the C-1, C-4, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) There shall be no outdoor boarding.
(3) Such facility shall be designed to accommodate small animals exclusively, such as dogs, cats, birds, ferrets, and rabbits.

(4) There shall be no outdoor storage of refuse, feed, or other materials.
(5) No noticeable odors shall be emitted from the site, and an odor-absorbing air filtration system is recommended.
(6) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

V. Monument manufacture and sales in the I-1, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) All manufacturing operations shall occur within an enclosed building.
(3) There shall be no outdoor display or storage in any required front yard area.
(4) A landscaped area at least five feet wide and a good-neighbor-style fence shall be provided adjacent to public streets. If the property adjoins a residential or a commercial property, a landscaped area at least five feet wide shall also be provided along the property line adjacent to the residence or commercial property.
(5) All outside storage of equipment and materials must be enclosed by solid fencing.
(6) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

W. A nightclub in the C-4 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

X. A nonalcoholic nightclub in the C-4 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

Y. An office complex in the C-3 and C-4 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

Z. An office, business, in the C-5 and C-6 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

AA. An office, professional, in the C-5 and C-6 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

BB. An office, professional health-related, in the C-5 and C-6 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.

(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

CC. An oil change, lube, and related sales and service facility in the C-4 District is permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) There shall be no outdoor storage of any items.
(4) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
(5) No motor vehicles shall be stored or parked on site for more than 24 hours.

DD. Parcel delivery in the C-1, I-1, I-2, and I-3 Districts is permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.

EE. Parking, ancillary, in the C-1, C-2, C-3, C-4, C-5, I-1, I-2, and I-3 Districts is permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
(4) The parking lot shall be accessory to a principal use located on a different lot.
(5) The parking lot shall not be operated as a separate commercial venture.

FF. A restaurant, drive-through, in the C-1, C-4, I-2, and I-3 Districts is permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
(3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(4) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
(5) There shall be no outside storage of garbage or waste material which is visible from the street.
(6) All businesses which provide drive-through facilities for serving customers in their automobiles shall provide adequate off-street stacking spaces and lanes which meet the following requirements: See the requirements for "restaurant, drive-through" in Schedule III in § 410-53B.

GG. A restaurant, full-service, in the C-5 and C-6 Districts is permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) There shall be no outside storage of garbage or waste material which is visible from the street.

HH. A restaurant, limited service, cafe, in the C-5 and C-6 Districts is permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) There shall be no outside storage of garbage or waste material which is visible from the street.

II. A retail drive-through in the C-1, C-4, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) Standing cars in any drive-in facility shall not block any public sidewalk or occupy space on a public street.
(3) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(4) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
(5) There shall be no outside storage of garbage or waste material which is visible from the street.

JJ. A tavern in the C-6 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) There shall be no outside storage of garbage or waste material which is visible from the street.

KK. A therapeutic massage office in the C-5 and C-6 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

LL. A thrift shop/secondhand store in the C-6 District is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side or rear property lines.

MM. Tire, muffler, brake, shock absorber, and related sales and service in the C-1, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) No storage of vehicle parts, waste products, or other materials shall be located in any required front yard area.
(4) All outside storage of equipment and materials shall be enclosed by solid fencing.
(5) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
(6) No outdoor storage of tires shall be permitted at any time.

NN. A travel agency in the C-5 and C-6 Districts is permitted when:

(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.

OO. A wayside stand in the C-1, C-2, C-4, C-6, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A vendor's permit shall be obtained from the City Clerk's office.
(3) Visibility for pedestrians and motorists shall not be obstructed.

PP. Wholesale trade and storage in the C-1, C-2, C-6, I-1, I-2, and I-3 Districts is permitted when:
(1) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
(2) A landscaped area at least five feet wide shall be provided adjacent to public streets and along side and rear property lines.
(3) Access drives shall be no wider than 30 feet and shall be clearly defined by curbs.
(4) Outdoor storage of material and parking or loading facilities shall be located no less than 10 feet from any front lot line and no less than five feet from any other lot line.

ARTICLE VIII, Special Use Permit/Series A Site Plan Review Requirements

§ 410-35. Intent.

The intent of this Article VIII is to set forth supplemental regulations, procedures and conditions which shall apply to certain land uses in the City of Binghamton. No land use requiring a special use permit/Series A site plan review is permitted by right and such is considered to be sufficiently distinctive in terms of its nature, location, and potential impact on the general welfare of the surrounding area as to warrant special review and evaluation of each individual permit application.

§ 410-36. Applicability. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49]

A. Special Use Permit/Series A Site Plan approval from the Planning Commission pursuant to § 410-39 of this Article VIII is required for all uses requiring a special permit, for and as required by § 410-27 or § 410-32 of this Chapter. No building permit shall be authorized or issued by the Supervisor of Building, Construction, or his designee for any use which requires site plan approval except upon determination of conformity with plans approved by the Planning Commission.
B. A special use permit/Series A site plan review which has been authorized for a specific land use is not transferable and does not apply to any other land use.

§ 410-37. Jurisdiction.

Building and use permits for a land use requiring a special sue permit/Series A site plan review shall be authorized by the Planning commission, except for those uses which require City Council authorization, as specifically set forth in § 410-41 of this Article VIII.

§ 410-38. Existing uses.

Where the use of a building, structure or lot lawfully exists on the effective date of this chapter, or any amendment thereto, and is classified in Schedule I (§ 410-27) or II (§ 410-32) as a use requiring a special use permit/Series A site plan review, such use shall continue as a legally preexisting use. Any expansion or major alteration of such legally preexisting use shall, however, require a special use permit/Series A site plan review authorized in accordance with the provisions of § 410-39 of this chapter and shall comply with the applicable requirements of this Article VIII.

§ 410-39. Procedure. [Amended 3-2-09 by Ord. No. 9-2009; Amended 8-7-2013 by Ord. No 13-49]

A. Application. Application for a special use permit/Series A site plan review shall be made to the Planning Department for processing.

B. Material to be submitted. An application for a special use permit/Series A site plan review shall be accompanied by any written and graphic material which will best support and illustrate the request. Processing of the application by the Planning Department may be delayed until adequate descriptive and illustrative material is provided. At a minimum, the information specified on the special use permit/Series A site plan review application shall be submitted.

C. Review. The Planning Department shall review the Special Use Permit/Series A site plan review application for completeness and shall comment as to the planning and environmental impact of the proposal. The completed application, the staff report, and any other relevant materials shall be transmitted to the Planning Commission for action.

D. Public hearing and public notices.

(1) Public hearing. The Planning Commission shall hold a public hearing on the Series A Site Plan review application within 45 days from the date a complete application is received by the Planning Department and the Planning Commission completes the required State Environmental Quality Review. The Planning Commission may, but it not required to, waive a public hearing for accessory uses.

(2) Public notice by Applicant.

(a) Newspaper. Notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date of the hearing, excluding the hearing date

(b) Certified mailings. Additionally, at least 7 calendar days prior to the public hearing, notice thereof shall be sent by certified mail, return receipt requested, to the owners of record and all other properties within a distance of 100 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.

(c) Public notice sign. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of variances required, and the proposed action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed in either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed in each front yard.

(d) Verification of notice. Verification of notice as required by this § 410-39D shall be submitted to the Planning Department at least five calendar days prior to the public hearing. Such verification shall consist of a statement from the Press and Sun-Bulletin and the return receipt form (PS Form 3811) from the post office.

(e) Cost. The preparation and cost of publication, mailing of required notice of public hearing, and sign posting shall be borne by the applicant.

(3) Alternative Public Notice by Planning Department. Upon receipt of payment of a notification fee as set by the City Council an applicant may choose to have the Planning Department provide Public notice to the official newspaper of the City of Binghamton (the Press and Sun Bulletin) and to complete mailings.

(a) Newspaper. Notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date of the hearing, excluding the hearing date.

(b) Mailings. Additionally, at least 7 calendar days prior to the public hearing, notice thereof shall be sent by U.S. mail to the owners of record and all other properties within a distance of 100 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.

(c) Public notice sign posted by Applicant. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property by the applicant. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of variances required, and the proposed action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed I either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed I each front yard.

(d) Verification of notice. Verification of notice as required by this § 410-39D shall be prepared by the Planning Department at least 5 calendar days prior to the public hearing. Such verification shall consist of a statement from the Press and Sun Bulletin and a signed affidavit of notice prepared by the Planning Department.

(e) Cost. The preparation of and cost of publication, mailing of required notice of public hearing, and sign posting shall be borne by the applicant.

E. Decision. Within 45 days from the date of the closing of a public hearing, a decision to approve, with or without modification, or disapprove the application for a special use permit/Series A site plan review shall be made by the Planning Commission. Such forty-five-day period may be extended by written mutual consent of the applicant and the Planning Commission. Any decision of the Planning Commission shall include a brief written report outlining the major factors and conditions upon which such decision was made.

F. Referrals.

(1) To the Broome County Planning Department.

(a) Before taking final action on certain applications for a special use permit/Series A site plan review, such applications shall be referred to the Broome County Planning Department for report and recommendation in accordance with § 239-m(3)(b) of the General Municipal Law:

[1] The boundary of any City, village, or town; or

[2] The boundary of any existing or proposed county or state park or any other recreation area; or

[3] The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway; or

[4] The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or

[5] The existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated; or

[6] The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law, except this subsection shall not apply to the granting of area variances.

(b) If the County Department of Planning fails to make such report within 30 days after receipt of a full statement of any matter referred by the Planning Department, action may be taken without such report in accordance with § 239-m(4)(b) of the General Municipal Law. However, any County Department of Planning report received after 30 days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of § 239-m(5). If the County Department of Planning disapproves of the proposal, or recommends modification thereof, the Planning Commission may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members thereof. The Planning Commission shall file a report of its action with the County Department of Planning within seven days after such action is taken.

(2) To Commission on Architecture and Urban Design (CAUD). Before taking final action on an application for a special permit involving a parcel or structure located in any designated historic district, or which is a duly designated landmark, or which is identified as an historic structure or site in an urban cultural park, such application shall be referred to CAUD for review and action in accordance with the provisions of the Landmarks Ordinance of the City of Binghamton.EN

G. Relevant comments. In reviewing an application for a special use permit/Series A site plan review, it shall be the responsibility of the Planning Department to obtain relevant comments or approvals, in writing, from other City departments before a decision is made on such application.

H. Environmental assessment. In reviewing applications for approval of special use permit/Series A site plan review applications, the environmental impact of such a proposed action shall be considered. Approval shall not be given until a draft environmental impact statement, if required, has been prepared. See § 410-84F.

I. Modifications. In reviewing an application for a special use permit/Series A site plan review, the Planning Commission may modify or waive the requirements set forth in § 410-41 if this is deemed appropriate and in the best interest of the City, and if the spirit and intent of this chapter can be maintained.

J. Issuance of a building and use permit. When an application for approval of a special use permit/Series A site plan review has been approved in accordance with the provisions of this Article VIII, with or without modifications, a building and use permit shall be issued by the Supervisor of the Office of Building and Construction if there is also compliance with all other pertinent code requirements. All required modifications shall be conditions of the building and use permit.

K. Filing. The decision of the Planning Commission shall, within five days, be filed in the Office of the City Clerk, the Office of Building and Construction, and the Planning Department. A copy of the decision shall also be given or mailed to the applicant.

L. Term. Except as set forth to the contrary in this Subsection L, a special use permit/Series A site plan review shall become void 12 months from the date of issuance unless substantial progress has been made on the project described on such permit. Upon application, the special use permit/Series A site plan review may be renewed by the Planning Commission for an additional six months. For unusually large and complex projects, the Planning Commission may determine that conditions warrant the waiving of this provision.

M. Violation of the above procedure or any provision, requirement or condition of site plan approval shall be cause to deny or revoke a certificate of occupancy and shall be considered an offense and punishable by a fine of $250 for the first offense and $500 for any subsequent offense. Each day shall constitute a separate violation until the violation is corrected. In addition, the Building Inspector may require the violation to be corrected. This section will be enforced by the Building Inspector and subject to the jurisdiction of the City Court of the City of Binghamton or the Broome County Supreme Court, as applicable.

§ 410-40. General requirements [Amended 8-7-2013 by Ord. No 13-49.]

A. Approval of any application for a special use permit/Series A site plan review may be conditioned on the provision of adequate safeguards to protect the health, safety and general welfare of the public and to mitigate possible detrimental effects on adjacent property. To this end, before a special use permit/Series A site plan review application is approved, the Planning Commission shall determine that the following general requirements have been met, as well as any other applicable specific requirements for certain land uses as may be set forth in § 410-41 and Article IX of this chapter.
   (1) That the land use is to be designed, located and operated so as to protect the public health, safety and welfare.
   (2) That the land use will encourage and promote a suitable and safe environment for the surrounding neighborhood and will not cause substantial injury to the value of other property in the neighborhood.
   (3) That the land use will be compatible with existing adjoining development and will not adversely change the established character or appearance of the neighborhood.
   (4) That effective landscaping and buffering is provided as may be required by the Planning Commission. To this end, parking areas and lot area not used for structures or access drives shall be improved with grass, shrubs, trees and other forms of landscaping, the location and species of which shall be specified on the site plan.
   (5) That a site plan shall be approved in accordance with applicable provisions of Article IX of this chapter.
   (6) That adequate off-street parking and loading are provided in accordance with Article X of this chapter or other requirements as may be set forth in § 410-41 below, and ingress and egress to parking and loading areas are so designed as to minimize the number of curb cuts and not unduly interfere with traffic or abutting streets.
   (7) That site development shall be such as to minimize erosion and shall not produce increased surface water runoff onto abutting properties.
   (8) That existing public streets and utilities servicing the project shall be determined to be adequate.
   (9) That significant existing vegetation shall be preserved to the extent practicable.
   (10) That adequate lighting of the site and parking areas is provided and that exterior lighting sources are designed and located so as to produce minimal glare on adjacent streets and properties.
   (11) That the land use conforms with all applicable regulations governing the zoning district where it is to be located, and with performance standards set forth in § 410-24 of this chapter, except as such regulations and performance standards may be modified by the Planning Commission or by the specific provisions of § 410-41 below. Notwithstanding the above, the Planning Commission shall not be authorized to modify the land use regulations of this chapter.

B. If the conditions thought to be necessary by the Planning Commission to accomplish the purpose of this Article VIII cannot be complied with by the applicant for a special use permit/Series A site plan review, the application shall be denied.

§ 410-41. Additional requirements for certain land uses. [Amended 7-20-09 by Ord. No. 23-2009; Amended 8-7-2013 by Ord. No 13-49]

A. In addition to the general requirements specified in § 410-40 above and the provision of Article IX of this chapter, which are applicable to all special use permit/Series A site plan review requests, the specific requirements for certain land uses as set forth in this section shall be complied with unless such requirements are modified by the Planning Commission. Additional requirements are as follows:
   (1) An adult bookstore in the I-2 and I-3 Districts is permitted when:
      (a) No such facility shall be located less than 500 feet from the boundary of any residential district or residence, place of worship, school, church or playground in any district.
      (b) No such facility shall be located less than 500 feet from the nearest lot line of another lawfully established adult bookstore, adult novelty store, or adult entertainment establishment.
   (2) An adult entertainment establishment in the I-2 and I-3 Districts is permitted when:
      (a) No such facility shall be located less than 500 feet from the boundary of any residential district.
      (b) No such facility shall be located less than 500 feet from the nearest lot line of another lawfully established adult entertainment establishment, adult bookstore, or adult novelty store.
   (3) An adult novelty store in the I-2 and I-3 Districts is permitted when:
      (a) No such facility shall be located less than 500 feet from the boundary of any residential district.
      (b) No such facility shall be located less than 500 feet from the nearest lot line of another lawfully established adult novelty store, adult bookstore, or adult entertainment establishment.
      (c) Required stacking spaces shall not interfere with the entrance and exit of vehicles and shall not extend onto any public street.
   (4) An automobile repair shop in the C-1, I-2, and I-3 Districts is permitted when:
      (a) No outside storage of materials is permitted in the required front and side setback areas.
      (b) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.
      (c) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
      (d) No outdoor storage of tires shall be permitted at any time.
   (5) Automobile sales, new, in the C-1, I-2, and I-3 Districts is permitted when:
      (a) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number of equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
      (b) No outdoor storage of tires shall be permitted at any time.
      (c) No outdoor storage of materials is permitted in the required front and side setback areas.
      (d) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.
   (6) Automobile sales, used (major), in the C-1, I-2, and I-3 Districts is permitted when:
      (a) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that

property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.

(b) No outdoor storage of tires shall be permitted at any time.

(c) No outside storage of materials is permitted in the required front and side setback areas.

(d) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.

(7) An automobile service station in the C-1, C-4, I-2, and I-3 Districts is permitted when:

(a) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.

(b) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.

(c) No outdoor storage of tires shall be permitted at any time.

(d) No outside storage of materials is permitted in the required front and side setback areas.

(8) A building supply yard in the I-2 and I-3 Districts is permitted when:

(a) No outside storage of materials is permitted in the required front and side setback areas.

(9) Construction equipment sales, storage, and maintenance in the I-2 and I-3 Districts is permitted when:

(a) No outside storage of materials is permitted in the required front and side setback areas.

(10) A dwelling manufactured home, in the R-1 District is permitted when:

(a) No permanent foundation is required. No posts, pillars, columns, etc. are permitted.

(b) No skirting is permitted

(11) A hotel and motel in the C-1, C-2, I-1, I-2, and I-3 Districts is permitted when:

(a) No building shall be located less than 50 feet from the lot line of an existing residence.

(b) No off-street parking shall be located less than 15 feet from the lot line of an existing residence.

(12) A machine, sheet metal and welding shop in the C-1, I-2, and I-3 Districts is permitted when:

(a) No outdoor storage of parts, waste products, or other materials is permitted unless appropriately screened from view.

(b) The provisions of Chapter 292, Noise, of the Code of the City of Binghamton, are complied with.

(13) A miniature golf establishment in the C-4 District is permitted when:

(a) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter

(b) Hours of operation shall not extend after 12:00 midnight or begin before 8:00 a.m.

(14) A motor truck freight terminal in the I-2 and I-3 Districts is permitted when:

(a) No vehicles shall be parked overnight with their motors running.

(b) No vehicles shall leave their motors running or idling for longer than a period of 15 minutes.

(15) A parking area, public, in the R-, C-1, C-2, C-3, C-4, C-5, I-1, I-2 and I-3 Districts is permitted when:

(a) If the use is proposed in the R-3 District, the site plan must comply with a lot coverage requirements for the C-4 District.

(16) A place of worship in the R-1, R-2, and R-3 Districts is permitted when:

(a) No structure shall be located less than 30 feet from an abutting residential lot line.

(b) In the R-1 and R-2 Districts, approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.

(17) A rail freight terminal in the C-1, C-2, I-2 and I-3 Districts is permitted when:

(a) Approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.

(18) A recreation use, racetrack, in the R-3 District is permitted when:

(a) The lot on which such facility is located shall be at least 10,000 square feet in area with a frontage of at least 100 feet.

(b) No portion of the track area shall be located less than 20 feet from any residential lot line or an abutting public street.

(c) An appropriate buffer strip shall be provided between such use and any abutting residential district or residential property.

(d) A solid fence shall be constructed around such track with a minimum height of three feet and a maximum height of four feet.

(e) Such track shall be solely recreational and no business, including the sale of motor oil, fuel, gasoline, small engine replacement parts, prepackaged foods, soft drinks and/or snack foods, shall be permitted.

(f) No more than five gallons of fuel or two gallons of used or new motor oil may be stored on the property at any time, and if stored must be at all times be maintained in containers meeting or surpassing all state and/or federal regulations applicable to storage of fuels and motor oil.

(g) The permit must be displayed at all times.

(h) The racetrack is limited to motorized vehicles that are owned and maintained by the owner or lessee of the subject property.

(i) The Planning Commission has the authority to prevent the construction of viewing areas and/or grandstands for the protection of the residents as well as the aesthetics of the neighborhood.

(j) No track lighting is permitted.

(k) Hours of operation are limited to 10:00 a.m. through 8:00 p.m.

(l) The track must be located to the rear of the residential structure and shall not be located in any required front and side yard setback areas.

(19) A self-service storage warehouse in the C-1, I-2, and I-3 Districts is permitted when:

(a) No outside display of rental items shall be located in any required front yard setback area.

(20) A shopping center in the C-1, C-2, C-4, I-2 and I-3 Districts is permitted when:

(a) No portion of a lot submitted as a shopping center shall subsequently be subdivided into individual lots without Planning Commission approval.

(21) A telecommunications facility in the C-1, C-2, I-1, I-2 and I-3 Districts is permitted when:

(a) The facility complies with § 410-42, Telecommunication facilities and towers.

(22) Tire, muffler, brake, shock absorber, and related sales and service in the C-4 District is permitted when:

(a) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.

(b) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.

(c) No outdoor storage of tires shall be permitted at any time.

(23) A townhouse with five or more dwelling units in the R-3 District is permitted when:

(a) No parking space shall be less than five feet from the side lot line of any end unit.

(24) A townhouse with four or fewer dwelling units in the R-2 District is permitted when:

(a) No parking space shall be less than five feet from the side lot line of any end unit.

(25) Townhouses with two units in the R-1 District is permitted when:

(a) No parking space shall be less than five feet from the side lot line of any end unit.

(26) A transfer station/redemption center, recyclable materials, in the I-2 and I-3 Districts is permitted when:

(a) Approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.

(27) A transfer station, solid waste or construction and demolition debris, in the I-2 and I-3 Districts is permitted when:

(a) Approval or denial of a special use permit application shall be a determination of City Council after a public hearing has been held by the Planning Commission and a Series A site plan review report has been received from the Planning Commission.

(28) A vehicle impound yard in the I-2 and I-3 Districts is permitted when:

(a) Unlicensed vehicles must be contained within a screened lot by means of a privacy fence.

(29) A vehicle salvage facility in the I-3 District is permitted when:

(a) All unlicensed vehicles must be contained within a screened lot.

§ 410-42. Telecommunications facilities and towers.

A. Intent. The City Binghamton recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of a communications tower and/or similar facilities. The intent of this section is to regulate the location, construction and modification of the telecommunications facilities in accordance with the guidelines of the Telecommunications Act of 1996 and other applicable laws by:

(1) Accommodating the need for telecommunications towers/antennas while regulating their locations and number in the community.

(2) Minimizing adverse visual impacts of these tower/antennas through proper siting, design and screening.

(3) Preserving and enhancing the positive aesthetic qualities of the natural environment and current development in the City of Binghamton.

(4) Providing for the health, safety and welfare of the community by avoiding potential damage or other negative impact to adjacent properties from power failure, failing ice, etc., through proper siting and engineering.

(5) Requiring the joint use of towers when available and encouraging the placement of antennas on existing structures to minimize the number of such structures in the future.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

COLLOCATED/EXISTING STRUCTURE ANTENNA -- Any antenna that is attached to an existing telecommunications tower.
NONCOLLOCATED/NEW STRUCTURE ANTENNA -- An antenna that will not be mounted on an existing structure as defined above or that is located 15 feet higher than the existing structure on which it is mounted. Such is permitted in accordance with the requirements set forth in this section.

C. Approvals and bulk requirements. No telecommunications facility shall be sited, located, constructed, erected or modified without the issuance of a building permit, tower special use permit and a Series A site plan approval, and such other permits or approvals as are prescribed by this chapter.
   (1) Collocated/Existing structure antennas. A collocated or existing structure antenna is permitted without a tower special use permit upon issuance of a Series A site plan approval from the Planning Commission and a building permit. The applicant shall also be responsible for all reasonable costs incurred by the City in reviewing and analyzing an application, including but not limited to any engineering or technical reports or studies submitted by the applicant relative to its application and any legal fees relative thereto. The Series A site plan review and building permit application shall include the following:
      (a) A structural analysis/report, certified by a New York State licensed professional engineer or architect, verifying the ability of the structure to handle the antenna.
      (b) Certification by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer or architect) that the cumulative emissions from all antennas proposed to be located at the proposed site meet federal guidelines.
      (c) The height of the new antenna shall extend no more than 15 feet above the height of the existing structure.
      (d) The antenna and any mounting structure and related equipment shall be integrated into said structure in such a manner as to minimize its visual impact to the greatest extent practicable.
   (2) Noncollocated/New structure antennas.
      (a) A noncollocated or new structure antenna is permitted with the issuance of a tower special use permit, a Series A site plan review approval from the Planning Commission and a building permit. No application for a noncollocated or new structure antenna shall be considered complete unless and until the applicant shall have submitted a report that establishes to the satisfaction of the City of Binghamton Planning Commission the following:
         [1] That the applicant is required to provide service to locations which it is not able to serve through existing facilities which are located either within or outside of the City of Binghamton, showing the specific locations and/or areas the applicant is seeking to serve.
         [2] The report shall set forth an inventory of existing facilities and/or structures, within or outside of the City, which might be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve and shall include a report on the possibilities and opportunities for collocation as an alternative to a new site. The applicant must demonstrate that the proposed facility cannot be accommodated on any such existing facility or structure either within or outside of the City of Binghamton due to one or more of the following reasons:
            [a] The proposed equipment would exceed the existing reasonably potential structural capacity of existing facilities or structures within or outside of the City, considering existing and planned use for those facilities or structures.

[b] The existing or proposed equipment would cause interference with other existing or proposed equipment that could not reasonably be mitigated or prevented.

[c] Said existing facilities or structures do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and/or the applicant has not been able, following good faith efforts, to reach an agreement with the owner(s) of such facilities or structures.

[d] Other reasons which make it impractical to locate or place the proposed equipment on said facilities or structures.

(b) Bulk requirements. In all zoning districts new or relocated towers and antennas shall be set back from all property lines a minimum distance equal to their height (measured from their base). The Planning Commission may require an additional setback area in the case of guy wires, taking into consideration the length of the guy wires and the location of ground anchors.

(3) All applications for telecommunications facilities in all zoning districts shall comply with the requirements of the State Environmental Quality Review Act (SEQRA).

D. Application for tower special use permit.

(1) Application required. All applicants shall make a written application for special use permit and Series A site plan approval to the City of Binghamton Planning Commission, through the City of Binghamton Planning Department.

(2) Said application shall include:

(a) A completed tower special use permit application form. In addition to the requirements set forth herein, all applications shall be processed in accordance with the requirements of § 410-40 of this chapter generally applicable to special use permits. The application shall be accompanied by the payment of the tower special use permit application fee as set from time to time by City Council (See Exhibit J). In addition to the tower special use permit application fee, the applicant shall also be responsible for all reasonable costs incurred by the City in reviewing and analyzing an application, including but not limited to any engineering or technical reports or studies submitted by the applicant relative to its application and any related legal fees.

(b) A special use permit application form, including long-form environmental assessment form (EAF). The application shall not be deemed complete unless accompanied by the propagation studies and search ring analysis described in Subsection D(2)(d) and (e) of this section.

(c) A site plan, in the form and content acceptable to the City, prepared to scale and in sufficient detail and accuracy. In addition to the site plan requirements set forth in § 410-47, the site plan shall include:

[1] The exact location of the proposed tower, together with guy wires and ground anchors, if applicable, and any accessory structures.

[2] The maximum height of the proposed tower and antennas.

[3] A detail of tower type (monopole, guyed, freestanding or other).

[4] The color or colors of the tower.

[5] The location, type and intensity of any lighting on the tower and antennas.

[6] A survey, showing the boundary of the property and any easements, and a topographical map of the property with contour lines not exceeding two-foot intervals.

[7] Proof of ownership of the land by the applicant or the landowner's consent if the applicant will not own the property. A copy of the final lease agreement, plus any amendments thereto, must also be provided if the applicant will not own the property.

[8] The location of all current and proposed structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of these structures to the tower and antennas.

[9] Identification of adjacent landowners.

[10] The location, nature and extent of any proposed fencing and landscaping or screening. Existing on-site vegetation shall be preserved to the maximum extent possible.

[11] The location and nature of proposed utility easements and access roads, if applicable. The applicant must demonstrate that all private access roads will be maintained in order to ensure access by emergency vehicles on a year-round basis.

[12] Building elevations of accessory structures or immediately adjacent buildings.

[13] A visual study showing where, within a two-mile radius, any portion of the proposed tower/antenna could be seen.

(d) Before-and-after propagation studies prepared by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer) demonstrating existing signal coverage resulting from the proposed telecommunications facility.

(e) Search ring analysis.

[1] A search ring analysis prepared by a qualified radio frequency engineer (signed and sealed by a licensed professional engineer) and overlaid on an appropriate background map demonstrating the area within which the telecommunications facility needs to be located in order to provide proper signal strength and coverage to the target cell.

[2] The applicant must be prepared to explain to the City of Binghamton Planning Commission how and why it selected the proposed site, discuss the availability (or lack of availability) of a suitable structure, within the search ring, which would have allowed for collocated antenna(s), and to what extent the applicant explored locating the proposed tower and antennas in a more desirable use district. Proof of correspondence with other telecommunications companies concerning collocation shall be part of this requirement.

(3) The City of Binghamton Planning Commission, upon reviewing the application, may request reasonable additional visual, aesthetic and site information, as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, visual impact statements, enhanced landscaping plans, line-of-sight drawings and/or visual simulations from viewpoints selected by the City staff.

(4) For sites in close proximity to significant historical sites or important preservation/conservation areas, the City will request additional site plans and tower special use permit requirements. These requirements can include specially designed towers, additional screening, greater setbacks and improved landscaping. Siting in these areas should be avoided to the maximum extent possible.

E. Telecommunications facility permit standards.

(1) The following criteria will be considered by the City prior to the approval/denial of a request for a tower special use permit. The criteria listed may be used as a basis to impose reasonable conditions on the applicant. Tower special use permits are not assignable and are not transferable, except upon approval of the Planning Commission.

(2) The City may express a preference for an alternative site(s) and/or that the proposed telecommunications facility be located in a higher-intensity-use district or on higher-intensity-use property, provided that there is a technologically feasible and available location.

A guideline for the City's preference, from most desirable to least desirable zoning district/property, is as follows:

(a) Property with an existing structure suitable for collocation.

(b) Municipal or government-owned property.

(c) Industrial, Heavy (I-3), Industrial, Light/Medium (I-2), Urban Business Park (I-1), Downtown Business (C-2), Service Commercial (C-1), Neighborhood Commercial (C-4), Medical (C-3), Neighborhood Office (C-5), and Limited Neighborhood Commercial (C-6).

(d) Residential Multi-Unit Dwelling (R-3), Residential One- and Two-Unit Dwelling (R-2), and Residential One & Two Family.

(e) Sites which are in close proximity to significant historic sites and/or important preservation/conservation areas.

(3) Any request by the City for information or technical analysis on a preferred alternate site shall be provided by the applicant at its sole cost and shall not unreasonably delay the application.

(4) Aesthetics. Telecommunications facilities shall be located and buffered to the maximum extent that is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the City of Binghamton Planning Commission may impose reasonable conditions on the applicant, including, but not limited to, the following:

(a) Tower height, including antennas, and design are matters of primary public concern. The Board may require a monopole or guyed tower (if sufficient land is available to the applicant) instead of a freestanding tower. Monopoles are a preferred design. The Board may impose reasonable restrictions and/or conditions on height. For example, the Board may reasonably determine that adverse impact upon the community will be best mitigated by requiring the applicant to construct multiple towers of lower height at several different locations to meet the applicant's demonstrated service coverage requirement(s) or that the tower height be reduced in the future if the applicant is unable to demonstrate a continuing need for the approval height in light of changes in the applicant's service coverage needs or technological advances.

(b) The Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and antennas and/or to screen the tower and any accessory structure or buildings to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.

(c) The Board may require the applicant to show that it has made good-faith efforts to collocate on existing towers or other available and appropriate structures and/or to construct new towers near existing towers in an effort to consolidate visual disturbances. However, such request shall not unreasonably delay the application.

(d) The Board may require the tower and any antenna to be camouflaged; for example the Board may reasonably require the tower and antenna to appear to be a flagpole or tree.

(e) The type of finish, color and lighting shall be subject to City and/or Federal Aviation Administration (FAA) approval. The City may require lights to be shielded to minimize ground visual impact.

(f) No tower shall contain any signs or advertising devices. Notwithstanding the foregoing, the Board may require appropriate signage indicating ownership of the facility and phone numbers to call in case of emergency.

(g) The applicant must submit a copy of its policy regarding collocation on the proposed tower with other potential future applicants. Such policy should allow collocation under the following conditions:

[1] The new antenna(s) and equipment do not exceed structural loading requirements, interfere with City space used or to be used by the applicant or pose any technical or radio frequency interference with existing equipment.

[2] The party desiring to collocate pays the applicant an appropriate and reasonable sum to collocate.

[3] The party desiring to collocate has a similar policy of collocation for the applicant.

(h) All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the site unless otherwise permitted in the zoning district in which the facility is located.

(5) Radio frequency; inspections.

(a) The City of Binghamton Planning Commission shall impose a condition on the applicant that the communications antenna will be operated only at Federal Communication Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits and may periodically require that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.

(b) Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for radio emissions, and a copy of the report shall be promptly delivered to the Building Inspector. A licensed professional engineer specializing in electrical engineering with expertise in radio communications facilities shall perform radio emission inspections. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the facility, including the cumulative effects of collocated antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the facility is above the allowable limits stated with applicable FCC or ANSI standards or other applicable federal or state guidelines in effect at the time of inspection, the applicant shall cease all use of the facility until such time as it proves, to the satisfaction of the Building Inspector or pertinent City consultant, that the power density levels of the electromagnetic energy to be generated at the facility are below the applicable standards.

(6) Traffic, access, and safety.

(a) A road turnaround and one parking space shall be provided to assure adequate year-round emergency and service access. Maximum use of existing roads, public or private, shall be made. The use of public roadways or road rights-of-way for the siting of a tower or antenna(s) accessory structures is prohibited.

(b) All towers and ground anchors, if applicable, shall be enclosed by a fence not less than eight feet in height and otherwise sufficiently protected from trespassing or vandalism.

(c) The applicant must comply with all applicable state and federal regulations, including, but not limited to, FAA and FCC regulations, and from time to time may be required to provide certification of such compliance.

(d) All towers and antennas shall include anti-climbing devices for a minimum of 25 feet extending above ground level.

(7) Removal of tower.

(a) The applicant shall agree to remove the tower and antenna if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The City of Binghamton Planning Commission shall require the applicant to provide an appropriate and adequate demolition bond for the purpose of removing the telecommunications facility and restoration of the land in case the applicant fails to do so as required above.

(b) The sufficiency of the demolition bond shall be confirmed at least every five years by analysis and report of the cost of removal and property restoration, which is to be performed by a New York State licensed professional engineer, the cost of same to be borne by the applicant. If the analysis and report determine that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

(8) Structural safety.

(a) During the application process and after construction of the tower, the applicant shall provide a certification from a qualified New York State licensed professional engineer, certifying that the tower and antennas meet applicable New York State and ANSI structural safety standards.

(b) Unless otherwise preempted by federal or state law, the telecommunications facility shall be inspected every two years, at the applicant's expense, for structural integrity. A copy of the report shall be promptly delivered to the Building Inspector. A New York State licensed professional engineer specializing in structural engineering shall perform the structural inspection. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied within the time reasonably set by the Building Inspector. Upon the applicant's failure to do so, the permit may be revoked.

(9) Maintenance of telecommunications facility. All telecommunications facilities shall be maintained in good order and repair. The City may require that reasonable records of such maintenance be kept and available for City review upon request.

F. Exemptions.

(1) Exemptions are as follows:

(a) Antennas and satellite antennas used solely for residential household television and radio reception.

(b) Satellite antennas measuring two meters or less in diameter and located in commercial and industrial districts and satellite antennas one meter or less in diameter regardless of location.

(2) Towers and antennas may be repaired and maintained without restriction.

G. Procedure.

(1) In the event of any conflicts or inconsistencies between this section and any other local law, including any other provision of this chapter, this section is meant to control for telecommunications towers and similar facilities in the City unless otherwise specifically referenced in this section.

(2) In the event that there is a change in technology that alters the use of the telecommunications facilities cited pursuant to this section, the City reserves the right to require a new application to be submitted, which complies with the above requisites, from all owners of such telecommunications facilities.

ARTICLE IX, Site Plan Review and Approval

§ 410-43. Intent.
The intent of this Article IX is to provide for the review of site plans for certain uses in the City of Binghamton for the purpose of preserving and enhancing the character of a neighborhood, achieving compatibility with adjacent development, mitigating potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improving the overall visual and aesthetic quality of the City and increasing the capability of this chapter to adapt to a variety of unique circumstances.

§ 410-44. Applicability.
Any land use or activity which is not listed in Schedule I (§ 410-27) or II (§ 410-32) as a use permitted by right, and for which a site plan is required, shall comply with the standards and procedures of this Article IX. No building or use permit shall be issued by the Supervisor of the Office of Building and Construction until approval of such site plan, with or without conditions, has been given.

§ 410-45. Categories of review. [Amended 8-7-2013 by Ord. No 13-49]
Those uses for which site plan approval must be obtained in accordance with the provisions of this Article IX shall fall into one of the following categories:

A. Series A: that group of land uses and activities which is likely to have a broad and significant impact on the physical, environmental, social or economic character of the surrounding neighborhood and the City. Review of, and decision on, any Series A site plan approvals shall be made by the Planning Commission.

   Series A Site Plan approval from the Planning Commission pursuant to § 410-46 of this Article IX is required for all new construction, for all commercial uses, for all uses requiring a special use permit, for all principal permitted and accessory uses, for all changes of use, and as required by § 410-27 or §410-29 of this Chapter. No building permit shall be issued by the Building Inspector for any such use which requires site plan approval except upon authorization of an in conformity with plans approved by the Planning Commission.

B. Series A Exception: that group of land uses and activities which will have limited effect on the physical, environmental, social or economic character of the surrounding neighborhood but which could seriously impact adjacent properties. Review of, and decision of, any series A site plan exceptions, shall be made by the Planning Department in accordance with the provisions of §410-36B, except that the staff may request that such review and decision be made by the Planning Commission. No public hearing shall be held on Series A exception reviews unless the Planning Department requests that review and decisions be made by the Planning Commission. In such case, the hearing provisions of §410-46D shall be applied. For projects that do not involve or require exterior alterations or additions, an approved site plan may not be required, except in the case where a site plan is necessary to verify compliance with any provision of the City of Binghamton Code of Ordinances or the NYS Code.
C. Exception. Notwithstanding Subsection A of this section, no Series A Site Plan is required for:
   (i) Single and two family dwellings and accessory uses thereto, except as may be required by §41-27 or §410-29 of this Chapter.

(ii) Any change of use from one principal permitted or accessory use to another principal permitted or accessory use, including changes of use within a permitted multiple use, e.g. a shopping center, except when involving new construction then §410-36A shall apply, and provided that the Planning Department and Building Official have determined that the proposed change of use will not have any significant impact on:

(1) Traffic volume
(2) Site access
(3) On-site and off-site parking
(4) Internal circulation
(5) Neighborhood noise levels
(6) Green space (The proposed project will not have created a need for additional landscaping, screening, or buffering)
(7) Drainage
(8) Character of the neighborhood
(9) Lighting

The list of items to be considered above is inclusive, but not exclusive, and the Planning Department and Supervisor of Building Construction, or designee, may consider any environmental or development issues that could have a significant impact on the parcel and/or the surrounding area.

§ 410-46. Procedure. [Amended 8-7-2013 by Ord. No 13-49]

A. Application. Application for a site plan review and approval shall be made to the Planning Department for processing.

B. Presubmission conference. Prior to the preparation and submission of a final plan for site plan review and approval, the applicant may prepare a sketch plan and meet with the Planning Department staff to consider specifics of the proposed use or development, neighborhood characteristics and features of the site. Such sketch plan should be submitted in duplicate and include enough information to enable a clear understanding of the proposal.

C. Plan requirements.

(1) A final plan for any land use or activity requiring site plan review and approval shall be prepared and submitted to the Planning Department. Such final plan shall, at the minimum, contain the following information as applicable:

(a) A bulk table (generally a bulk table lists pertinent information of the property, such as required and proposed square footage, setbacks, number of parking spaces, etc.);
(b) The shape and dimensions of the lot;
(c) The existing zoning for the lot and for all adjacent lots;
(d) The existing and proposed physical characteristics of the site, including topography, vegetation and drainage;
(e) The location and size of all existing buildings that are to remain and all proposed new buildings and location of structures on adjoining lots within 25 feet;
(f) The existing and proposed use of each building or part thereof, and of the lot;
(g) The number of dwelling units proposed for each building;
(h) The layout of required off-street parking and loading space with access and egress thereto;
(i) The location and type of any screening and landscaping;
(j) The location and type of proposed signage, exterior lighting, and proposed improvements other than a building;

(k) Dimensions of all items on the plan, including buildings, lots, parking spaces (handicapped spaces must be designated on site plan), and curb cuts;

(l) Any other information with respect to the lot, buildings or adjacent lots that may be necessary to determine compliance with the provisions of this chapter.

(2) Any of the above plan requirements may be waived by the Planning Department if conditions warrant.

D. Plan approval.

(1) Decision. Within 45 days from the date a complete final plan is submitted to the Planning Commission or Planning Department a decision to approve, with or without modification, or disapprove the application shall be made by the Planning Commission or the Planning Department, as appropriate. Such forty-five-day period may be extended by mutual consent of the applicant and the deciding body.

E. Referrals.

(1) To County planning. Before taking final action on certain applications for site plan approval, such applications shall be referred to the Broome County Planning Department for review and report in accordance with the provisions of §§ 239 l and 239-m of the General Municipal Law.

(2) To Commission on Architecture and Urban Design (CAUD). Before taking final action on an application for site plan approval for a parcel located in the Susquehanna Heritage Area or in any designated historic district or park, such application shall be referred to CAUD for review and action in accordance with the provisions of the Landmarks Ordinance of the City of Binghamton.EN

F. Relevant comments. In reviewing site plans, it shall be the responsibility of the Planning Department to obtain relevant comments or approvals, in writing, from other City departments/divisions before a decision on approval is made.

G. Environmental assessment. In reviewing an application for approval of a site plan, the environmental impact of such a proposed action shall be considered. For any proposed building or land use which is determined to be a Type I or an unlisted action, the provisions of § 410-84F of this chapter shall apply.

H. Issuance of building and use permit. When an application for approval of a site plan has been approved in accordance with the provisions of this Article IX with or without modifications, a building and use permit shall be issued by the Supervisor of the Office of Building and Construction if there is compliance with all other pertinent code requirements. All required modifications established as a result of the site plan review procedure shall be conditions of the building and use permit.

I. Filing. The decision of the Planning Commission or the Planning Department, as appropriate, shall immediately be filed in the Office of the City Clerk and Office of Building and Construction within five business days and a copy thereof shall be given or mailed to the applicant.

§ 410-47. Standards for approval of site plans.

In reviewing applications for approval of site plans, the reviewing agency will be guided by the existing characteristics and conditions of the site and its surroundings and the particular requirements of the applicant. Elements of concern will include, but not be limited to:

A. Movement of vehicles and people.

B. Public safety.

C. Off-street parking and service.

D. Lot size, density, setbacks, building size, coverage and height.

E. Landscaping, site drainage, buffering, views or visual character.

F. Signs, site lighting.

G. Operational characteristics.

H. Architectural features, materials and colors.

I. Compatibility with the general character of the neighborhood.

J. Other considerations that may reasonably be related to health, safety and general welfare.

§ 410-48. Modification of certain regulations.

A. Review by the Planning Department. In reviewing an application for a Series B site plan approval, the Planning Department shall disapprove any proposal not meeting the requirements of this chapter. Notwithstanding the foregoing, the minimum bulk requirements (lot area, frontage, setback, height, etc.) specified in Schedules IA (§ 410-28) and IIA (§ 410-33) may be modified in site plan review when the Planning Department determines that such a modification would not adversely affect the site development or alter the essential character of the locality. Such authority to modify bulk requirements shall be limited as follows:

Requirement	Percent Change
Minimum front yard: reduce by no more than	10%
Minimum side and rear yard: reduce by no more than	10%
Maximum percentage of lot covered : increase by adding no more than	5%

B. Review by Planning Commission. When the Planning Commission determines that special conditions or circumstances exist which make the site development conditions and requirements set forth in this chapter inappropriate, the Commission, in acting on any site plan approval application, or on an appeal from a site plan decision of the Planning Department, may modify such condition or requirement if the best interest of the City would be served and the spirit of this chapter can be maintained. Such modification by the Planning Commission shall not, however, be such as to permit a land use which would not otherwise be possible in the district. In addition, such authority to modify bulk requirements shall be limited as follows:

Requirement	Maximum Percent Change
Minimum lot area: reduce by no more than	10%
Minimum lot area per dwelling unit: reduce by no more than	10%
Minimum lot width: reduce by no more than	10%
Minimum front yard: reduce by no more than	15%

Minimum side and rear yard: reduce by no more than	10%
Maximum building height: increase by no more than	5%
Maximum percentage of lot covered: increase by adding no more than	5%
Maximum floor area: increase by no more than	5%
Minimum off-street parking: reduce by no more than	20%

C. Justification. Justification for any modifications by the Planning Department or the Planning Commission, as authorized by this § 410-48, shall be documented in writing and filed in the records of the application for site plan approval.

§ 410-49. Appeals.

A. Appeal of Planning Department decision. An applicant for a Series B site plan review, or any other aggrieved party, may appeal to the Planning Commission for a review and modification of a decision made by the Planning Department. Such appeal shall be treated by the Planning Commission in the same manner as a Series A site plan review and follow the provisions of § 410-46 of this chapter.

B. Appeal of a Planning Commission decision. Any persons, or any officer, department, division, board or bureau of the City, aggrieved by any decision of the Planning Commission related to site plan review may appeal such decision as follows:
   (1) Decision affecting modification of bulk requirements: may appeal to the Zoning Board of Appeals for an area variance in accordance with the provisions of Article XIV of this chapter.
   (2) Any other decision: may apply to the Supreme Court for review under provisions of Article 78 of the Civil Practice Law and Rules.

ARTICLE X, Off-Street Parking, Loading and Storage

§ 410-50. Intent. [Amended 12-21-11 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No 13-49]
It is the intention of this article that all land uses and activities in the City of Binghamton be provided with sufficient off-street motor vehicle parking to meet the needs of persons associated with such land uses and activities and sufficient off-street loading facilities that are designed and maintained to adequately serve the needs of such land uses and activities while protecting the health, safety and general welfare of the citizens and environment of the City of Binghamton

A. Scope. Off-street parking and loading facilities shall be provided for all buildings, structures and land uses in accordance with the provisions of this Article X and amendments thereto.

B. Existing buildings, structures, and land uses. Buildings, structures and land uses in existence, or for which building permits have been approved, at the time of adoption of this article shall not be subject to the parking and loading requirements contained herein. In such cases, any existing parking and loading facilities shall not be subsequently reduced in area or number if such reduction causes the existing facility(ies) to fall below the minimum requirements of this article.

C. Changes to existing buildings, structures and land uses. Whenever the current use of a building, structure or land shall hereafter be expanded or changed to a new use, parking and loading shall be provided in an amount equal to the requirements contained in §410-53 for such expanded or new use. Additional off-street parking and loading spaces shall only be required to serve the enlarged or expanded area, not the entire building or use. For buildings containing multiple uses, additional parking and loading shall only be required for the portion of the building to be expanded or the portion of a use to be expansion or for a new use.

D. Damage or destruction of nonconforming use. When a structure or use, which is nonconforming in terms of the parking and loading requirements of this Article X, is totally destroyed or damaged by any cause to an extent which exceeds 50% of the physical structure on the property, restoration or reconstruction of such structure or use shall include sufficient off-street parking and loading to bring it into compliance.

E. Facilities dedicated and accepted by the City. Required off-street parking facilities which, after development, are then dedicated and accepted by the City shall be deemed to continue to serve the uses or structures for which they were originally provided.

F. Certificate of occupancy. No certificate of occupancy shall be issued for any building or land use unless the required off-street parking space has been provided.

G. New variance. In case of practical difficulty or special conditions arising out of the parking and loading requirements of this Article X, such requirements may be modified through an application to the Zoning Board of Appeals for an area variance in accordance with the provisions of § 410-94 of this chapter.

§ 410-51. Standards. [Amended 12-21-11 by Ord. No. 11-51; Amended 8-7-2013 by Ord. No 13-49]
Off-street parking and off-street loading provisions of the article shall apply as follows:

A. Use of required spaces. Required parking spaces and any portion of the area on a site encompassing the required parking and the required landscaping within the parking area on a site shall not be rented or leased to any party on or off the site or be used for some purpose other than that permitted or allowed on the site; these spaces shall be made available and maintained in a safe, usable condition for the tenants and their clients or customers, at no charge.

B. Computation. Where the determination of the number of off-street parking spaces results in a requirement of a fractional space, any fraction of less than 1/2 may be disregarded, while any fraction equal to or in excess of 1/2 shall be counted as one parking space.

C. Square footage. References to spaces per square foot are to be computed on the basis of gross floor area unless otherwise specified, and shall include allocations for rest room(s), hall(s), and lobby area(s), but shall exclude area for vertical circulation, stairs, elevators, or upper-story atriums. (See Section 202(120)).

D. Multiple uses encouraged.
   (1) Cross-access encouraged. Applicants for commercial and industrial developments should be encouraged to provide cross-access to adjacent nonresidential properties for convenience, safety, and efficient circulation of motor vehicles. A mutual access agreement shall be executed where cross-access is provided.
   (2) Combined facilities. Off-street parking facilities for independent uses, which uses may or may not be on the same lot, may be combined if the total number of spaces so provided is not less than the sum of the separate requirements for each such use. There shall be adherence to all regulations governing the location of parking, in relation to the use it serves. No parking spaces or portion thereof shall serve as required spaces for more than one use.
   (3) Required spaces. The minimum number of off-street parking spaces required for land uses or activities permitted by this chapter shall be set forth in Schedule III (see § 410-53), which schedule is hereby adopted and made part of this article.

E. Location.

(1) Except as may otherwise be specified in this chapter, all required parking spaces in R-1 and R-2 Residential Districts shall be located on the same lot as the building or use to be served. In other districts, required off-street parking space may be provided in a private or public off-site facility. The distance from the lot line of such off-site parking facility to the closest lot line of the building or use it is intended to serve shall be no greater than 250 feet for the R-3 Residential District, and 800 feet from all commercial and industrial districts.
(2) When all or part of required parking facilities are to be provided on private land, remote from the lot on which the building or use to be served is located, use of such off-site parking shall be approved only when written assurance is made that the private off-site parking will continue to be available to the building or use it is intended to serve. The form of such assurance shall be determined by the Corporation Counsel.

F. Yards. Off-street parking space, open to the sky, may be located in any required yard space, except that:
(1) In any residential district and the C-5 District, required yard area adjacent to a street may not be used for parking. This restriction shall not apply to driveways to one- and two-unit dwellings.
(2) In any residential district, no more than 50 percent of the area of the required rear setback shall be utilized for off-street parking and in no case shall off-street parking be located within three (3) feet of a rear lot line. A minimum three (3) foot wide landscaped area shall be located between a rear lot line and off-street parking areas and shall not be used for parking spaces, service areas, vehicular surfaces, driveways or maneuvering aisles.
(3) In the C-3, C-4, C-5, and C-6 Districts, parking may not be located less than five feet from any lot line adjacent to a street or any sidewalk. Such five-foot strip shall be landscaped. (See § 410-55B.)
(4) In any zoning district off-street parking areas containing or resulting in more than four parking spaces shall be setback a minimum five (5) feet from any lot line adjacent to a street or sidewalk and shall be setback five (5) feet from any side and or rear lot line(s) adjoining a residential district or a residential facility. Such five-foot setback shall be landscaped. (See §410-55B.)

G. Tandem parking. Tandem parking of two or more vehicles will not be considered in the determination of the total amount of off-street parking available if such tandem parking blocks the driveway for other vehicles. This provision shall not apply to one- and two-unit dwellings. Tandem parking of not more than 50% of parking spaces is permitted for multiple-family dwellings.

H. Turnover. To determine the total number of off-street parking spaces available in a public parking area or structure, the number of physical spaces actually existing shall be multiplied by a factor of five to account for daily vehicle turnover unless the Planning Department has determined that the capacity of said public parking facility, including the turnover factor, has already been reached. Thus, a public facility containing 100 actual spaces would have 500 off-site spaces which could be assigned to meet the off-street parking requirements of Schedule III (§ 410-53). The Planning Commission may establish a turnover factor for private off-street parking facilities if conditions warrant.

I. Maximum number of parking spaces. No use other than one or two-family dwellings shall provide parking in excess of 110% of parking minimums contained in Schedule III.

J. Pedestrian Circulation Plan. Any land use which requires a minimum of 50 parking spaces shall be required to provide a pedestrian circulation-plan for the proposed site prior to the issuance of permits.

§ 410-52. Definitions.

As used in this article, the following terms shall have the meanings indicated:
DUMPSTER -- A watertight container constructed of impervious material and provided with a cover or covers of like material which is intended and designed to be used for the retention or storage of garbage, refuse or recyclable materials. This term shall not include containers having a maximum capacity of 60 gallons or less.
FLOOR AREA -- For the purposes of determining the required number of parking spaces, floor area shall be measured in accordance with the definition provided for "floor area ratio."
FLOOR AREA RATIO -- The numerical value obtained by dividing the total floor area of the building or buildings on the lot by the area of such lot.
FOOTCANDLE -- One lumen per square foot; unit of illuminance used to measure the amount of light emitted by lamps.
IMPERVIOUS -- Any nonorganic material that prohibits penetration by liquids or other soluble materials.
OPAQUE -- Any nontranslucent, nonliving material that provides a visual barrier from one side to the other.

§ 410-53. Off-street parking requirements by land use. [Amended 8-7-2013 by Ord. No 13-49; Amended 2-3-2016 by Local Law 16-02]
Required spaces. The minimum number of off-street parking spaces required for land uses or activities permitted by this chapter shall be as set forth in Schedule III, which is hereby adopted and made part of this article.

A. Downtown Business (C-2) District. Off-street parking requirements shall not apply to any existing buildings located in the Downtown Business (C-2) District where no parking presently exists and there is no opportunity to provide it.
B. IN all Zoning Districts except in the C-2, off-street parking requirements contained in Schedule III shall not apply to a non-residential land use occupying two-thousand five-hundred (2,500) square feet or less in gross floor area and located within an existing structure or portion thereof, which was constructed, established, wholly reconstructed, or moved onto a new lot prior to the effective date of the Zoning Code or any amendments thereto.
C. In all Zoning Districts except the C-2, a non-residential land use occupying greater than two-thousand five-hundred (2,500) square feet of gross floor area and located within an existing structure or portion thereof, which was constructed, established, wholly reconstructed, or moved onto a new lot prior to the effective date of the Zoning Code or any amendments thereto, shall only be required to provide off-street parking as prescribed in Schedule III for the portion of the floor area that exceeds 2,500 square feet.
D. Existing Parking and Loading to be Maintained. No existing parking space(s) or loading space(s) serving any activity or use shall be reduced in amount or changed in design, location, or maintenance that would result in non-compliance with the Zoning Code, or if providing an amount of off-street parking or loading area less than required, shall not be further reduced below the requirements prescribed in Schedule III for such activity or use, unless equivalent substitute parking and/or loading space(s) are provided.
E. Reduction of off-street parking requirements for Landmark Properties. The Planning Commission may reduce or waive the minimum off-street parking requirement for a permitted use in a designated Local Landmark structure or structure listed in the National Register of Historic Places, subject to the following criteria and procedures:
    (1) In making any such reduction or waiver, the Planning Commission shall assess area parking needs. The Commission may require a survey of on and off street parking availability. The Commission may take into account the level of transit service in the immediate area; the probable relative importance of walk-in traffic; proposals by the applicant to encourage carpooling or transit use by employees; hours of operation; and any other factor or factors considered relevant in determining parking impact.

(2) The Planning Commission may also consider the types and scale of uses proposed or practical in the Landmark structure and any standards, specifications or guidelines applicable to the structure or site.
(3) Such a reduction or waiver may be allowed only if the Planning Commission also determines that there is no feasible way to meet parking requirements on the lot.
(4) Prior to the approval of such reduction or waiver, a public hearing shall be held by the Planning Commission pursuant to §41—39D(2).

F. In any district, regardless of land use, a Series A site plan review is required for any parking area that is proposed to be located between an existing or new building and the public right-of-way.
G. Every parking space served by an electric vehicle charging station shall count as 2 parking spaces when calculating the minimum parking requirement for a land use.
H. Schedule III.

Residential Use Classifications

Land Use or Activity	Space(s) Required
Single-unit dwelling	2.00 spaces per unit
Two-unit dwelling	2.00 spaces per unit
Accessory dwelling	1.00 space per unit
Multi-unit dwelling	1.50 spaces per unit
Studio or efficiency	1.0 space per unit
Multi-unit four or more bedrooms	2.33 spaces per unit
Elderly housing	1.00 space per three living units
Fraternity or sorority	1.00 space for each 200 square feet of rooms designed for sleeping
Rooming house	1.00 space plus 0.50 space for each room used for sleeping
Boardinghouse	2.00 spaces for owner-occupant plus 1.00 space for each room used as a temporary residence
Auto rental	1.00 space per 400 square feet of gross floor area, plus 1.00 space per fleet vehicle
Automobile fuel station, convenience store	1.00 space per 500 square feet of gross retail floor area, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Automobile fuel station	1.00 stacking space, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Bakery	1.00 space per 50 square feet of patron space
Bank, credit union	1.00 space for each 250 square feet of gross floor area Stacking space sufficient to accommodate a number of automobiles equal to five times the number of teller windows
Bank, drive-in	Stacking space sufficient to accommodate a number of automobiles equal to five times the number of teller windows
Bar, tavern	1.00 space per six persons based on maximum capacity as determined by the Binghamton Fire Department
Beauty shop, barber shop	1.50 spaces per beauty or barber chair plus 1.00 space per each two employees
Bed-and-breakfast	2.00 spaces, plus 1.00 space per guest room

Bicycle sales/repair	3.00 spaces per 1,000 square feet of gross floor area
Billiard hall	1.00 space for each 10 persons based on maximum capacity as determined by the Binghamton Fire Department
Bowling alley	4.00 spaces for each lane
Car, motor vehicle, motorcycle sales	1.00 space per 600 square feet of enclosed floor space, plus1.00 space per vehicle for sale
Car wash, full-serve	1.00 space per washing module, plus 3.00 stacking spaces
Car wash, self-serve	3.00 stacking spaces for each washing stall, plus 1.00 drying space for each washing stall
Cartage, express, parcel delivery	1.00 space per each three employees, plus 1.00 space per service counter window
Club, membership	1.00 space for each five seats based on the design capacity of the largest meeting room as determined by the Binghamton Fire Department
Communication studio	1.00 space per 400 square feet of gross floor area
Convenience store	1.00 space per 200 square feet of gross floor area
Dance hall	1.00 space for every three persons allowed within the maximum occupancy load
Day care (commercial)	1.00 space per employee plus 1.00 space per facility vehicle, plus 1.00 space per 15 children
Dry-cleaning service	1.00 space per 200 square feet of gross floor area used by the general public
Emergency medical service, private	Adequate space to accommodate all motor vehicles operated in connection with such use, plus 2.00 additional parking spaces per each such vehicle
Food store, supermarket	1.00 space per 200 square feet of sales area
Furniture, appliance store	1.50 spaces per 1,000 square feet of gross floor area
Funeral parlor, mortuary	1.00 space per four seats, plus 1.00 space per two employees, plus 1.00 space reserved for each hearse, ambulance, or company vehicle
Garden supply	1.00 space per 400 square feet of gross floor area
Golf driving range	1.00 space for each driving tee
Golf course, miniature	1.00 space per hole, plus 1.00 space per employee on busiest shift
Health club	1.00 space per each 200 square feet of leasable area
Laundry	1.00 space for each three washing or drying machines
Liquor store	3.00 spaces, plus 1.00 space per 300 square feet of gross floor area over 500 square feet
Mini warehouse/storage	1.00 space per 10 storage units, plus 1.00 space per employee
Medical/Dental office	2.00 spaces per treatment room
Nightclub	1.00 space per 50 square feet of patron space
Office, general	1.00 space per 250 square feet of gross floor area
Oil change shop	2.00 spaces per service station, plus 2.00 spaces per service bay
Outpatient clinic	1.50 spaces per 50 square feet of gross floor area in any waiting or reception room
Pet store	1.00 space per 500 square feet of gross floor area
Photo studio/lab	1.00 space per 300 square feet of gross floor area
Printing/Publishing	1.00 space per 600 square feet of gross floor area

Produce stand	3.00 spaces per 1,000 square feet of gross floor area
Rail storage services	1.00 space per employee
Resource recycling	1.00 space per employee, plus 1.00 space per facility
Restaurant, full service	1.00 space per each three seating accommodations, plus 1.00 space per each two employees on the shift of greatest employment
Restaurant, fast-food	1.00 space per 50 square feet of eating area, plus 1.00 space per employee on busiest shift
Restaurant, limited service/cafe	1.00 space per 50 square feet of customer area
Restaurant, drive-through	5.00 stacking spaces, plus 1.00 space per employee, plus 1.00 space per 50 Square feet of eating area
Research facility	1.00 space per 250 square feet of gross floor area
Retail, general	1.00 space per 250 square feet of retail area
Retail, outdoor	1.00 space per 500 square feet of gross floor area
Service business	1.00 space per 300 square feet of gross floor area
Skating rink	1.00 space per 250 square feet of floor area
Swimming pool	1.00 space per four persons, based on the capacity of the pool
Tailor shop	1.00 space per 300 square feet of gross floor area
Taxi service	1.00 space per fleet vehicle
Terminal, bus	5.00 spaces, plus 1.00 space per 100 square feet of waiting space
Terminal, truck	1.00 space per 1,000 square feet of gross floor area
Theater	1.00 space per five seats based on maximum capacity as determined by the Binghamton Fire Department

Commercial Use Classifications

Land Use or Activity	Space(s) Required
Adult Entertainment	1.00 space per 200 square feet of gross floor area
Amusement arcade	1.00 space for each one game table and 1.00 space for each amusement device and off-street bicycle racks with capacity for one bicycle per each two tables and devices
Animal boarding/hospital	1.00 space per 400 square feet of gross floor area, but no fewer than four spaces
Art gallery	1.00 space per 600 square feet of gross floor area
Auction house	1.00 space for each four patron seats
Auto body shop/repair garage	3.00 spaces for each service bay
Auto parts store	3.30 spaces for every 1,000 square feet of gross floor area
Automobile fuel station, convenience store	1.00 space per 500 square feet of gross retail floor area, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Automobile fuel station	1.00 stacking space, plus 1.00 space per fuel pump island, plus 1.00 space per 4 EV charging stations
Bakery	1.00 space per 50 square feet of patron space
Bank, credit union	1.00 space for each 250 square feet of gross floor area
Bank, drive-in	Stacking space sufficient to accommodate a number of automobiles equal to five times the number of teller windows

Bar, tavern	1.00 space per six persons based on maximum capacity as determined by the Binghamton Fire Department
Beauty shop, barber shop	1.50 spaces per beauty or barber chair plus 1.00 space per each two employees
Bed-and-breakfast	2.00 spaces, plus 1.00 space per guest room
Bicycle sales/repair	3.00 spaces per 1,000 square feet of gross floor area
Billiard hall	1.00 space for each 10 persons based on maximum capacity as determined by the Binghamton Fire Department
Bowling alley	4.00 spaces for each lane
Car, motor vehicle, motorcycle sales	1.00 space per 600 square feet of enclosed floor space, plus 1.00 space per vehicle for sale
Car wash, full-serve	1.00 space per washing module, plus 3.00 stacking spaces
Car wash, self-serve	3.00 stacking spaces for each washing stall, plus 1.00 drying space for each washing stall
Cartage, express, parcel delivery	1.0 space per each three employees, plus 1.00 space per service counter window
Club, membership	1.00 space for each five seats based on the design capacity of the largest meeting room as determined by the Binghamton Fire Department
Communication studio	1.00 space per 400 square feet of gross floor area
Convenience store	1.00 space per 200 square feet of gross floor area
Dance hall	1.00 space for every three persons allowed within the maximum occupancy load
Day care (commercial)	1.00 space per employee plus 1.00 space per facility vehicle, plus 1.00 space per 15 children
Dry-cleaning service	1.00 space per 200 square feet of gross floor area used by the general public
Emergency medical service, private	Adequate space to accommodate all motor vehicles operated in connection with such use, plus 2.00 additional parking per each such vehicle
Food store, supermarket	1.00 space per 200 square feet of sales area
Furniture, appliance store	1.50 spaces per 1,000 square feet of gross floor area
Funeral parlor, mortuary	1.00 space per four seats, plus 1.00 space per two employees, plus 1.00 space reserved for each hearse, ambulance, or company vehicle
Garden supply	1.00 space per 400 square feet of gross floor area
Golf driving range	1.00 space for each driving tee
Golf course, miniature	1.0 space per hold, plus 1.00 space per employee on busiest shift
Health club	1.00 space per each 200 square feet of leasable area
Laundry	1.00 space for each three washing or drying machines
Liquor store	3.00 spaces, plus 1.00 space per 300 square feet of gross floor area over 500 square feet
Mini warehouse/storage	1.00 space per 10 storage units, plus 1.00 space per employee
Medical/Dental office	2.00 spaces per treatment room
Nightclub	1.00 space per 50 square feet of patron space
Office, general	1.00 space per 250 square feet of gross area

Oil change shop	2.00 space per service station, plus 2.00 per service bay
Outpatient clinic	1.50 spaces per 50 square feet of gross floor in any waiting or reception
Pet store	1.00 space per 500 square feet of gross floor area
Personal Instruction and Improvement	1.00 space per each 300 square feet of leasable area
Photo studio/lab	1.00 space per 300 square feet of gross floor area
Printing/publishing	1.00 space per 600 square feet of gross floor area
Produce stand	3.00 spaces per 1,000 square feet of gross floor area
Rail storage services	1.00 space per employee
Resource recycling	1.00 space per employee, plus 1.00 space facility
Restaurant, full service	1.00 space per each three seating accommodation, plus 1.00 space per each two employees on the shift of greatest employment
Restaurant, fast –food	1.00 space per 50 square feet of eating area, plus 1.00 space per employee on busiest shift
Restaurant, limited service/cafe	1.00 space per 50 square feet of customer area
Restaurant, drive-through	5.00 stacking spaces, plus 1.00 space per employee, plus 1.00 space per 50 feet of eating area
Research facility	1.00 space per 250 square feet of gross floor area
Retail, general	1.00 space per 250 square feet of retail area
Retail, outdoor	1.00 space per 500 square feet of gross floor area
Service business	1.00 space per 300 square feet of gross floor area
Skating rink	1.00 space per 250 square feet of floor area
Swimming pool	1.00 space per four persons, based on the capacity of the pool
Tailor shop	1.00 space per 300 square feet of gross floor area
Taxi service	1.00 space per fleet vehicle
Terminal, bus	5.00 spaces, plus 1.00 space per 100 square feet of waiting space
Terminal, truck	1.00 space per 1,000 square feet of gross floor area
Theater	1.00 space per five seats based on maximum capacity as determined by the Binghamton Fire Department

Industrial Use Classifications

Land Use or Activity	Space(s) Required
Manufacturing	1.00 space per 800 square feet of gross floor area
Warehouse/Wholesale Facility	1.00 space per 1,200 square feet of gross floor area

Institutional/Public Use Classification

Land Use or Activity	Space(s) Required
Auditorium	1.00 space per 3.3 fixed seats
College/University	1.00 space per 5 students enrolled full-time
Community residential facility	1.00 space per employee, plus 1.00 space per service vehicle
Community residential facility for the disabled	1.00 space per employee, plus 1.00 space per service vehicle
Correctional facility	1.00 space for each 10 inmates at maximum capacity
Education facility, other	1.00 space per 4 students

Fire station	2.00 spaces per engine
Hospital, medical center	2.50 spaces per bed
Library	1.00 space per 400 feet of gross floor area, plus 1.00 space per 2 employees
Museum	1.00 space per 600 square feet of gross floor area
Nursing home/convalescent home	2.00 spaces for each 4 patient beds
Place of worship	1.00 space per 4 fixed seats in the principal place of worship, provided that the number of spaces thus required may be reduced by not more than 50% if the place of worship is located within 500 feet of any public parking lot
Police station	1.00 space per 300 square feet of gross floor area
Public assembly, other	1.00 space per 4 fixed seats
Public utility, yard, garage	1.00 space per 500 square feet of gross floor area

§ 410-54. Size and access. [**Amended 12-21-11 by Ord. No. 11-51]**Each required off-street parking space shall conform to the dimension requirements outlined in Section 410.54. Each parking space shall have direct and functional access to a street and, except for one-and two-family dwellings, shall not require the backing of any vehicle across a sidewalk or into a street right-of-way.

A. Driveway width requirements. The width of driveways, measured at the nearest points of the radius return, shall meet the following requirements:

Driveway Width

Use	Minimum (feet)	Maximum (feet)
Office, commercial, institutional, multi-family dwelling, apartment complex		
One-way traffic	12	18
Two-way traffic	24	30
Industrial		
One-way traffic	15	25
Two-way traffic	25	40
One-and two-family dwellings	9	18

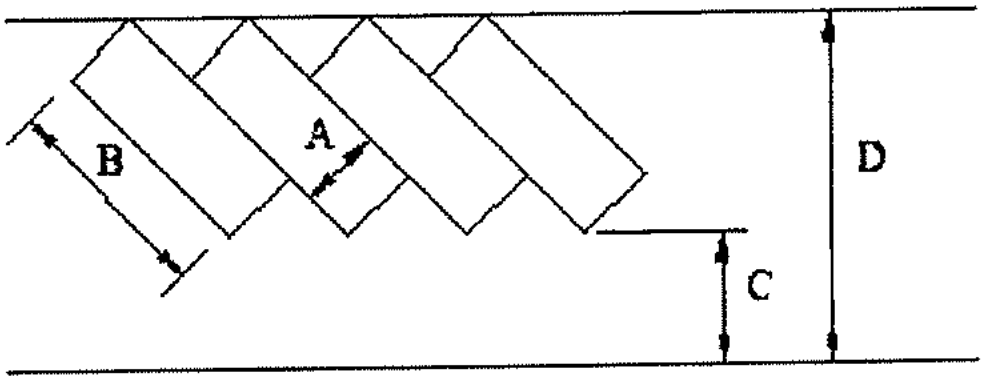
B. Dimensional parking requirements.

(1) Parking space sizes. Full-size parking spaces shall be nine feet wide and 18 feet in length. Compact parking spaces shall be eight feet wide and 17 feet in length. Oversize parking spaces shall be 12 feet wide and 20 feet in length. Compact and oversize parking spaces shall generally be located in one or more continuous areas, and shall generally not be intermixed with spaces designed for full-size cars unless required by design problems. Up to 5% of total parking spaces shall be of compact parking space size, and no more than 10% of total parking spaces required shall be of oversize parking space dimensions.

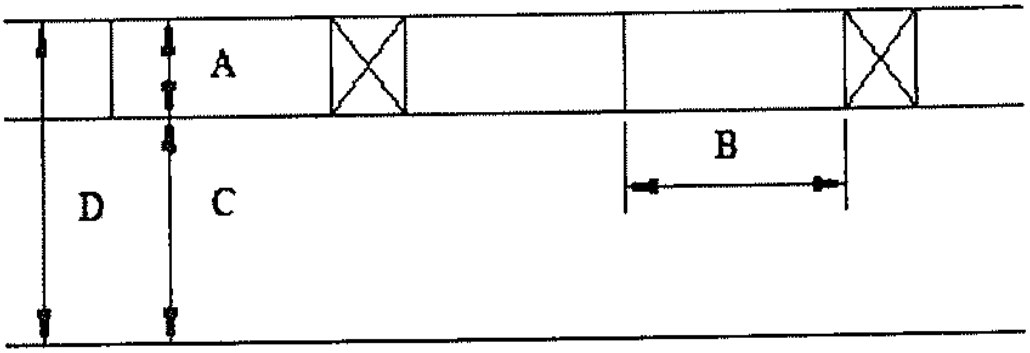
Dimensional Parking Requirements

Angle	Parking Types	A Stall Width	B Stall Width	C Aisle Width	D One Row	E Two Rows

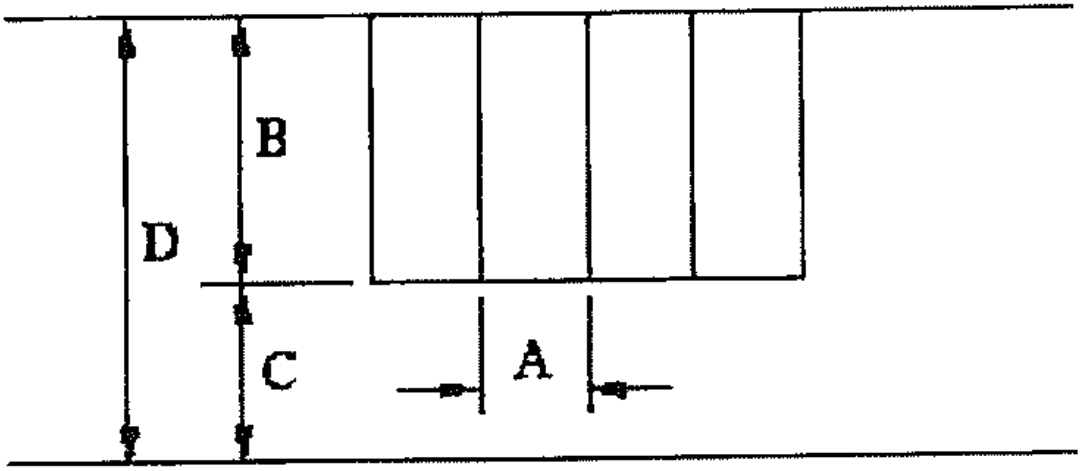
		(feet)	(feet)	(feet)	Plus Aisle (feet)	Plus Aisle (feet)
Parallel	Full Size	8.0	22.0	12.0	20.0	40.0
	Compact	8.0	20.0	12.0	20.0	40.0
20°	Full Size	9.0	18.0	16.0	34.0	52.0
	Compact	8.0	17.0	16.0	33.0	50.0
30°	Full Size	9.0	18.0	16.0	34.0	52.0
	Compact	8.0	17.0	16.0	33.0	50.0
45°	Full Size	9.0	18.0	13.0	31.0	49.0
		10.0	18.0	12.0	30.0	48.0
		11.0	18.0	11.0	29.0	47.0
	Compact	8.0	17.0	16.0	33.0	50.0
60°	Full Size	9.0	18.0	19.00	37.0	55.0
		10.0	18.0	18.0	36.0	54.0
		11.0	18.0	17.0	35.0	53.0
	Compact	8.0	17.0	19.0	36.0	53.0
70°	Full Size	9.0	18.0	20.0	38.0	56.0
	Compact	8.0	17.0	20.0	37.0	54.0
80°	Full Size	9.0	18.0	24.0	42.0	60.0
	Compact	8.0	17.0	24.0	41.0	58.0
90°	Full Size	9.0	18.0	24.0	42.0	60.0
		10.0	18.0	23.0	41.0	59.0
		11.0	18.0	22.0	40.0	58.0
	Compact	8.0	17.0	24.0	41.0	58.0



ANGLED PARKING
NO SCALE



0° PARALLEL PARKING
NO SCALE



90° PERPENDICULAR PARKING
NO SCALE

(2) Accessible space dimensions.

(a) Standard accessible spaces must be eight feet wide and must have a five-foot-wide demarcated accessible aisle adjacent to it. Two accessible spaces may share the same accessible aisle except in the case of angle parking; in that instance, each space must have an adjacent accessible aisle. Only in the case of ninety-degree parking can a vehicle back into a parking space and still have access to an oversized aisle.

(b) Van-accessible parking spaces. One out of every eight accessible spaces must be van-accessible wherever accessible spaces are provided.

(c) Passenger loading zones, which are mandatory with valet or attendant parking, must be at least 20 feet long by eight feet or more in width, with a five-foot accessible aisle adjacent to the space. A raised curb must not be

located within the accessible aisle, and a curb ramp must lead from the parking space, via the accessible aisle, to any raised curb. Furthermore, all accessible parking spaces and loading zones, including the accessible aisle, must not have slopes exceeding 2% and must be connected to an accessible route.

Required Number of Accessible Spaces
(or current applicable standard of the New York State Building Code)

Total Parking Spaces in Lot	Required Minimum Number of Accessible Spaces[1, 2]
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000

NOTES:
[1]One and two unit dwellings are exempt from the accessibility requirements
[2]Medical facilities have higher requirements:
(1) 10% of spaces should be accessible for outpatient facilities.
(2) 20% of spaces should be accessible if a facility specializes in treatment of persons with mobility impairments.
(3) 20% of spaces should be required for hospitals

§ 410-55. Design and maintenance. [Amended 12-21-11 by Ord. No. 11-51]

A. Surfacing. Any off-street parking and/or loading area, including driveways and maneuvering aisles, shall be surfaced with pervious pavement, asphaltic or Portland cement binder pavement, grasscrete, concrete pavers, or other surface approved by the Supervisor of the office of Building and Construction or the Planning Department, so as to provide a durable, dustless and continuous (from point of access to edge of public street) all-weather surface that is appropriately structured and bordered for permanence, shall be graded and drained so as to retain or dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of vehicles. Gravel shall not be permitted as a surfacing material.

B. Screening and perimeter landscaping. Off-street parking areas containing or resulting in more than four parking spaces shall be screened on each side adjoining a residential district or a residential facility or facing a street by a minimum five (5) foot-wide perimeter landscape strip planted with shrubs and trees in accordance with the following standards.

(1) Landscaping materials shall include a combination of trees, shrubs, vegetative ground cover, grasses, and, to less extent, mulch. The use of decorative stones and rocks shall be allowed as a decorative feature only, subject to review and approval by the Planning Department.
(2) Landscaped areas shall have a minimum of 12 inches of topsoil, tilled into noncompacted subbabase base soils. Landscape areas shall be sufficiently sized to support trees and other vegetation.
(3) Except as provided by section 410.17, landscaping shall reasonably be expected to form a year-round dense screen at least four feet high within two years the initial planting. All plant materials shall be climate appropriate, preferable native species, and salt and drought tolerant.
(4) One minimum tree two (2) inch caliper tree shall be planted within the perimeter landscape strip for every four (4) parking spaces. Fractions of a tree shall be rounded up to the next whole number.
(5) On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six (6) feet, street trees shall be provided to the satisfaction of the Planning Department. A minimum of on two (2) inch caliper tree shall be planted per every 30 feet of street frontage. Selection of street tree species shall be based upon compatibility with the existing tree plantings on the street, the mature size of the tree, space available for the tree to grow, the presence of underground and overhead utility lines, utility poles, streetlights, driveway approaches and fire hydrants. Trees shall be planted in accordance with Chapter 391, Trees and Shrubs.
(6) All required planting shall be permanently maintained to good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The owner of such parking area is responsible for tree, including street trees, and landscaping maintenance in perpetuity.
(7) Curb-cuts to allow water to flow into the landscape areas, in combination with grading to deliver runoff from parking lot to landscaped areas, shall be used to create bio-retention and infiltration areas for water quality protection and groundwater recharge.
(8) All plantings shall comply with Section 410.17, Visibility at Intersections.
(9) A Landscape Plan detailing the above requirements, where applicable, shall be submitted for review and approval to the Planning Department. The Planning Department may consult with the Shade Tree Commission when necessary.

C. Interior landscape islands. In addition to the perimeter landscaping requirements, Off-street parking and/or loading areas, including automobile/vehicle sales facilities, containing or resulting in 20 or more parking spaces or 5,000 feet in area shall include internal landscaped islands subject to the following provisions:
(1) A minimum of five (5) percent of the interior of the parking area shall be landscaped. Landscape areas shall be sufficiently sized to support trees and other vegetation.
(2) Landscaped area shall have a minimum of 12 inches of topsoil, tilled into noncompacted subbase base solids.
(3) Landscaping materials shall include a combination of native trees, shrubs, vegetative ground cover, grasses, and to a less extent, mulch. The use of decorative stones and rocks shall be allowed as a decorative feature only, subject to review and approval by the Planning Department.
(4) A minimum of one two (2) inch caliper tree shall be planted for every 5 parking spaces. Trees shall be planted within interior landscape islands such that they result in canopy coverage of 50% of the parking area at the time of maturity.
(5) All plant materials shall be climate appropriate, native species, and sale and drought tolerant.
(6) All landscaping shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable

landscaping requirements. The owner of such parking area is responsible for tree and landscaping maintenance in perpetuity.

(7) Depressions in interior landscaped areas, curb openings and grading shall be designed to allow stormwater runoff from the parking area to flow into the landscape areas to create bio-retention and infiltration areas for water quality protection and groundwater recharge.

(8) Internal landscape islands designed to meet the above provisions and the provisions of Chapter 227-6 shall count toward the required twenty (20) percent stormwater reduction requirement for off-street parking areas as required by Chapter 227.6.

(9) Curb-cuts to allow water to flow into the landscape areas, in combination with grading to deliver runoff from parking lot to landscaped areas, shall be used to create bio-retention and infiltration areas for water quality protection and groundwater recharge.

(10) All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The owner of such parking area is responsible for tree, including street trees, and landscaping maintenance in perpetuity.

(11) A Landscape Plan detailing the above requirements, where applicable, shall be submitted for review and approval to the Planning Department. The Planning Department may consult with the Shade Tree Commission when necessary.

D. **Urban runoff reduction plan.** In addition to the requirements setforth in this Article, an Urban Runoff Reduction Plan shall be required for (1) an ancillary parking area or public off-street parking area of any size, (2) new off-street parking and/or loading areas, including driveways and maneuvering aisles, containing 20 or more parking spaces or 5,000 square feet or more of site area, whichever is less, and (3) additions, and alterations or resurfacing of existing off-street parking and/or loading areas, including driveways and maneuvering aisles, resulting in or involving 20 or more parking spaces or 5,000 square feet or more of site area, whichever is less. See Chapter 227 Erosion Control and Stormwater Management, Article III Section 227.6 for Urban Runoff Reduction Plan requirements.

E. Wheel stops. Wheel stops of masonry, steel or timber, or similar stopping devices, shall be anchored and used to prevent vehicles from parking closer to a lot line than permitted by this chapter. This restriction shall not apply to one- and two-unit dwellings.

F. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed 0.2 footcandle measured at the lot line, as certified by a licensed engineer.

G. 410-55 G. Bicycle racks. Off-street parking areas containing or resulting in 20 or more spaces shall provide one bicycle rack for each 20 vehicular parking spaces. Bicycle racks shall be designed to provide a minimum of four bicycle spaces in each rack and so that a bicycle can be secured to the rack. The location of the bicycle rack shall not encroach into the sidewalk such that it would reduce the unencumbered width of the sidewalk to less than five feet. Bicycle racks shall be placed in a location where they shall have adequate lighting and can be surveyed by the occupants.

H. **Snow storage.** Off-street parking and/or loading areas shall include a snow storage area located to prevent damage to small landscaping materials and sensitive stormwater management features.

§ 410-56. Dumpsters and dumpster enclosures.

A. Notwithstanding any other provisions contained in this chapter, residential lots containing four or more dwelling units shall not be required to provide and maintain dumpsters and dumpster

enclosures so long as there are either carports, garages, or other enclosed areas suitable for storage or waste containers and provided that the residents utilize the enclosed storage areas to store their waste containers when not being made accessible for trash pick-up.

B. Dumpsters shall be maintained free of jagged or sharp edges or inside parts that could prevent the free discharge of their contents.

C. All dumpster pads shall be at least two feet larger than the dumpster on all sides. Wheel stops or posts shall be permanently affixed to the pad at least one foot inside the perimeter of the pad to prevent the dumpster from striking the enclosure during collection.

D. The dumpster, dumpster enclosure and all surrounding areas shall be maintained by the property owner in accordance with this section, and shall be free of overflowing refuse at all times except at a scheduled pick-up date. If a continuous problem of insufficient dumpster capacity is proven to exist, additional or larger capacity dumpsters and enclosures or increased frequency of pick-up shall be required in order to eliminate the overflow problem.

E. Dumpsters and dumpster enclosures shall be located in a position accessible for collection by the equipment of the collector.

F. In addition to the requirements set forth in the previous subsections, dumpsters and dumpster enclosures on developed residential lots shall comply with the following requirements:
    (1) Dumpsters may be placed in the ground, provided the floor and walls of the enclosure are constructed of an impervious material. Any portion of the dumpster which is visible above the ground shall be screened with landscape material.
    (2) Dumpsters not placed in the ground shall be stored on a concrete pad at all times except 12 hours before or after scheduled refuse collection and 24 hours before or after special bulk waste collection.
    (3) The perimeter of the dumpster pad shall be enclosed on three sides by an enclosure not less than the height of the dumpster plus six inches. The enclosure must provide a visual barrier between the interior and exterior of the dumpster area. The remaining side of the dumpster enclosure shall be enclosed with gates.
    (4) Each dumpster enclosure shall have at least a thirty-inch opening on one side, to enable a person to walk into the enclosure to deposit trash, garbage, refuse, or recyclable materials.

G. In addition to the requirements set forth, dumpsters and dumpster enclosures on nonresidential lots shall comply with the following requirements:
    (1) Dumpsters shall be kept within opaque enclosures a minimum of 12 feet wide and 12 feet long which shall be of sufficient height to visually screen the dumpster from the street or from abutting properties. The enclosure shall be located at least five feet inside any lot line, except that no dumpster or dumpster enclosure shall be located in a yard area or within any recorded easement.
    (2) Each dumpster enclosure shall have at least a thirty-inch opening on one side, to enable a person to walk into the enclosure to deposit trash, garbage, refuse, or recyclable materials. The enclosure shall be constructed so as to accommodate recycling bins, if over 60 gallons.
    (3) The gates of the enclosure shall be constructed of a frame with opaque walls affixed thereto, and both frame and walls shall be of a material of sufficient strength to withstand normal use. Gates shall be attached to metal posts at least three inches in diameter with at least two hinges. Each gate shall have a wheel at the bottom to prevent sagging and shall have drop pins or rods to hold the gates in place in both open and closed positions.

(4) The base of the enclosure must be poured concrete, in accordance with the requirements of the Building Code. The base shall extend three feet beyond the front opening of the enclosure as an apron, and all concrete must be level with the adjacent asphalt.

§ 410-57. Off-street loading requirements.

A. Applicability. Off-street loading berths shall be provided in accordance with Subsection G(2) of this section in connection with any building or structure which is to be erected or enlarged, and which requires the receipt or distribution of materials or merchandise by truck or similar vehicle.

B. Location. All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project across a public street, sidewalk, or alley. No permitted or required loading berth shall be located less than 25 feet from the nearest point of intersection of any two streets, nor shall it be located in a required front yard or side yard adjoining a street. This restriction shall not apply in any C-1, C-2 or industrial district.

C. Size. Unless otherwise specified in this chapter, a required off-street loading berth shall be at least 12 feet in width and at least 30 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 15 feet.

D. Access. Each required off-street loading berth shall be provided with appropriate means of direct vehicular access to a public street or alley which is paved and located in a manner which will least interfere with traffic movement.

E. Storage and repair. No outdoor storage, nor motor vehicle repair work or service, shall be permitted within any required loading berth area.

F. Space allocation. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any other off-street parking facilities or portions thereof.

G. Space requirements.

(1) For nonresidential uses in all districts except C-1 and industrial districts: one space for the first 10,000 square feet of gross floor area, or major portion thereof, plus one additional space for each additional 100,000 square feet of gross floor area or major portion thereof. Such space is not required when gross ground floor area is 5,000 square feet or less.

(2) For uses in C-1 and industrial districts, off-street loading shall be provided in accordance with the following table:

Floor Area of Establishment (square feet)	Required Number of Spaces	Minimum Size (feet)
5,000 to 25,000	1	12 x 30
25,001 to 50,000	2	12 x 65 each
50,001 to 100,000	3	12 x 65 each
100,001 to 150,000	4	12 x 65 each

(3) For each additional 100,000 square feet of gross floor area, or major fraction thereof, one additional loading space shall be provided. Such additional loading space shall be at least 12 feet in width by 65 feet in length, and have a vertical clearance of not less than 15 feet.

ARTICLE XI, Sign Regulations [Amended 4-23-2014 by Ord. No. 14-20]

§ 410-58. Purpose and intent.

The purpose of this article is to promote the public health, safety, and welfare by establishing content neutral standards and criteria for the construction, installation, maintenance, and operation of outdoor advertising, outdoor advertising signs, and outdoor signs of all types in the City of Binghamton, which are subject to the provisions of this article. It is the further purpose to provide for the removal of those signs that do not comply with these regulations. More specifically, this article is intended to:

A. Promote the creation of a an attractive visual environment that promotes a healthy economy by:
    1. Permitting businesses to inform, identify, and communicate effectively; and
    2. Directing the general public through the use of sign while maintaining attractive and harmonious application of signs on the buildings and sites.
B. Protect and enhance the physical appearance of the City of Binghamton in a lawful manner that recognizes the rights of property owners by:
    1. Encouraging appropriate design, scale, and placement of signs;
    2. Encouraging the orderly placement of signs on the building while avoiding regulations that are so rigid and inflexible that all signs are in a series are monotonously uniform;
    3. Assuring that the information displayed on a sign is clearly visible, conspicuous, legible, and readable so that the sign achieves the intended purpose;
    4. Reducing sign clutter and the distractions and obstructions that may contribute to traffic accidents, and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way; and
    5. Preserving scenic views and the visual character of neighborhoods, historic districts and parkland.
C. Foster public safety along public and private streets within the City of Binghamton by assuring that all signs are in safe and appropriate locations.
D. Establish review procedures that are the minimum necessary to:
    1. Balance the City's objectives and regulatory requirements with the reasonable advertising and way finding needs of businesses;
    2. Allow for consistent enforcement of the Sign Ordinance;
    3. Minimize the time required to review a sign application; and
    4. Provide flexibility as to the number and placement of signs so the regulations are more responsive to business needs while maintaining the City's standards.
E. Prohibit all signs not expressly permitted by this article.

§410-59. Application Process; Categories of Review.

A. Signs for which a permit must be obtained in accordance with the provisions of this Article XI shall fall into one of the following categories:
    1. CAUD Review: any sign within a designated Local Historic District or involving a designated Local Landmark Property. Review of, and decision on, any sign application shall be made by the Commission on Architecture and Urban Design (CAUD) pursuant to §18-78.
    2. Standard Review: any sign that is located within the City of Binghamton that is outside a designated Local Historic District and does not involve a designated Local Landmark Property. Review of, and decision on, any Standard Review shall be made by the Department of Planning, Housing, and Community Development, except that the staff may request that such review and decision be made by the Commission on Architecture and Urban Design (CAUD)
B. Permit applications shall be filed with the Department of Planning, Housing, and Community Development. The application shall contain:
    1. The name and address of the sign owner, the owner of the premises on which the sign is to be erected and the sign erector.
    2. Scaled drawings showing the design and location of the sign, including an accurate plot plan and such other pertinent information as may be required to determine that the required

standards are met. A photograph or rendering including all dimensions is required. The City reserves the right to approve, approve with modifications, or deny an proposed sign plan.

3. Insurance for Signs Extending Over the Public Right-of-Way.
    a. The applicant shall place on file with the City, without cost to the City, satisfactory proof of general liability insurance in the minimum amount of one million dollars ($1,000,000.00) naming the City of Binghamton as an additional insured on a primary non-contributory basis, along with any appropriate endorsements, including state of indemnification to hold the City of Binghamton harmless from any liability incurred or caused by the sign.
    b. Such insurance shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give prior written notice to the City of Binghamton Office of the Corporation Counsel of any modification or cancellation of such insurance.
    c. The provisions of this subsection shall not in any way limit the rights of the City to bring any action or proceeding against the applicant, his or her agents or employees to recover damages suffered by the City and caused by the applicant, his or her agents or employees.

§410-60. Sign Permit Required; Fees.

A. Permit required. Except as expressly provided herein, no sign shall be erected, enlarged, altered or relocated unless an application for a sign permit evidencing the compliance of such work with the provisions of this section and other applicable provisions of this chapter shall have first been issued by the Supervisor of Building and Construction or their designee.
    1. A sign permit shall be required whenever there is any change in the structural form or sign face of any preexisting sign regardless of whether there is a change in ownership of the sign or the premises on which it is located.
    2. Routine sign maintenance or changing of parts designed to be changed shall not be considered an alteration requiring a sign permit.

B. Fees.
    1. The permit and license fees for the erection, maintenance and continued operation of signs shall be as set from time to time by the City Council (See Exhibit J). An additional fee shall be charged for illuminated signs. Signage exempt from fees is limited to those found in §410-64.
    2. Where there is more than one sign on a property, a separate fee shall be collected for each sign.

§410-61. Definitions.

A. As used in this article, a "sign" is any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or project images. "Sign" does not include the flag of any nation, organization of nations, state or city, or fraternal, religious or civic organizations. "Sign" does not include merchandise; works of art which in no way identify a product; or scoreboards located on athletic fields.

B. The following words and phrases used in this Sign Code shall have the following meanings:

Abandoned Sign. A sign which for a period of at least 30 consecutive days or longer no longer advertises or identifies a legal business establishment, product, or activity. See also "Landmark Status Sign."

Accessory Sign. A sign which is intended solely for the purposes of providing information to pedestrians and vehicles, and which does not include any commercial or advertising content.

1. Directional Sign. A permanent accessory sign located on private property at or near the public right-of-way, directing or guiding vehicular traffic onto the property and/or toward parking or other identified locations on the property.
2. Instructional Signs. A sign clearly intended for instructional purposes, as determined by the Zoning Enforcement Officer, shall not be included in the permitted sum of the sign area of identification wall signs, provided such sign is not larger than necessary to serve the intended instructional purpose, and such sign is not in a location, nor includes design characteristics, that constitute or serve the purposes of an identification sign.
3. On-Site Informational Sign. A sign commonly associated with, and limited to, information and directions necessary or convenient for persons coming on the property, including signs marking entrances and exits, parking areas, one-way drives, rest rooms, pickup and delivery areas and the like.

Alteration. Any change in copy, color, size or shape, which changes appearance of a sign, or a change in position, location, construction or supporting structure of a sign, except that a copy change on a sign is not an alteration.

Animated Sign. A sign which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, osculate or visibly alters in appearance in a manner that is not permitted by these regulations.

Area of Sign. The area of the largest single face of the sign within a perimeter which forms the outside shape, including any frame, or forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Refer to measurement standards in §410-61 below.

Awning. A shelter extending from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.

Awning Sign. Any sign painted on or attached to or supported by an awning.

Banner Sign. A lightweight sign that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constricted of non-durable materials, including, but not limited to, cardboard, cloth and/or plastic, and is subject to the requirements of §410-67.2. Banner signs are typically considered temporary, but may be considered as permanent signage under special circumstances, such as when used for vertical, projecting signs.

Billboard or Poster Panel. An off-premises advertising sign.

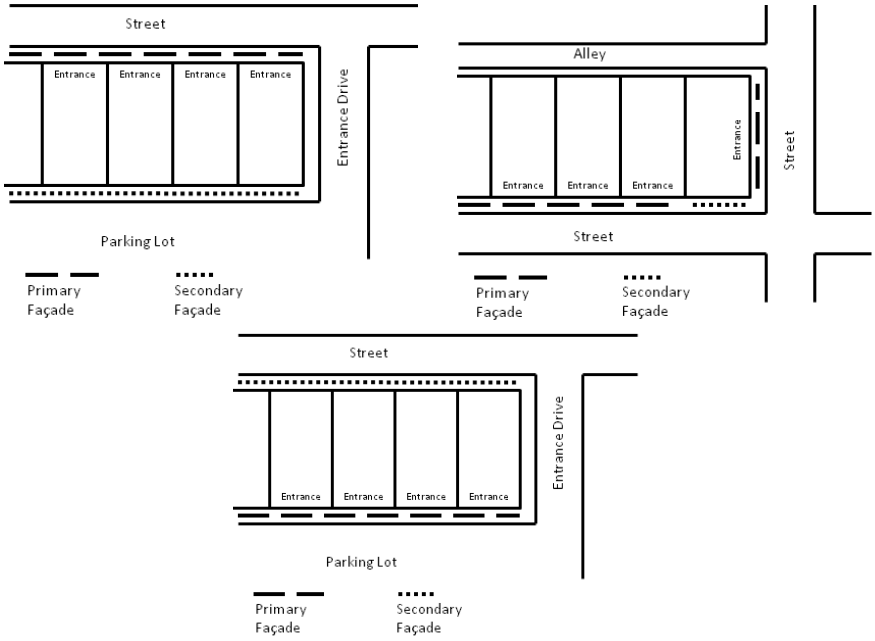
Building Identification Sign. Any sign containing the name or address of a building and may include hours of operation and emergency information, such sign being located on the same site as the structure.

Business Façade. The linear length of a business unit's space. For multi-tenant buildings, the portion of such building that is owned, or leased by a single tenant, shall be considered a separate business façade.

Business Façade, Primary. The primary façade shall be considered the portion of any façades containing primary public entrance(s) to the building or building units.

Business Façade, Secondary. The secondary façade shall included façades containing secondary public entrances to the building or building units, and all walls facing a public street or primary parking area not designated as the primary façade by above.

Primary and Secondary Façade examples



Business Unit. The area in a building, or portion thereof, occupied by a single business entity; tenant space.

Cabinet Sign. A permanent sign that is mounted on the face of a building that provides for internal illumination and changing the message of the sign by replacing a single transparent or translucent

material such as a Plexiglas/lexan face; may be roughly rectangular in shape or may roughly follows the shape of the text of the sign. Also known as a "lightbox" sign.

Canopy. A permanently roofed shelter, other than the building roof, covering a sidewalk, driveway, or other similar area, which is supported by the building to which it is attached.

Canopy Sign. Any permanent sign attached to or constructed underneath a canopy. These signs are below a projecting structure which extends over the pedestrian walkway which effectively prevents the wall signs for being visible to the pedestrian walking under the canopy.

CAUD. Commission on Architecture and Urban Design; see Chapter 18, Boards, Commissions and Committees, Article VI, of the Code of the City of Binghamton.

Changeable Copy Sign. A sign or portion thereof on which the copy or symbols change manually through placement of letters or symbols on a panel mounted in or on a track system. See also Electronic Messaging Center sign.

Construction Sign. A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Electronic Messaging Center (EMC) Sign. A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text, including any sign or portion of a sign that uses changing lights or similar form of electronic display such as LED to form a sign message or messages with text and or images wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. This definition includes without limitation television screens, plasma screens, digital screens, flat screens, video boards, and holographic displays. See also "Static LED Display."

Freestanding Sign. Any sign which is permanently affixed in or upon the ground, supported by one or more structural members; this shall include Ground Signs, Pole Signs, and similar.

Freestanding Vertical Banner Sign. A temporary, freestanding vertically-oriented banner sign attached to a single vertical pole, supported by crossbar base or tipped with a ground spike.

Footcandle. A measure of illumination on a surface that is one foot from a uniform source of light of one candle and equal to one lumen per square foot.

Governmental Sign. A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

Grade. The level of the site at the property line located at the closest distance to the sign.

Ground Sign. A sign erected on a freestanding base or structure (such as, but not limited to: concrete, masonry, wood, or stone) approximately the same dimensions as the sign face, and not attached to any building. See also Freestanding Sign and Pole Sign.

Halo Lighting. A method of sign illumination that consists of a light source external to the sign or sign elements and mounted behind the sign or sign elements. A halo lit sign shall be comprised solely of opaque letters or other sign elements, so that the light does not appear to emit from within or through the letters or other sign elements.

Height of Sign. The measurement from the base of the sign to its highest element; measured as set forth in §410-61 below.

Historic District. The regulation of signs in historic districts shall be subject to the additional provisions provided in Chapter 18, Boards, Commissions and Committees, Article XII, Landmarks Preservation Commission, of the Code of the City of Binghamton.

Holiday Decorations. Signs or displays including lighting which are a nonpermanent installation celebrating national, state, and local holidays or holiday seasons.

Illegal Sign. Any sign placed without proper approval or permits as required by this Code at the time of sign placement. Illegal sign shall also mean any sign placed contrary to the terms or time limits of any permit and any nonconforming sign which has not been brought into compliance with any applicable provisions of this Code.

Illuminated Sign. Any sign for which an artificial source of light is used in order to make readable the sign's message, including internally and externally lighted signs and reflectorized, glowing or radiating signs.

Landmark Status Sign. Abandoned signs which have been determined by the Commission on Architecture and Urban Design (CAUD) to have historical significance for the City; these signs are exempt from the removal requirements of other abandoned signs.

Length of Façade.

1. For measurement purposes, the length of any primary or secondary façade as defined herein, shall be the sum of all wall lengths parallel, or nearly parallel, to such façades excluding any such wall length determined by the Zoning Enforcement Officer or Planning Commission as clearly unrelated to the façade criteria.
2. The business façade for a building unit shall be measured from the centerline of the party walls defining the building unit.

Logo, Logogram, or Logotype. An emblem, letter, character, pictograph, trademark, or symbol used to represent any firm, organization, entity, or product.

Marquee. A permanent rooflike shelter extending from part or all of a building face and constructed of some durable material which may or may not project over a public right-of-way.

Marquee Sign. Any sign painted on or attached to or supported by a marquee. A marquee sign shall not project beyond the supporting marquee more than six (6) inches.

Merchandise Advertising Sign. Any point-of-purchase sign or advertisement located in immediate proximity to merchandise for sale or the business or service offered, describing such merchandise or service, its price and any terms of sale. This shall not include the following: any labeling or product information applied by the manufacture directly to the product; any changeable copy type signage or off-premises advertising signage; or any political and/or noncommercial sign.

1. Exterior merchandise advertising sign. Any merchandise advertising sign located outside of a structure; may be attached to an exterior façade of a structure or secured to a freestanding pole or other support structure.
2. Window merchandise advertising. Any merchandise advertising sign applied or attached the exterior or interior surface of the window, or within 12 inches of the window through which

it can be seen. These sign include, but are not limited to: product signs, illuminated and neon alcohol advertising signs, illuminated ATM signs, Western Union or similar signs.

Mural. A picture on an exterior surface of a structure. A mural is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification
of any business.

Neon Sign. A sign with tubing that is internally illuminated by neon or other electrically charged gas.

Noncommercial Sign. Any sign (including, but not limited to: political signs, statements of opinion, no trespassing signs, and similar) designed for the purpose of any noncommercial expression not related to the advertisement of any product, item for sale, or service or the identification of any business.

Nonconforming Sign. A sign which was validly installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the current provisions of this Code.

Off-Premises Advertising Sign. Any sign identifying or advertising goods, products, services or facilities offered at a different location from where the sign is installed.

On-Premises Advertising Sign. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises on which the sign is installed.

Pole Sign. A sign that is mounted on a freestanding pole or similar supports, with air space between the ground and the sign face. See also Freestanding Sign and Ground Sign.

Political Sign. See "Noncommercial Sign."

Portable Reader Sign. A sign which is not structurally attached to the ground or to a building, but which is mounted on a trailer, platform, legs or other device which may be moved from one location to another. This does not include Sandwich Board signs or Vertical Banner signs as separately defined herein.

Projecting Sign. A sign which projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall. See also Canopy sign.

Real Estate Sign. Any nonpermanent sign pertaining to the sale, exchange, lease, rental, or availability of land, buildings, condominium and similar units, or apartments. Such signs may include building name and address, price and amenities, identity of seller or broker, and similar information.

Revolving or Rotating Sign. An animated sign.

Roof Sign. Any sign erected upon a roof, parapet, or roof-mounted equipment structure and extending above a roof, parapet, or roof-mounted equipment structure of a building or structure.

Sandwich Board Sign. A freestanding temporary sign, with no moving parts or lights, displayed outside a business, during business hours, to advertise the business, hours of operation, an event, a promotion or special, et cetera (excluding real estate signage). It is not intended as permanent business signage.

Sign. Any name, figure, character, outline, display, announcement, or device, or structure supporting the same, or any other device of similar nature designed to attract attention outdoors, and shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof. A sign shall not include any architectural or landscape features that may also attract attention.

Sign Face. An exterior display surface of a sign including nonstructural trim exclusive of the supporting structure.

Site. All the contiguous ground area legally assembled into one development location which is a zoning lot. A zoning lot is defined as a permanent parcel (lot of record), multiple lots of record, or a portion of a lot of record.

Static LED Display. A single-color light emitting diode (LED) display used for limited, infrequently changing sign content (including, but not limited to: time and temperature displays, fuel prices, and similar) which is incorporated into a freestanding sign as a subservient, accessory feature. The displayed content shall not move, scroll, flash, or in any other way simulate motion. This type of display shall be distinct from EMC signs.

Special Event Sign. Any temporary or non-permanent sign advertising or pertaining to any civic, patriotic or special event of general public interest.

Temporary Sign. Any sign which is installed for a period not to exceed 30 days. This does not include Noncommercial signs as defined above.

Wall Sign. Any sign attached to or painted on the wall of a building or structure in a plane parallel or approximately parallel to the plane of said wall.

Window, Area of. The area of a single window includes all of the window panes in an area that is separated by mullions, muntins, or other dividers which are less than three (3) inches wide.

Window Sign. Any sign viewable through and/or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the exterior (beyond the sidewalk immediately adjacent to the window), including signs located inside a building but visible primarily from the outside of the building.

§410-62. General standards.
The following general standards shall apply to all signs:

A. Unless specifically stated otherwise, the signage for each business unit in a multi-tenant building or development site shall be considered independently.
B. Sign Measurements and Dimensions.
    1. For a sign which is framed, outlined, painted, or otherwise prepared and intended to provide a background for the sign display, the area and dimensions shall include the entire portion within such background or frame.
    2. For a sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not part of the architecture of the building. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or

combination of forms, which comprises all of the display areas, including the space between different elements.

Sign Area examples

Individual letters with no background
Sign Area = 14.25 square feet

Framed sign with background
Sign Area = 22.5 square feet

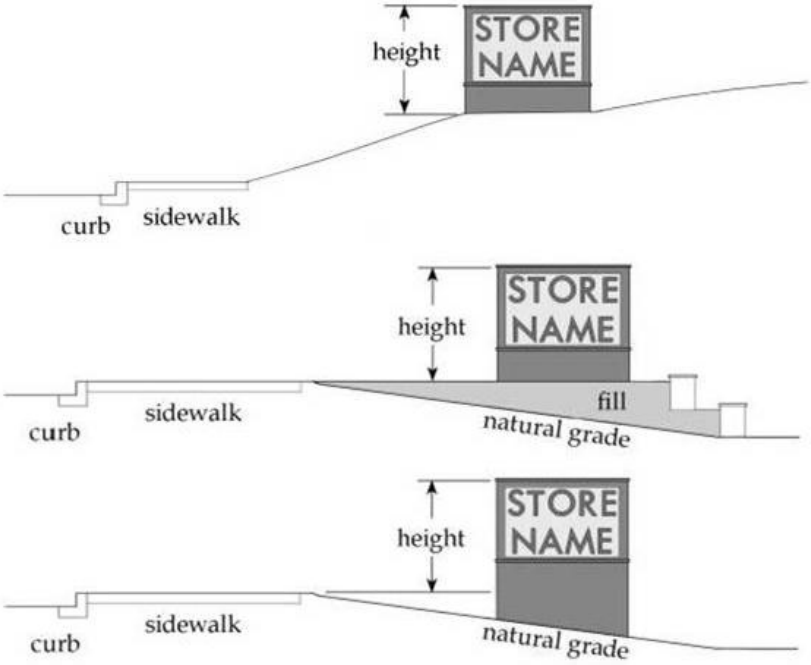
3. For a freestanding sign, the sign area shall include the frame, if any, but shall not include:
    a. A pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or a part of a display device.
    b. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building, or structural form complementing the site in general.
4. Multi-faced Signs.
    a. Signs with two (2) faces. If the interior angle between the two (2) sign faces is 15 degrees or less, the sign area is of one sign face only. If the angle between the two (2) sign faces is greater than 15 degrees, the sign area is the sum of the area of the two sign faces.
    b. Signs with more than two (2) faces. The sign area is the sum of the areas of all sign faces.

C. Maximum Total Sign Area. The total sign area of a business unit shall be limited to two (2) square feet of sign per one (1) linear foot of business façade. Only primary and secondary business façades shall be included in this calculation. Except for freestanding signs, area allowances for signs may be utilized only on the side of the building from which they are calculated. Specific sign types included in the maximum total signage area are established in §410-67 below.

D. Minimum Transparency. The total area of each window covered or obscured shall not exceed 50%. The calculation of this area shall include, but is not limited to, all signs, permanent or temporary, and all notices, flyers, posters, and merchandise advertisements. Address signs, hours of operation, and similar shall not be included in this calculation. The total area of each door window covered or obscured shall not exceed 10%. Temporary signs, including but not limited to notices, flyers, posters, merchandise advertising signs, et cetera, shall not be permitted in any windows located in doors used by the public.

E. Sign Height.
    1. Freestanding Signs (Ground Signs and Pole Signs). The sign height is measured as the vertical distance from the average elevation of the finished grade within an eight-foot radius from all sides of the sign at its base to the top of the sign, exclusive of any filling, berming, mounding, or landscaping solely for the purpose of locating the sign (e.g. – man-made grade change).
        a. If the natural grade at the base of a sign is higher than the grade of the adjacent road, the sign height shall be measured from the base of the sign.
        b. If the natural grade at the base of a sign is lower than the grade of the adjacent road, the height of the sign shall be measured from the top of the curb elevation.

Freestanding Sign Height examples



F. Sign Illumination. Unless otherwise specified in this Article, allowed permanent signs may be non-illuminated, or illuminated by internal light fixtures, halo illuminated, or external indirect illumination; temporary signs may not be illuminated.

1. Electrical elements. All wiring, fitting and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of §225-4 of the Code of the City of Binghamton.
2. All illumination for signs shall comply with the regulations as set forth in §410-24(J) of the City of Binghamton Zoning Ordinance.
3. All electrical signs must be manufactured by a licensed electronic sign company and shall be labeled with the appropriate UL or ETL label as required by the NEC Code and the UL 48 Standards, or their most recent addendum, prior to the installation of the sign.
4. Externally Illuminated Sign Standards
    a. Except as provided in subsection b, externally illuminated signs shall be illuminated only with steady, stationary, shielded light source, directed so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
    b. Bare bulb illumination. Permitted for a theatre/cinema as accent lighting around the outside edge of a changeable copy sign.
5. Neon Sign Standards. Neon tubing may be used in conjunction with other types of materials to artistically emphasize the business name or logo.
6. Static LED Display Standards. Static LED displays may be used in conjunction with a freestanding sign, provided it does not occupy more than 15% of the freestanding sign's area. A static LED display may not change more than once per 60 seconds.
7. Electronic Message Center (EMC) Signs.
    a. Any message or portion of an image or message must have a static display for a minimum duration of 10 seconds.
    b. Transition time between content may not exceed 2 seconds.

c. No portion of the image or message may flash, scroll, twirl, change color, or in any manner imitate movement.
d. All EMC signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and must be programmed to automatically dim according to ambient light conditions. The nighttime illuminance of an electronic message center shall not increase ambient lighting conditions by more than 0.3 footcandles, as measured by a footcandle meter (also known as a "luxmeter"), when measured perpendicular to the electronic message center face at a distance determined by the following formula:

$$\text{Measure distance (ft)} = \sqrt{[\text{area of EMC sign (in sq ft)} \times 100]}$$

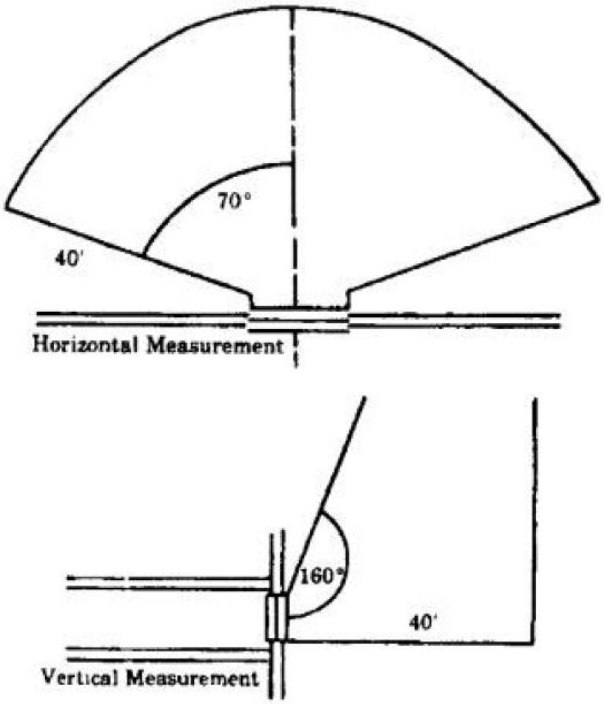
e. EMC signs must have an automatic dimmer control to produce a distinct illumination change from the higher illumination level to a lower illumination level.

G. Setbacks. All minimum setbacks for signage shall be measured from any property line to the closest portion of the signage structure, including, but not limited to any: sign face; frame; supporting pole(s) or structure(s); or lighting devices attached to the sign or its structure.

H. Structure and Installation

1. Supporting Structures. The construction and structural components of all signs shall be in accordance with the standards and regulations of the New York State Building Construction Code, Fire Code of New York State, Mechanical Code of New York State and the Electrical Code of New York State.
2. Raceways and Cabinets.
   a. Raceways shall not be included in the sign area measurement, provided the raceway does not extend beyond any letters, symbols, or images includes in the sign.
   b. Where a raceway or cabinet provides contract background color to the sign copy, the colored area is counted in the sign area measurement.
   c. Signs with raceways or cabinets cannot extend beyond the face of the building façade by more than ten (10) inches.
3. All signs shall be secured in a manner sufficient to ensure that they will remain attached to the building or structure.
4. Obstruction of accessways. No sign or sign structure shall obstruct free ingress or egress from a fire escape door, window, sidewalk or other required accessway.
5. Obstruction of light, air or ventilation. No sign shall be erected or maintained within the zone of light obstruction for any window opening into any habitable room of any residential unit. The zone of light obstruction is a segment of a cone described horizontally by an arc drawn from the center line to the window, measured horizontally, extending to 70° on either side of the center line, at a radius of 40 feet, and described vertically by the space between a plane extending horizontally from the window sill and a plane extending from the top of the window at an angle of 160° to the face of the building.

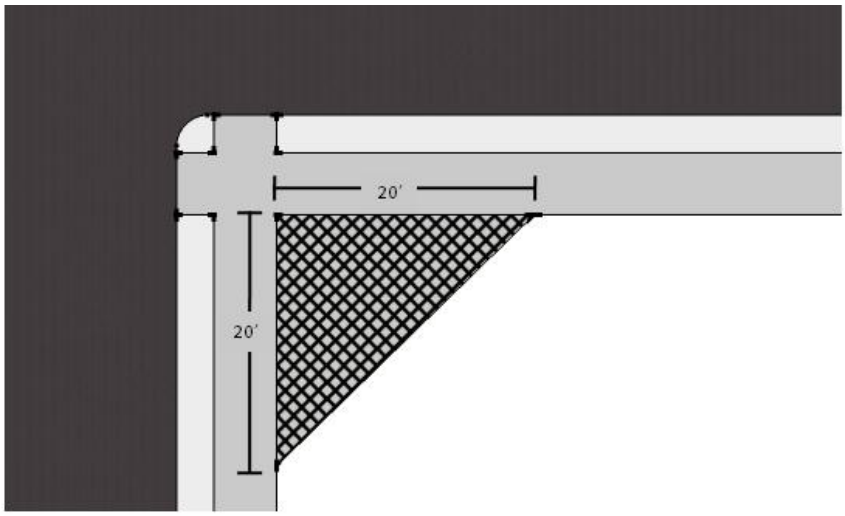
Obstruction of Air and Light



I. Traffic Safety.

1. Traffic control. No sign shall be maintained at any location where, by reason of its position, size, shape, content, lighting, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with, any traffic-control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
2. Sight Triangle.. For parcels located at the corner of two intersecting streets, a clear sight triangle shall be maintained. The sight triangle shall be the area formed by measuring a distance of 20 feet from the corner of the parcel along the lot lines and connecting the end points so as to establish a triangle on the area of the lot adjacent to the street intersections. No sign, nor any part of a sign, other than a supporting pole or brace measuring 18 inches or less in width or diameter, shall be located between three (3) feet and 10 feet above the grade within this sight triangle

Sight Triangle Area



J. Sign Maintenance
   1. Responsibility. The owner of a sign and the owner of the premises on which each sign is located shall be jointly and severally liable to maintain such sign, including its illumination sources, in neat and orderly condition and good working order at all times, and to prevent the development of any corrosion, rotting or other deterioration in the physical appearance or safety of such sign. This includes graffiti, peeling paint, faded colors and damaged materials.
   2. Unsafe signs. Unsightly, damaged, deteriorated sign or signs in danger of falling shall be put in order or removed upon written notice from the Building Inspector. Immediate compliance is expected for the repair or removal of unsafe signs. If compliance is not achieved within the time period specified in such notice, the sign shall be repaired or removed by the City and the costs assessed to the sign owner.

K. Abandoned Signs, Removal. The property owner is responsible for the removal of signage upon termination of occupancy or use of premises. Written permission of the owner of a property is required in the application for a permit to erect any sign. In giving written permission, the owner of the property assumes full financial responsibility for removal of the signage within 30 days from termination of occupancy or use. Failure to remove may result in removal by the City, with all charges incurred assessed to the property owner.

§410-63. Design Criteria. [Amended 2-4-2015 by Ord. No. 15-5]

A. Minimum Design Criteria. Sign applications shall be reviewed according to the following minimum design standards:
   1. Signs shall enhance the overall appearance, image, and design character of the building and site.
   2. Signs shall be simple and clear so as not to distract moving traffic.
   3. Signs shall be architecturally integrated into the building by relating scale, location, sign type, style, materials, and colors to the architectural style and size of the building or business unit.
   4. Placement of signage shall not obscure or overlap architectural elements.
   5. Illuminated signs should be oriented away from adjoining residential properties whenever possible.
   6. Raceway cabinets, where used as an element of wall mounted signs, shall match the building color at the location of the building where the sign is located.
   7. Signage in designated Historic Districts and signage located on designated Local Landmark Historic properties shall be in conformance with the City of Binghamton Historic Design Guidelines.

B. Preferred Design Criteria and Incentives. Applicants are encouraged to take proactive steps to improve the quality and design of signage in the City of Binghamton. The following are the City's preferred design standards. Sign applications meeting these optional, increased standards shall be eligible for the incentives as specified below. The incentive bonuses shall be increased signage area based on the square foot allowed for each sign as established in §410-67.1 below. Any bonus shall be applied only to the specific sign meeting the preferred standards; area bonuses shall not be applied to the maximum total sign area permitted for the business unit as established in §410-62 above.

Example:

Max. Area	Bonus #1	Bonus #2	Bonus #3	Total Area
100 sq ft	10% of 100 = 10 sq ft	N/A	N/A	110 sq ft
100 sq ft	10% of 100 = 10 sq ft	15% of 100 = 15 sq ft	N/A	125 sq ft
100 sq ft	10% of 100 = 10 sq ft	15% of 100 = 15 sq ft	20% of 100 = 20 sq ft	145 sq ft

1. Incorporation of a Distinctive Logo. Distinctive or unique logos or images provide visual interest to the streetscape and help attract the attention of customers, and are encouraged. Signs that incorporate a unique and distinctive logo, rather than a generic image, shall receive a maximum area bonus of 10% of the allowed square footage. Common, widely used trademarked corporate logos are not eligible for this bonus.
2. Use of Individually Cut Letters. Panel or box signs, or signs with a single cabinet containing all of the content, are discouraged. Signs which use individual cut letters, such as pan channel cut letters, or projecting or ground signs with a three-dimensional textured surface that is integral to its design, such as extensively carved, routed, or sandblasted signs, shall receive a maximum area bonus of 15% of the allowed square footage.
3. Simplified Content. Signs which include information such a telephone numbers, general business information, or other secondary content, are discouraged. Signs which limit the content to the business name and/or a distinctive image or logo, if any, shall receive a maximum area bonus of 5% of the allowed square footage.
4. External or Halo Lighting. Internally illuminated signs can become a distraction and a visual nuisance, so they are discouraged. Signs which use properly shielded external illumination or backlit, or halo, illumination as strongly encouraged. Signs which use either properly shielded external illumination or halo lighting shall receive a maximum area bonus of 10% of the allowed square footage.
5. Signs on Awning Valences. Awning signs located on an awning valence, instead of the awning face, shall not be counted toward the total signage area for the business unit, provided the valence does not hang more than nine (9) inches down from the bottom of the awning frame.
6. Voluntary Removal of a Legally Non-Conforming Sign. Any applicant voluntarily removing an active pre-existing non-conforming sign in order to comply with these regulations, shall receive a maximum area bonus of 20% of the allowed square footage. This area bonus shall only apply to signs replaced beginning from the effective date of this legislation until 31 December 2015.

§410-64. Signs Specifically Prohibited, All Districts.

The following signs are prohibited in all districts and new signs shall not be erected. Existing signs are grandfathered and must be maintained or removed at the request of the Building Inspector.

A. Off-Premise Advertising signs ("Billboards"). Off-Premise Advertising signs are expressly prohibited except upon permit issued by the Common Council as provided herein.
   1. Common Council approval. Within 30 days, or such longer period as may be agreed upon by the applicant, of receipt and review of the written recommendations of the Planning Commission, the Common Council shall either deny the permit or, by ordinance duly

adopted, approve the permit, with or without modifications to be accepted by the applicant as a condition of such approval. The failure of City Council to act within the aforementioned time period shall be deemed a final denial of the permit.

2. Review by the Planning Commission. Before consideration of the Common Council, an applicant shall first submit an application to the Planning Commission for review. The Planning Commission shall consider the application at the next regularly scheduled meeting and thereafter forward to the Common Council its written recommendation within 30 business days following such meeting. In its report, the Planning Commission may recommend approval, approval with modification or denial. In reaching its decision, the Planning Commission shall consider:
    a. Whether the proposed sign will have a substantial or undue adverse effect upon adjacent properties, the character of the neighborhood, traffic safety, and other matters affecting the public health, safety and general welfare.
    b. Whether the proposed sign will be constructed or arranged so as not to dominate the immediate vicinity or interfere with the development or use of neighboring property.
    c. Whether the proposed design will result in the destruction, loss or damage of any natural, scenic or historic features of significant importance.
    d. Whether the proposed design will be compatible with the physical environment and aesthetically harmonious with the surrounding area.
    e. Whether the proposed location and placement of the sign will create any traffic or safety hazards.
    f. Whether the placement of the sign is necessary or desirable to provide a service which is in the interest of public convenience or which contributes to the general welfare of the community.
    g. Whether the proposed sign, when considered with all other signage in the vicinity, will result in an excessive number of signs so as to result in a negative impact on the visual aesthetic of the area.

B. Signs posted on public property per Chapter 163 of the City of Binghamton Code of Ordinances, except as provided for in §410-67.2 below ("Standards for Temporary Sign Types") and Chapter 327 of the City of Binghamton Code of Ordinances, "Rights-of-Way, Use Of." The City reserves the right to remove any such unauthorized sign on public property immediately and without notice.
C. Mechanically moving signs including but not limited to: signs which spin or rotate; signs which, in whole or in part, pivot or wave; tri-vision signs or signs with multiple faces which periodically rotate into view; signs with multiple faces on a roll.
D. Portable reader signs as defined in §410-61 above.
E. Signs which purport to be, or are an imitation of, or resemble and official traffic sign or signal.
F. Signs which, by reason of their size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device or the light of an emergency vehicle, or which obstruct the visibility of any traffic or street sign or signal device.

§410-65. Signs Allowed by Right.

The following signs are permitted in any district without design review, sign permit, or fee:

A. Address signs, provided that such signs are limited to no more than one sign per occupancy, and shall be limited to not more than two square feet, and if a ground sign or pole sign not more than four (4) feet above grade.

B. Signs required by law.

C. Governmental signs.

D. Flags and emblems: flags and emblems of a governmental, civic, philanthropic, educational or religious organization. Shall not contain any advertising content.

E. Historical or architectural designation signs: limited to not more than one wall or ground sign per structure, building or site. Such sign may not be more than three square feet in area and, if a ground sign, shall be not more than four feet above grade to top of sign, and shall be set back at least five feet from any lot line. Such signs must be approved by CAUD.

F. Memorial signs, provided that such signs are an integral part of the building or structure, or are made of a durable material such as bronze, stone, or concrete. Such signs must be approved by CAUD.

G. Holiday decorations, provided that such signs shall be displayed for a period of not more than 60 consecutive days, nor more than 10 days following the holiday in connection with which they are displayed.

H. Noncommercial signs, provided that such signs are not more than 32 square feet in area if located in a commercial or industrial district or four (4) square feet in a residential district; are limited to not more than one message or topic per street frontage; are located entirely on private property pursuant to the owner's consent; and are maintained as so to prevent any corrosion, rotting or other deterioration in the physical appearance or safety of such sign in accordance with §410-62(J) above..

I. Private event signs: temporary signs advertising private events, such as bingo games, fairs, and the like; provided that such signs are no more than 32 square feet in area; and are erected no more than 30 days prior to the event; and removed within 10 days following the conclusion of the event.

J. Private sale signs, provided that such signs are no more than five (5) square feet in area; are located entirely on the premises where such sale is to be conducted or on other private property pursuant to the owner's consent; are clearly marked with the name, address and telephone number of the person responsible for the removal of such sign; are erected not more than 24 hours in advance of such sale; and are removed on the day following the conclusion of such sale.

K. Real estate signs: one real estate sign per street frontage per lot, provided that the sign does not exceed four (4) square feet in area per residential lot, 32 square feet in area per commercial lot, or 50 square feet in area per industrial lot. Real estate signs shall be removed within two weeks following the sale or rental of the property.

L. Warning signs, provided that such signs are wall or ground signs, are not more than three square feet in area each, and are illuminated only by an indirect source of light.

M. Roadside mailbox bearing a name and/or address number and installed according to U.S. Postal Service requirements.

§410-66. Allowable Sign Type and Location Matrix.
Except as specified above in §410-65, signs allowed in each Zoning District shall be as follows:

Schedule IV-A. Permanent Signs

	R-1	**R-2**	**R-3**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**C-6**	**I-1**	**I-2**	**I-3**
Accessory Signs				X	X	X	X	X	X	X	X	X
Awning Signs				X	X	X	X	X	X	X	X	X
Canopy Signs				X	X	X	X	X	X	X	X	X

Changeable Copy Signs				X	X	X	X				X	X
EMC Signs				X								X
Ground Signs				X	X	X	X	X		X	X	X
Marquee Signs				X	X	X	X	X		X	X	X
Pole Signs	#	#	#	X		X	X				X	X
Projecting Signs				X	X	X	X				X	X
Wall Signs	#	#	#	X	X	X	X	X	X	X	X	X
Window Signs				X	X	X	X	X	X	X	X	X

Schedule IV-B. Temporary Signs

	R-1	**R-2**	**R-3**	**C-1**	**C-2**	**C-3**	**C-4**	**C-5**	**C-6**	**I-1**	**I-2**	**I-3**
Banner Signs				X	X	X	X	X	X	X	X	X
Construction Signs				X	X	X	X	X	X	X	X	X
Free-Standing Vertical Banner Signs				X	X		X				X	X
Merchandise Advertising Signs, Exterior				X			X				X	X
Merchandise Advertising Signs, Window				X	X		X	X			X	X
Sandwich Board Signs				X	X	X	X	X	X		X	X

X – Allowed Sign Type
– Strictly as accessory to an approved Home Occupation. Limit 1 sign per parcel, maximum area of 2 square feet, no more than 4 feet above grade. Illumination prohibited.

§410-67.1. Standards for Permanent Sign Types.
All permanent signs require a valid permit, as set forth above in §410-59. Maximum sign area per business unit shall be determined as set forth in §410-62 above. Except as specified for residential districts in §410-66 above, the following standards shall apply to all permanent sign types.

A. Accessory Signs.
   1. Maximum sign area: 5 square feet
   2. Maximum height, building mounted: 8 feet from grade
   3. Maximum height, freestanding: 4 feet from grade
   4. Maximum number of accessory signs: 2 per business unit frontage
   5. Illumination: Permitted
   6. Counts toward total signage area: No

B. Awning Signs.
   1. Maximum sign area: 50% of the awning area
   2. Minimum height to bottom of the awning: 8 feet above grade
   3. Maximum height of awning: Top of the awning may not extend beyond the first floor of the building
   4. Maximum number of awning signs: 1 per awning face
   5. Illumination: Permitted.
   6. Counts toward total signage area: Yes

C. Canopy Signs.

1. Maximum sign area:	8 square feet
2. Minimum height at the bottom of the sign:	10 feet above grade
3. Maximum projection:	5 feet from building
4. Maximum number of canopy signs:	1 per business unit
5. Minimum spacing:	10 feet from any other canopy sign
6. Illumination:	External illumination only
7. Counts toward total signage area:	Yes

D. Changeable Copy Signs.

1. Maximum sign area: see below	75% of permitted sign face area,
2. Maximum number of changeable copy signs:	1 per parcel
3. Illumination:	Permitted
4. Counts toward total signage area:	Yes

5. Additional Requirements:
    a. Permitted only as an integral part of a wall sign or a freestanding (pole or ground) sign.
    b. The allowed area of the changeable copy sign shall be limited to 75% of the allowed are of the wall sign or freestanding sign of which it is a part.
    c. Area incentives as established in §410-62.2 shall not apply to changeable copy signs.

E. Electronic Message Center (EMC) Signs.

1. Maximum sign area:	32 square feet
2. Maximum height, pole-mounted:	25 feet from grade
3. Minimum height, pole-mounted:	10 feet from grade
4. Maximum height, ground:	8 feet from grade
5. Minimum setback:	5 feet from any property line
6. Minimum spacing:	50 feet from another other EMC sign
7. Maximum number of EMC Signs	1 per parcel
8. Illumination:	Permitted, in accordance with §410-61.
9. Counts toward total signage area:	Yes

10. Additional Requirements
    a. An EMC sign may be installed an integral part of, or in place of, a freestanding (pole or ground) sign; an EMC sign shall not be installed as a separate sign on the same parcel as another freestanding sign.
    b. Cannot be located within 200 feet of a residential district or designated historic district.
    c. Applicant must demonstrate compliance with §410-61(F) above.
    d. Area incentives as established in §410-62.2 shall not apply to EMC signs.

F. Ground Signs.

1. Maximum sign area:	40 square feet
2. Maximum height:	8 feet from grade, as established in §410-61
3. Minimum setback:	5 feet from any property line and/or driveway
4. Maximum number of ground signs:	1 per street frontage

5. Illumination: Permitted
6. Counts toward total signage area: Yes
7. Additional requirements
    a. Compliance with §410-62(I) – Sight Triangle, as set forth above.

G. Marquee Signs.
1. Maximum sign area: 75% of marquee structure's height; 75% of its width
2. Maximum number of marquee signs: 1 per marquee; maximum 1 per business unit façade
3. Allowed Locations: Primary façades only
4. Minimum height at the bottom of the sign: 10 feet above grade
5. Maximum projection from marquee: 10 inches
6. Illumination: Permitted
7. Counts toward total signage area: Yes

H. Pole Signs.
1. Maximum sign area: 50 square feet
2. Maximum height at the top of the sign: 25 feet from grade
3. Minimum setback: 5 feet from any property line
4. Maximum number of pole signs: 1 per parcel
5. Illumination: Permitted
6. Counts toward total signage area: Yes
7. Additional requirements
    a. Compliance with §410-62(I) – Sight Triangle, as set forth above.

I. Projecting Signs.
1. Maximum sign area: 20 square feet
2. Minimum height at the bottom of the sign: 10 feet above grade
3. Maximum projection: 5 feet from building
4. Maximum number of projecting signs: 1 per business unit
5. Minimum spacing: 10 feet from any other projecting sign
6. Illumination: External illumination only
7. Counts toward total signage area: Yes
8. Additional Requirements
    a. Projecting signs shall not extend beyond the top of the building.

J. Wall Signs.
1. Maximum sign area, primary frontage: 2 square feet per linear foot of business frontage
2. Maximum sign area, secondary frontage: 1 square foot per linear foot of business frontage
3. Maximum number of wall signs: 1 sign per frontage
4. Maximum length of sign: 80% of the business façade
5. Maximum projection from building façade: 10 inches
6. Illumination: Permitted
7. Counts toward total signage area: Yes
8. Additional Requirements
    a. The wall sign shall not extend beyond the top of the wall to which it is attached

K. Window Signs.

1. Maximum sign area: 50% of the window
2. Maximum number of window signs: 1 sign per window, 2 signs per frontage
3. Illumination: External illumination only
4. Counts toward total signage area: Yes

§410-67.2. Standards for Temporary Sign Types.
The followings standards shall apply to all temporary sign types. Temporary signs are not eligible for the incentives established in §410-62.2.

A. Banner Sign.
   1. Maximum sign area: 1 square foot per linear foot of primary frontage
   2. Maximum number of banner signs: 1 per business unit
   3. Maximum length of banner sign: 50% of the business façade
   4. Maximum display period: Up to 30 days, not more than 3 times in 12 months
   5. Illumination: No
   6. Temporary Sign Permit: Required
   7. Counts toward total signage area: No
   8. Additional Requirements
      a. All banners must be anchored at all corners so as to keep the banner secured to the structure.

B. Construction Signs.
   1. Maximum sign area: 32 square feet
   2. Maximum number of construction signs: 1 per street frontage
   3. Illumination: No
   4. Temporary Sign Permit: Required
   5. Counts toward total signage area: No
   6. Additional Requirements
      a. All such construction signs must be removed within 7 days after construction is completed.

C. Free-Standing Vertical Banners.
   1. Maximum sign width: 2 feet at the widest point
   2. Maximum sign height: 8 feet above grade
   3. Maximum number of vertical banners: 1 per business unit
   4. Maximum display period: During business hours only
   5. Illumination: No
   6. Temporary Sign Permit: Required
   7. Counts toward total signage area: Yes
   8. Additional Requirements
      a. The applicant must maintain a clear and unobstructed path of at least five (5) feet around the sign and any other obstructions (such as, but not limited to: trees, planters, or other landscaping; light poles or traffic signals; fire hydrants; parking meters; public sign posts; utility boxes; et cetera) so as to not impede pedestrians.
      b. The applicant must provide an insurance rider naming the City of Binghamton as an additional insured on a primary noncontributory basis or other form found acceptable by the City of Binghamton Corporation Counsel.

D. Merchandise Advertising Signs, Exterior.

1. Maximum sign area: 4 square feet
2. Maximum number of signs: 1 per 300 feet of business frontage
3. Minimum set back: 10 feet from any property line and/or driveway
4. Minimum spacing: 100 feet from any other exterior merchandise sign
5. Illumination: No
6. Temporary Sign Permit: Required
7. Counts toward total signage area: Yes

E. Merchandise Advertising Signs, Window.
1. Maximum sign area: 25% of the window
2. Maximum number of signs: 1 per window, maximum 4 per business unit
3. Illumination: Permitted, no flashing, scrolling, or moving
4. Temporary Sign Permit: Required
5. Counts toward total signage area: Yes
6. Additional Requirements
    a. Window Merchandise Advertising Signs are not permitted in any door windows.

F. Sandwich Board Sign.
1. Maximum sign area: 8 square feet
2. Maximum number of sandwich board signs: 1 per business unit
3. Maximum display period: During business hours only
4. Illumination: No
5. Temporary Sign Permit: Required
6. Counts toward total signage area: Yes
7. Additional Requirements
    a. The applicant must maintain a clear and unobstructed path of at least five (5) feet around the sign and any other obstructions (such as, but not limited to: trees, planters, or other landscaping; light poles or traffic signals; fire hydrants; parking meters; public sign posts; utility boxes; et cetera) so as to not impede pedestrians.
    b. The applicant must provide an insurance rider naming the City of Binghamton as an additional insured on a primary noncontributory basis or other form found acceptable by the City of Binghamton Corporation Counsel.

§410-68. Variance Procedure.
Where a sign permit application is denied, the applicant is entitled to petition the Zoning Board of Appeals, which shall hear and decide all appeals pursuant to Article XIV of this chapter. Such appeals shall be taken by filing for such a variance with the Zoning Board of Appeals through the Department of Planning, Housing, and Community Development. In making a decision, the Zoning Board of Appeals shall consider the standards applicable to an area variance.

§410-69. Violations and Penalties.
A. Violations. The Office of Building and Construction shall have the authority to enforce the removal of any signs that are in violation of this chapter. Any person, firm, corporation or other entity who uses or maintains or causes to be used or maintained any sign or any part thereof for any purpose other than the uses permitted therefor by this chapter, or who erects, enlarges, moves, alters or maintains, or causes to be erected, enlarged, moved, altered or maintained, any sign or any part thereof, except in accordance with the provisions of this chapter or any regulation made under

authority conferred thereby, or who uses or maintains, or causes to be used or maintained, any sign or any part thereof which has been erected, enlarged, moved or altered, other than in conformity with the provisions of this chapter, or who otherwise violates or causes to be violated any provision of this chapter, or who allows any violation of this chapter on premises owned or leased by him, or otherwise under his or her control, including his or her agent or contractor, shall be guilty of a violation.

B. Procedure. In the event that any sign is erected, constructed, reconstructed, altered, converted, relocated or maintained, or any sign or premises is used in violation of this chapter, or any regulation made pursuant thereto, or any authority conferred thereby, the Supervisor of Building and Construction, or their designee, shall serve written notice, either by personal service or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation permitting or committing the same. Unless action to correct the violation is taken within 10 days from the date of service of the notification, that person or entity shall be considered in violation of this chapter. If, after 30 days from the aforementioned date, the violations have not been corrected, the Supervisor of Building and Construction, or their designee, shall cause the removal of such sign and charge the owner of the sign and/or premises for the cost of removal.

C. Penalties. The City may bring a civil action to recover a penalty, which shall not exceed $1500, or to imprisonment not to exceed 15 days, or both such fine and imprisonment, for any violation of any provision of this chapter; each day's failure to comply with such provision shall constitute a separate violation. The City may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation.

§410-70. Nonconforming signs.

A. All permanent signs existing at the time of adoption of this chapter may continue although not in conformity with the provisions herein.

B. All temporary signs existing at the time of adoption of this chapter must be removed or brought into compliance the requirements of §410-67.2 above within 90 days of the adoption of this chapter.

C. Removal of nonconforming on-premises signs. Any sign, except advertising signs, lawfully existing and erected prior to the effective date of this ordinance, but which becomes nonconforming by virtue of this chapter, shall be removed, including all support structures, when the business to which such sign is related ceases or is sold or transferred to a new owner. No nonconforming sign shall be structurally altered, enlarged, moved or replaced, except as to bring the sign into conformance with this chapter.

ARTICLE XII, Nonconforming Use of Buildings, Structures and Land

§ 410-71. Intent.

The intent of this Article XII is to provide regulations for the use of buildings, structures and land which do not comply with the provisions of this chapter and to specify the circumstances and conditions by which such nonconforming use may be continued or shall be discontinued. It is the intent of this article to permit these nonconforming uses to continue until they are removed, but not to encourage their survival.

§ 410-72. Continuance of existing buildings, structures and uses.

The lawfully permitted use of any building, structure or land existing at the time of adoption of this article, or any subsequent amendment thereto, may be continued in accordance with the provisions of this Article XII even though such use does not conform to the regulations and standards specified herein for the district in which such building, structure or land is located. For the purposes of this chapter, a nonconforming use will be vested if at the time of adoption of this chapter, or any subsequent amendment thereto, the property owner has expanded substantial sums in reliance on valid permits issued by the City of Binghamton for a use which was permitted prior to the adoption of this chapter, or any subsequent amendment thereto, and shall not be required to comply with the site plan review procedure as set forth in Article IX of this chapter. For

projects under construction, the entire building must be completed according to filed plans within two years from the effective date of this article.

§ 410-73. Transfer of rights.
Nonconforming use rights, subject to the provisions of this Article XII, remain with the land when title is transferred.

§ 410-74. Additions and enlargements.

A. Modifications. Except as otherwise set forth in this § 410-74, the nonconforming use of any building, structure or land shall not be extended, enlarged, moved or added to in any manner unless such nonconforming use is changed to conform to the regulations of the district in which it is located.

B. Nonconformity other than use. A building or structure which contains a permitted use but is nonconforming as to lot size, setback, coverage or height may be added to or enlarged if any such addition will be in compliance with the yard and height requirements of the district in which it is located and if any off-street parking nonconformity is not thereby increased.

C. Garage. An attached or detached garage may be constructed on a lot which contains a nonconforming dwelling unit, provided that such garage complies with the height and yard requirements for the district in which it is located.

§ 410-75. Permission to enlarge nonconforming use.
Notwithstanding the provisions of § 410-74, the Zoning Board of Appeals may grant permission for the alteration, enlargement, reconstruction, moving, replacement of, or addition to a nonconforming building, structure, or land use activity, provided:

A. The owner of such nonconforming building or structure can show that, unless such permission is granted, hardship and injustice will result.

B. The proposed alteration, enlargement, reconstruction, moving, replacement or addition will not substantially reduce neighboring property values or otherwise substantially alter the character of the neighborhood.

C. The proposed enlargement or addition does not exceed more than 25% of the total square footage of the building, based on the total square footage of the building at the time this chapter was adopted.

D. Such permission may be granted only after notice and public hearing as provided in §§ 410-93 and 410-94 of this chapter.

§ 410-76. Destroyed or damaged nonconforming building, structure or land use activity. [Amended 9-9-09 by Ord. No. 31-2009; Amended 5-23-12 by Ord. No.37-2012]

A. Discontinuance of nonconformity. A building, structure or land use activity which is nonconforming in the district in which it is located and which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure on the land shall not thereafter be restored, rebuilt or continued unless there is compliance with the regulations of said district. Notwithstanding the foregoing:
   (i) In the R-1 Zoning District a two-unit dwelling which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure may be restored, rebuilt or continued with the same, or less, floor area and cubic content, with the same number of bedrooms, or less, as provided in the most current assessment roll or for which the owner has received a

certificate of occupancy and with the same, or an improved general site layout as that of the original structure or use and;

(ii) In the R-1 Zoning District a three-unit dwelling which is totally destroyed or damaged to an extent which exceeds 50% of the physical structure may not be restored, rebuilt or continued as a three-unit dwelling; however, it may be restored, rebuilt or continued as a two-unit dwelling with the same, or less, floor area and cubic content, with the same number of bedrooms as previously approved for two units [1] and all as established in the most current assessment roll or for which the owner has received a certificate of occupancy and with the same, or an improve, general site layout as that of the original structure or use. Reconstruction must be substantially complete within one year of the date of such damage and the owner must obtain a certificate of occupancy within eighteen months of said date. The failure to complete reconstruction within such time frame will be deemed abandonment of the nonconforming use.

[1] If the three-unit dwelling had one unit with 3 bedrooms, one unit with 2 bedrooms and one unit with one bedroom, then the renovated one or two-unit dwelling would be limited to five bedrooms. If the three-unit dwelling two bedrooms in each unit, then the renovated one or two-unit dwelling would be limited to four bedrooms.

B. Restoration of nonconformity. A nonconforming building, structure or land use activity which is damaged to the extent of 50%, or less, of the physical structure on the land may be rebuilt or restored with the same, or less, floor area and cubic content and with the same, or an improved, general site layout as that of the original structure or use. Reconstruction must be commenced within one year of such damage and be completed within two years of said date.

C. Unsafe buildings. Notwithstanding the above provisions, any damaged nonconforming structure which is determined to be unsafe or a hazard to public health or safety shall be subject to all other regulations of the City of Binghamton Code related to unsafe buildings.

§ 410-77. Change of use of nonconforming building, structure or land.

A. When a nonconforming use has been changed to a conforming use, it shall not subsequently be changed back to any nonconforming use unless a use variance is granted by the Zoning Board of Appeals.

B. Upon application, any nonconforming use of land, building, or structures may be changed to a less intensive nonconforming use upon approval by the Zoning Board of Appeals. A less intensive use shall mean a use in which there will be fewer people either as customers or employees, less vehicular traffic, shorter hours of operation, or more compatibility with the surrounding land uses.

§ 410-78. Cessation of use of nonconforming building, structure or land.

A. If any nonconforming use of a building, structure or land ceases, for any reason, for a period of 12 consecutive months, such nonconforming use shall not thereafter be reestablished. Any future use of such building, structure or land shall be in conformity with the standards specified by this chapter for the district in which such building, structure or land is located.

B. Upon application, prior to the expiration of the 12 consecutive months, the Zoning Board of Appeals may extend the period for up to six additional months, provided that the owner of said building or premises can demonstrate that he or she has made reasonable effort to resume the nonconforming use during the one-year period.

§ 410-79. Termination of nonconforming use for cause.

The Supervisor of the Office of Building and Construction may revoke a certificate of occupancy issued to a nonconforming use upon satisfactory proof that the conditions of operation or maintenance of premises are such as to constitute a public nuisance, by reason of injury to the adjacent property or to the general neighborhood.

§ 410-80. Removal of building or structure.
If any building or structure in which a nonconforming use is conducted or maintained is hereafter removed, the subsequent use of land on which such building was located, and the use of any building subsequently built thereon, shall be in conformity with the standards specified by this chapter for the district in which such land is located.

§ 410-81. Maintenance and repair.
Nothing in this article shall prevent the renovation or repair of nonstructural members or the maintenance of a structure made necessary by ordinary wear and tear.

ARTICLE XIII, Administration and Enforcement

§ 410-82. Compliance required prior to issuance of permits.
No commission, board, agency, officer or employee of the City of Binghamton shall issue, grant or approve any permit, license, certificate or other authorization for any construction, reconstruction, alteration, enlargement or relocation of any building, or for any use of land or building that would not be in compliance with the provisions of this chapter and Local Law No. 3 of 1987, where applicable. Any permit or certificate issued for an application that does not comply with the provisions of this chapter shall be null and void.

§ 410-83. Enforcement.
This chapter, and any rules and regulations which have been or may be made in furtherance thereof, shall be enforced by the Office of Building and Construction of the City of Binghamton. Such enforcement shall be in compliance with applicable provisions of this chapter. For purposes of enforcement and public health, safety and general welfare, a duly designated inspector from the Building and Construction Division may, from time to time, upon notice thereof and receipt of permission, enter and inspect any building or premises and may perform any other act or duty necessary for the proper enforcement of this chapter.

§ 410-84. Building and use permit.

A. Issuance.
   (1) Building permits shall be required for any work which must conform to the Building Code of New York State, Residential Code of New York State, Energy Conservation Code of New York State, Plumbing, Mechanical and Fuel Gas Code of New York State or the Fire and Property Maintenance Code of New York State and shall also include but are not limited to the following:
      (a) New residential, commercial, and industrial buildings;
      (b) Additions to existing residential, commercial, and industrial buildings;
      (c) Interior and exterior structural repairs;
      (d) Alterations, improvements, and remodeling of existing buildings;
      (e) Garages, carports, and sheds greater than 100 square feet;
      (f) Roofing (including reshingling), siding, decks, porches, stairs, and fences;
      (g) In-ground and aboveground swimming pools with over two feet of water;
      (h) Signs;
      (i) Building heating systems (new or replacement), fire sprinkler systems, fire alarm systems, solid-fuel appliances, gas-fired decorative appliances;
      (j) Parking lots approved by the Planning Commission; and
      (k) Demolition of any existing structure.

(2) The application for a building permit shall request sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code.

(3) Exceptions to the requirements for building permits may be allowed for the following:

(a) Necessary repairs which do not materially affect structural features.

(b) Alterations to existing buildings, provided that the alterations:

[1] Cost less than $10,000;

[2] Do not materially affect structural features;

[3] Do not affect firesafety features such as smoke detectors, sprinklers, required fire separations, and exits;

[4] Do not involve the installation or extension of electrical systems; and

[5] Do not include the installation of solid-fuel-burning heating appliances and associated chimneys and flues.

(c) Small noncommercial structures not intended for use by one or more persons as quarters for living, sleeping, eating, or cooking; for example, a small storage building.

B. Excavation. Within one year after work on any excavation for a building has begun such excavation shall be covered over or filled by the owner to the normal grade. Any excavation or cellar hole, including those remaining after the demolition or destruction of a building from any cause, shall be fenced in immediately and covered over or filled within one year. If the owner fails to cover over or fill such excavation within 10 days of notice by the Supervisor of the Office of Buildings and Construction, the City Council may order said excavation to be covered or filled and may charge the owner of said property any costs connected therewith.

C. Filling/Grading. Any activity which deposits, moves, or rearranges natural material such as rock, gravel, sand and soil so as to modify the normal surface or subsurface condition of land, water bodies or watercourses shall be subject to applicable provisions of Chapter 227, Erosion Control, Part 1, Filling, Grading, Terracing and Drainage Work, of the City of Binghamton Code.

D. Denial. Where the proposed construction, alteration, or use of the building or land does not comply with the provisions of this chapter, the building and use permit shall be denied by the Supervisor of the Office of Building and Construction. Denial shall be in writing, stating the reasons thereof, a copy of which shall be given to the applicant.

E. Modification of minimum standards for permitted uses only. Notwithstanding Subsection B above, the Supervisor of the Office of Building and Construction, in reviewing the proposal for construction, alteration or use of a building or land for a permitted residential use only, may modify the minimum or maximum bulk requirements (lot area, frontage, setback, height, etc.) specified in Schedules IA (§ 410-28) and IIA (§ 410-33) when the Supervisor determines that such modification would not adversely impact adjacent properties or alter the essential character of the locality. Such authority to modify requirements shall be limited as follows:

Requirement	Percent Change
Minimum front yard:	
reduce by no more than	10%
Minimum side and rear yard:	
reduce by no more than	10%
Maximum percentage of lot covered:	
increase by adding no more than	5%

F. Environmental assessment. For any proposed building or land use which is determined by the Supervisor of the Office of Building and construction to be a Type I or an unlisted action in accordance with the State Environmental Quality Review Act of 1975 (SEQR),EN and local regulations enacted pursuant thereto, the following provisions shall apply:
   (1) Referral. The permit application for such building or land use shall be referred to the Planning Department or the Planning Commission, as appropriate, for an assessment as to whether or not the proposed action may have a significant effect on the environment and require preparation of the draft environmental impact statement (DEIS).
   (2) Determination. Within 15 working days from receipt of the permit application by the lead agency, such application shall be processed and a written determination returned to the Supervisor of the Office of Building and Construction.
   (3) Procedure for DEIS. If, in the initial assessment of the application, it is determined that a DEIS is required, such determination will be transmitted in writing to the Supervisor of the Office of Building and Construction. Such determination letter will contain a procedure for preparation of the DEIS and identify the lead agency.
   (4) The Supervisor of the Office of Building and Construction shall not issue a building and use permit until either it is determined that there would be no significant environmental impact (a negative declaration) or the environmental impact process has been completed.

G. Revocation. The Supervisor of the Office of Building and Construction shall revoke a building and use permit if it is found that there is a deviation from the plans for which such permit was issued.

H. Term. Except as set forth to the contrary in Subsection F, a building and use permit shall become void 12 months from the date of issuance unless substantial progress has been made on the project described on such permit. The building and use permit shall be extended by the Supervisor of the Office of Building and Construction for an additional six months. Upon expiration of the building permit, the applicant shall apply for another building permit to complete the project. Only one such additional permit shall be granted, and the project must be completed within the allotted time frame of the second permit. For unusually large and complex projects, the Supervisor may determine that conditions warrant the waiving of this provision.

§ 410-85. Certificates of occupancy.

A. Issuance. To assure that all construction, enlargement, alteration and moving of any building, and all uses of land and buildings, including any changes in use, are in accordance with the authorized building and use permit and the terms of this chapter, a certificate of occupancy shall be required prior to occupancy. Such certificate shall be issued by the Supervisor of the Office of Building and Construction upon a determination of compliance with the standards and regulations of this chapter and any conditions that may have been attached to any required building and use permit.

B. Term. A certificate of occupancy shall be deemed to authorize, and is required for, initial or changed occupancy and use, or structural alteration of the building or changes to the land to which it applies. It shall continue to be in effect as long as such building or land, and the use thereof, remains in compliance with the provisions of this chapter, and pertinent amendments thereto, and with any attached conditions that were applicable when the certificate of occupancy was issued.

C. Temporary certificate of occupancy. Pending the issuance of a certificate of occupancy, a temporary certificate may be issued by the Supervisor of the Office of Building and Construction for a period not exceeding six months. Such temporary certificate shall be issued only under such conditions and restrictions as will adequately assure safety of the occupants and completion of all unfinished improvements required by this chapter and terms of the building and use permit.

D. Violation. Upon a determination by the Supervisor of the Office of Building and Construction that there is a violation of any of the provisions or requirements of this chapter with respect to any building or use, and upon service of notice in writing to the owner of record of such structure or land, the certificate of occupancy shall be null and void.

§ 410-86. Application for permit and certificate.

A. Procedure. Application for a building and use permit shall be made to the Supervisor of the Office of Building and Construction on forms provided. Upon completion of the project, the building permit applicant or an authorized agent shall request a certificate of occupancy inspection to determine compliance with all applicable codes, rules, and regulations prior to the issuance of the certificate of occupancy.

B. Requirements. Applications for a building and use permit shall be accompanied by the following information unless the need for such information is waived by the Supervisor of the Office of Building and Construction and so noted on the application form:
   (1) Two copies of a plan, drawn to scale, which clearly shows:
      (a) The shape and dimensions of the lot to be built upon or used.
      (b) The existing zoning for the lot and for all adjacent parcels.
      (c) Physical characteristics of the site, including topography, vegetation and drainage.
      (d) The location and size of all existing buildings that are to remain and all proposed new buildings.
      (e) The existing and proposed use of each building or part thereof, and of the lot.
      (f) The number of dwelling units proposed for each building.
      (g) The layout of required off-street parking and loading space with access and egress thereto.
      (h) The location and type of any required screening and landscaping, including site drainage.
      (i) The location and type of any proposed sign, exterior site lighting, and any proposed improvements other than a building.
      (j) Any other information with respect to the lot, buildings or adjacent lots that may be necessary to determine compliance with the provisions of this chapter.
   (2) Estimated cost of the buildings and other improvements proposed.
   (3) Seal of a licensed architect or engineer pursuant to § 410-84A.

C. Refusal of application. Failure to prepare adequate information and plans needed to review a proposal shall be cause for the Supervisor of the Office of Building and Construction to refuse to accept the application. Denial shall be in writing, stating the additional information and plans needed, and a copy shall be given to the applicant.

§ 410-87. Special permit and site plan approval procedure.

A. Referral. An application for a building and use permit for a proposed land use or activity which requires a special permit or site plan approval, as specified in Schedule I (§ 410-27) or Schedule II (§ 410-32) shall forthwith be referred by the Supervisor of the Office of Building and Construction to the Planning Department for processing and review. The Supervisor of the Office of Building and Construction shall inform the applicant of the provisions of this chapter for special permits (Article XIII) and site plan approvals (Article IX).

B. Authorization. No building and use permit shall be issued by the Supervisor of the Office of Building and Construction until the special permit or site plan review process of this chapter has been carried out and the application, with or without conditions, has been duly approved.

§ 410-88. Designated landmark and historic district and urban cultural park.
For any building or use permit related to land and or structure which is a designated landmark or in an historic district or an urban cultural park area, the provisions of § 410-39F(2) shall apply.

§ 410-89. Penalties for offenses.

A. Violations. Any person, firm, corporation or other entity who or which uses or maintains, or causes to be used or maintained, any building or premises or any part thereof for any purpose other than the uses permitted therefor by this chapter, or who erects, enlarges, moves, alters or maintains, or causes to be erected, enlarged, moved, altered or maintained, any building or any part thereof, or fails to comply with any or all conditions imposed by the Zoning Board of Appeals, Planning Commission, or Planning Department with regards to a site plan approval, except in accordance with the provisions of this chapter or any regulation made under authority conferred thereby, or who uses or maintains, or causes to be used or maintained, any building or any part thereof which has been erected, enlarged, moved or altered other than in conformity with the provisions of this chapter, or who otherwise violates or causes to be violated any provision of this chapter on premises owned or leased by him or her, or otherwise under his or her control, including his or her agent or contractor, shall be guilty of a violation of this chapter.

B. Penalties. Any violation of any provision of this chapter shall be deemed a violation, and any person found guilty thereof shall be liable to a minimum fine of $50 and which shall not exceed $1,000, or to imprisonment not to exceed 15 days, or both such fine and imprisonment, and each day's failure to comply with such provision shall constitute a separate violation.

C. Complaints of violations. Whenever a violation of this chapter occurs, any person may file a written complaint in regard thereto with the Office of Building and Construction, which shall properly record such complaint and immediately investigate.

D. Procedure. In the event that any building or structure is erected, constructed, reconstructed, altered, converted, located, relocated or maintained, or any building, structure, land or premises is used in violation of this chapter or any regulation made pursuant thereto or any authority conferred thereby, in addition to other lawful remedies, any appropriate legal action or proceedings may be instituted to prevent the occupancy of such building, land or premises, or to prevent any illegal act, conduct, business or use in or about such premises. The Office of Building and Construction shall serve written notice, either by personal service, regular mail, or by certified mail, return receipt requested, addressed to the premises of such violation, on the person or corporation permitting or committing the same, and, if such violation does not cease within such time as the Building Inspector shall specify, he or she may institute such action as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.

E. Maintenance of action by City. The City may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

§ 410-90. Records and reports.

A. The Supervisor of the Office of Building and Construction shall keep a permanent record, including all pertinent maps and plans, of all applications for building and use permits and certificates of occupancy.

B. The Supervisor of the Office of Building and Construction shall also keep a permanent record of all violations of this chapter, whether reported by private citizens or by any commission, board, agency, officer or employee of the City, and such records shall show the disposition of all such violations.

C. The Supervisor of the Office of Building and Construction shall make a report to the Mayor and City Council, in writing, not less than every 12 months, reporting the number and type of building and use permits and certificates of occupancy issued.

ARTICLE XIV, Appeals

§ 410-91. Zoning Board of Appeals-organization. [Amended 5-19-08 by Ord. No. 25-2008; Amended 12-21-11 by Ord. No. 11-52]

A. Establishment. As part of the administration of this chapter a Zoning Board of Appeals is hereby established.

B. Appointment and term. The Zoning Board of Appeals shall consist of five members appointed by the Mayor, each to serve a term of five years. At the expiration of the members now in office, the appointment of succeeding members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such members were initially appointed. The remaining members' terms shall expire at the end of each year thereafter. At the expiration of each succeeding member's appointment, the replacement member shall be appointed for a term of five years. Vacancies occurring in said Board shall be filled in a like manner, but only for the unexpired period of such term.

C. Alternate members. The Mayor shall have the power to appoint one alternate Zoning Board of Appeals member in the event a member is unable to participate because of a conflict of interest. The alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. The alternate Board member will serve a term of five years.

D. Removal of members. The Mayor shall have the power to remove, after a public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for noncompliance with any minimum requirements relating to meeting attendance and training as established by City Council by local law or ordinance.

E. Chairperson. The Zoning Board of Appeals shall select a Chairperson and Vice Chairperson from among its own members. In the absence of such Chairperson, the Vice Chairperson will serve as the Acting Chairperson. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as such Board may determine. Such Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

F. Meetings. Regular meetings shall be held at least once each month but may be cancelled if there is no action pending. Special meetings may be held at such other times as the Chairperson may determine. All meetings shall be open to the public.

G. Voting requirements.
   (1) Decision of the Board. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Supervisor of the Office of Building and Construction acting as the official charged with the enforcement

of this chapter, or to decide in favor of the applicant any matter upon which it is required to pass, or to approve any variance in the provisions of this chapter.

(2) Default denial of appeal. If an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision, or determination of the enforcement official within the time allowed, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process.

H. Minutes. Minutes of all proceedings shall be recorded and shall show the action of the Board and the vote of each member on every motion or, if absent or failing to vote, indicating such fact. All proceedings shall be filed in the Planning Department and shall be a public record.

I. Filing requirements. Every rule, regulation, amendment, or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals, shall be filed in the office of the City Clerk within five business days and shall be a public record.

J. Board rules. The Zoning Board of Appeals shall adopt any rules and regulations as may be necessary or proper to the performance of its duties, and may amend or repeal such rules and regulations as necessary.

K. Compatibility of offices. The municipal officials or employees on such Board shall not, by reason of membership thereon, forfeit their right to exercise the powers, perform the duties, or receive the compensation of the municipal office or position held by them during such membership. No municipal officer or employee shall be appointed to the Zoning Board of Appeals in the event such officer or employee cannot carry out the duties of his or her position without a conflict in the performance of his or her duties as a member of the Zoning Board of Appeals. In accordance with General City Law § 81(2), no person who is a member of the legislative body of the City of Binghamton shall be eligible for membership on said Zoning Board of Appeals.

L. Each member of the Zoning Board of Appeals shall be paid an annual stipend of four hundred ($400.00) dollars. Payments shall be made in four installments, on or about April 1, July 1, October 1, and January 1 (for the previous year). Any member joining the Zoning Board of Appeals other than prior to the first meeting of the year will be paid a proportionate amount of the stipend. Any member who is removed pursuant to the Code of the City of Binghamton Article I, *Vacancies due to nonattendance*; § 16-1, *Application*; § 16-2, *Determination of vacancy*; or § 410-91.D, *Removal of members*, shall not be paid for any missed meetings leading to dismissal.

§ 410-92. Zoning Board of Appeals powers and duties.

A. General. The Zoning Board of Appeals shall have all the powers and duties prescribed by the General City Law of the State of New York and this chapter. None of the provisions set forth in this § 410-92, or elsewhere in this chapter, shall limit any of the powers of the Zoning Board of Appeals conferred by General City Law.

B. Interpretation. On appeal from any person, firm or corporation, or from any official or agency of the City of Binghamton, the Zoning Board of Appeals shall have authority to decide any question involving the interpretation of any provision of this chapter made by the Superintendent of Building and Construction acting as the official responsible for its enforcement. (See § 410-93.)

C. Use variance.

(1) Where there is unnecessary hardship created by carrying out the strict letter of this chapter as to permitted use of a building or land, the Zoning Board of Appeals may vary the use regulations so that the spirit of the chapter shall be observed. No use variance shall be

granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused necessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(a) Reasonable return: the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

(b) Unique hardship: the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.

(c) Essential character of the neighborhood: granting the variance will not alter the essential character of the neighborhood.

(d) Not self-created hardship: the alleged hardship has not been self-created.

(2) The Zoning Board of Appeals, in the granting of the use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

(3) The granting of a use variance does not relieve the applicant of the responsibility for meeting the bulk requirements for permitted uses in the applicable district.

D. Area variance.

(1) Where there are practical difficulties or special conditions which make regulations governing lot size, yard size, building height, solar access or any other regulations pertaining to bulk and not specifically related to use of land or buildings unreasonable or impossible to comply with, the Zoning Board of Appeals may vary or modify these regulations as long as the spirit of the regulation to be altered is observed. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

(a) Undesirable change in neighborhood character: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

(b) Alternative cure sought: whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

(c) Substantiality: whether the area variance requested is substantial;

(d) Adverse effect or impact: whether the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

(e) Not self-created: whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(2) The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

E. Nonconforming use. Upon application, the Zoning Board of Appeals may authorize the alteration, enlargement, reconstruction, moving, replacement of, or additions to, a nonconforming building or structure, subject to the provisions specified in § 410-75 of this chapter.

F. Conditions and safeguards. In all cases where the Zoning Board of Appeals acts pursuant to powers established by law or this chapter, the Board may impose such reasonable conditions and restrictions

as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 410-93. Applications to Zoning Board of Appeals.

A. Application for variance, notice of appeal. Any request for a variance or for relief from an order, requirement, decision or determination of the Supervisor of the Office of Building and Construction acting as the official responsible for enforcement of this chapter, or any request for a Zoning Board of Appeals interpretation or approval as may be required by the provisions of this chapter, shall be submitted by filing an application for a variance or a notice of appeals with the Planning Department. Such application or notice shall be in writing on forms prescribed by the Board.

B. Content of application for a variance or notice of appeal. Each application for a variance or notice of appeal shall fully set forth the circumstances of the case, shall refer to specific provisions of this chapter involved, and shall set forth the interpretation claimed, or the details of the use or area variance requested and the grounds on which it is believed that the interpretation or variance should be approved.

C. Graphic description. When appropriate, the written application for a variance or notice of appeal shall also contain graphic material (maps, surveys, photographs, etc.) which clearly illustrates the nature of the application or appeal. The Zoning Board of Appeals may refuse to consider any application for a variance or notice of appeal which does not contain adequate graphic documentation to fully explain the relief requested.

D. Record. The application for a variance or notice of appeal, and all the papers constituting a record of the application or action being appealed, shall forthwith be transmitted to the Zoning Board of Appeals by the Planning Department. (See also § 410-94C.)

E. Stay. An application for a variance or notice of appeal stops all further proceedings on the matter in question unless the Supervisor of the Office of Building and Construction certifies to the Board that, for reason set forth in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings shall be stopped only by a restraining order which may be granted by the Zoning Board of Appeals or by the Supreme Court on notice to the official or agency from whom the appeal is taken and on due cause shown.

§ 410-94. Procedure for appeals. [Amended 8-7-2013 by Ord. No 13-49]

A. Public hearing. The Zoning Board of Appeals shall hold a public hearing on any application or appeal within a reasonable time after such application or appeal is received by the Board. At such public hearing any party may appear in person or by agent or attorney.

B. Public notice.
   (1) Public notice by applicant
      (a) Newspaper. Due notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date thereof, excluding the hearing date.
      (b) Certified mailings. At least 7 calendar days prior to the public hearing, excluding the hearing date, notice thereof shall be sent by certified mail, return receipt requested, to the owners of record and all other properties within a distance of 100 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.

(c) Public notice sign. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of variances required, and the proposed action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed in either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed in each front yard.

(d) Verification of notice. Verification of notice as required by this Subsection B shall be submitted to the Planning Department prior to the public hearing. Such verification shall consist of a statement from the Press and Sun-Bulletin, the return receipt form (PS Form 3811) from the post office, and an affidavit of sign posting.

(e) Cost. The preparation and cost of publication, mailing of the required notice of public hearing, and sign posting shall be borne by the applicant.

(2) Alternative Public Notice by Planning Department. Upon receipt of payment of a notification fee as set by the City Council an applicant may choose to have the Planning Department provide Public notice to the official newspaper of the City of Binghamton (the Press and Sun Bulletin) and to complete mailings (See Exhibit J).

(a) Newspaper. Notice of any public hearing shall be published in the official newspaper of the City of Binghamton (the Press and Sun Bulletin) at least 7 calendar days prior to the date of the hearing, excluding the hearing date.

(b) Mailings. Additionally, at least 7 calendar days prior to the public hearing, notice thereof shall be sent by U.S. mail to the owners of record and all other properties within a distance of 100 feet from the boundary of the subject property and to the regional state park commission when the subject property is within 500 feet of any state park or parkway.

(c) Public notice sign posted by Applicant. At least 7 calendar days prior to the public hearing, excluding the hearing date, a public notice sign shall be posted on the property by the applicant. The sign(s) shall contain information specific to the applicant's case, such as the time, date, and location of the hearing, the types of variances required, and the proposed action. One sign shall be required for every 300 linear feet of property frontage. The sign(s) must be placed I either the front yard or a visible window when no front yard exists. If the property is a corner lot, one sign must be placed I each front yard.

(d) Verification of notice. Verification of notice as required by this § 410-39D shall be prepared by the Planning Department at least 5 calendar days prior to the public hearing. Such verification shall consist of a statement from the Press and Sun Bulletin and a signed affidavit of notice prepared by the Planning Department.

(e) Cost. The preparation of and cost of publication, mailing of required notice of public hearing, and sign posting shall be borne by the applicant.

C. Referrals.

(1) To the Planning Department. At least 20 business days prior to any public hearing on an application for any use or area variance, or a modification of a nonconforming use, such appeal shall be filed with the Planning Department for review as to conformance with the City's planning objectives and for an environmental assessment of Type I and unlisted actions. The Planning Department shall review the application for conformance with the City's planning objectives and for an environmental assessment on the proposed action prior to the public hearing.

(2) To the Broome County Department of Planning.

(a) All applications for an area or use variance or expansion of a nonconforming use affecting real property lying within a distance of 500 feet of the following shall be referred to the Broome County Planning Department for report and recommendation in accordance with § 239-m(3)(b) of the General Municipal Law:

[1] The boundary of any city, village, or town; or

[2] The boundary of any existing or proposed county or state park or any other recreation area; or

[3] The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway; or

[4] The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or

[5] The existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated; or

[6] The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the Agriculture and Markets Law, except this subsection shall not apply to the granting of area variances.

(b) If the County Department of Planning fails to make such report within 30 days after receipt of any matter referred by the Planning Department, action may be taken without such report in accordance with § 239-m(4)(b) of the General Municipal Law. If the County Department of Planning disapproves of the proposal, or recommends modification thereof, the Zoning Board of Appeals may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members thereof. The Zoning Board of Appeals shall file a report of its action with the

(c) County Department of Planning within seven days after such action is taken.

D. Adjournment. The hearing for any application or appeal to the Zoning Board of Appeals may be adjourned for a period not to exceed 45 days for the purpose of obtaining additional information or clarification, or to provide further opportunity for the applicant and any opposing view to present more detailed evidence, or to cause such further notice to be served upon other property owners as may be deemed necessary or desirable by the Board.

E. Board decision. The Zoning Board of Appeals shall decide on applications or appeals, or any other matter upon which it is required to act, within 62 days after the conclusion of the public hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

§ 410-95. Reconsideration.

Any decision, determination or order previously made by the Zoning Board of Appeals may be reconsidered as follows:

A. Motion. A motion for such reconsideration may be made by any member of the Board and shall be adopted unanimously by all members present. Such motion to reconsider shall not be made less than 90 days after the initial Board action on the matter to be reconsidered.

B. Notice. Notice of such reconsideration shall be given in the same manner as the original hearing. (See § 410-94B.)

C. Action on notice to reconsider. Upon such reconsideration, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

§ 410-96. Reapplication.
Unless the Zoning Board of Appeals determines, by the unanimous vote of members present, that substantial new evidence has become available, a second application on any previously decided case will not be heard.

§ 410-97. Environmental assessment.
If the advisory report from the City Planning Department indicates that approval of an application submitted to the Zoning Board of Appeals could have a significant environmental impact, no such approval shall be given until an environmental assessment and declaration have been made by the lead agency.

§ 410-98. Invalidation.
Any building and zoning permit issued in conformance with an action of the Zoning Board of Appeals shall be subject to the provisions of § 410-84H of this chapter. Should the appellant or applicant fail to comply with these provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned the appeal or application, and such permission or variance granted shall be deemed automatically rescinded and invalidated by the Zoning Board of Appeals unless an extension of time is granted by such Board.

§ 410-99. Compliance with other regulations.
Zoning Board of Appeals approval of any action applied for does not remove the applicant's responsibility to comply with all other applicable regulations of the City of Binghamton.

ARTICLE XV, Amendments and Changes

§ 410-100. Authority.
Pursuant to § 83 of the General City Law, and other applicable provisions of the law, the City Council may, from time to time on its own motion or on petition, after public notice and hearing, amend, supplement, repeal or change the regulations and districts established under this chapter.

§ 410-101. Amendment by petition.
Whenever the owners of 50% or more of the frontage in any district, or part thereof, shall present a petition, duly signed and acknowledged, to the Council requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Council to vote upon said petition within 90 days after filing of the same by the petitioners with the City Clerk.

§ 410-102. Protest.

A. If a protest against any proposed amendment, supplement, repeal, or change be presented, duly signed and acknowledged by the owners of 20% or more of the area of the land included in such proposed change or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by a three-fourths vote of the entire membership of the City Council.

B. In order to determine whether or not any ordinance rezoning a district or a portion of a district shall require a majority vote or a three-fourths vote for the passage of such ordinance, the Planning

Department shall make a written report certifying whether or not a protest as set forth in Subsection A has been made.

§ 410-103. Referral to Planning Commission.
Every proposed amendment or change initiated by City Council or by petition shall be referred to the Planning Commission for report thereon before the public hearing required by law. In recommending the adoption of any such proposed amendment, the Planning Commission may state its reasons for such recommendation, describing any conditions that it believes made the amendment advisable, and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the comprehensive plan of land use for the City, and be in furtherance of the purposes set forth in Article I of this chapter. In recommending the rejection or revision of any proposed amendment or change, the Planning Commission may similarly state its reasons. Failure on the part of the Commission to report its recommendations with respect to any proposed amendment or change to the City Council within 45 days after the date of referral shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.

§ 410-104. Changes in zoning regulations.
Pursuant to § 37 of General City Law, the Planning Commission may make any reasonable changes in applicable zoning regulations when this is done as part of subdivision plat approval. Such changes by the Planning Commission shall be based on the submission and approval of a detailed site plan indicating land use, building type, density, coverage, yards, parking, drainage, landscaping, and any other information required by the Planning Commission. In considering such changes, and after a public hearing thereon, the Planning Commission may require clustering of structures and may permit nonresidential land uses in the subdivision when this is deemed to be consistent with public welfare. While dwelling unit types can be modified, the development density cannot exceed that which would normally be permitted in the district in which the proposed subdivision is located.

§ 410-105. Environmental assessment.
Before adopting any proposed amendment to this chapter, the City Council shall assess the environmental impact of such amendment in accordance with the State Environmental Quality Review ActEN and may determine that an environmental impact statement on such amendment shall be prepared.

ARTICLE XVI, Miscellaneous Provisions

§ 410-106. Interpretation.
In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare and, more particularly, for the purposes set forth in Article I. It is not intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties, or any lawfully adopted rules, regulations or ordinances; provided, however, that when this chapter imposes a greater restriction on the use of land or buildings, or on the height of buildings, or requires larger open spaces, or makes other greater requirements than are imposed or required by any other ordinance, rule or regulation, or by easements, covenants or agreements, the provisions of this chapter shall control.

§ 410-107. Fees.
For the purpose of defraying administrative and other costs involved in review of applications and appeals, fees as set from time to time by the City Council for permits and applications shall be required, in addition to any and all other fees required by any other section of this or any other ordinance, local law or regulation of the City (See Exhibit J).

§ 410-108. Short title.
This chapter shall be known as, and may be cited as, the "Zoning Ordinance of the City of Binghamton."

§ 410-109. Repeal.

This chapter shall repeal the ordinance entitled, "Zoning Ordinance of the City of Binghamton," duly adopted by Binghamton City Council on April 6, 1987, and as subsequently amended.