

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001

www.dos.state.ny.us/corps

LOCAL LAW FILING

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate new matter.

Town of DUNKIRK

Local Law No. 1 of the year 2024.

A local law Amending Local Law 1-1998, Zoning Law of the Town of Dunkirk.

Be it enacted by the Town Board **of the** Town of Dunkirk

Town of DUNKIRK

Section One – Purpose:

The Town Board of the Town of Dunkirk upon review, recommendation of the Planning Board of the Town of Dunkirk, and after review of the current Comprehensive Plan, and having been advised of certain provisions of existing Town Zoning Law required to be amended and/or additional provisions to be enacted, does desire to enact these amendments to the Town of Dunkirk Zoning Law.

Section Two – Authority:

The Town Board desires to exercise the authority granted to it to preserve and protect the health, safety and well-being of the residents of the Town and to provide for the orderly development and uses of lands within the Town as provided by the Town Law of the State of New York, the Municipal Home Rule Law of the State of New York, and the General Municipal Law of the State of New York.

Section Three – Amendments:

Article 1 – Scope and Application

§ 1 Purpose

All reference to Chadwick Bay Region Comprehensive Plan is omitted and reference shall be to the Town of Dunkirk current Comprehensive Plan.

§ 3 Effective Date

These Amendments to the Zoning Law, Town of Dunkirk shall become effective upon adoption and filing with the Secretary of State. Remaining provision of this Section is continued.

Part II – Zoning Districts and Requirements

§ 7 Establishment of Districts

CR Commercial Residential and M High-Tech/Industrial Districts are hereby enacted.

Former Districts M-1 and M-2 are hereby repealed.

§ 8 Zoning Map

The Zoning Map of the Town of Dunkirk is hereby amended to reflect the changes adopted herein.

ARTICLE III – R-1 Single Family Residential District

§ 11 Purpose

The R-1 District is designed to provide for the development of neighborhoods that are occupied primarily by single family residences. The areas designated R-1 District will result in neighborhoods traditionally organized with single family houses fronting the street and accessory structures located in the rear yard. Those lakefront properties with a property line adjoining the Lake Erie shoreline have yard and area requirements that vary from other residential properties in the R-1 district in order to protect water quality, the integrity of the Lake Erie shoreline, any unique habitats that exist, and minimize potential damage to properties from severe weather and wave conditions that exist.

§ 12 Permitted Uses and Structures

2) Small-scale (Tier 1) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations, and the Solar Facilities Law.

§ 13 Accessory Uses

- (1) Signs subject to the provisions of Article XVI – Sign Restrictions.
- (2) Satellite television receiving antennas subject to the provisions of Article XXI – Supplemental Regulations.
- (3) Fences, walls and hedges subject to the provisions of Article XXI - Supplemental Regulations.
- (4) Outdoor storage of trailers (camper, boat, utility, etc.), cars, and other recreational vehicles shall be limited to those currently licensed/registered and owned by occupant of premises for personal use.

- (5) Personal carport/garage, storage, or utility shed, subject to the provisions of Article XXI – Supplemental Regulations
 - (6) Personal recreational uses such as pools, pool house, swimming pool, tennis, pickle ball courts, etc., subject to the provisions of Article XXI – Supplemental Regulations
- Prior uses (7) through (11) are hereby deleted.

§ 14 Site Plan Review

- (1) Park (public)
- (2) Cemetery
- (3) Public and semipublic facilities
- (4) Essential facility
- (5) Wind energy facility (Ref: local law # 3 of 2010)
- (6) Home occupation

Prior Sections (1) and (2) are hereby deleted.

§ 15 Special Use Permits

- (1) Public safety facility
- (2) Religious institution
- (3) Private clubs, clubhouses, athletic recreation facility, golf course
- (4) Bed and breakfast

Prior Section (1) s hereby deleted.

§ 16 Lot, Area and Yard Requirements

The following lot, area and yard requirements apply to NON-LAKEFRONT PROPERTIES in the R-1 District:

NON-LAKEFRONT PROPERTIES:

Lot Requirements

Minimum Lot Frontage	120 feet
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Area Requirements

Minimum Lot Area	1 acre
Maximum Building Coverage	20%
Maximum Lot Coverage	35%

Yard Requirements

Minimum Front Yard Depth	50 feet
Minimum Side Yard	25 feet each side (with exception of existing footprints)

Minimum Rear Yard	75 feet
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LAKEFRONT PROPERTIES:

Lot Requirements

Minimum Lot Frontage	120 feet
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Area Requirements

Minimum Lot Area	1 acre
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Maximum Building Coverage	20%
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Maximum Lot Coverage	35%
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Yard Requirements

Minimum Front Yard Depth	35 feet or consistent of setback of adjacent neighbors
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Minimum Side Yard	25 feet each side (with exception of existing footprints)
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Minimum Rear Yard	50 feet or distance permitted by USACOE or NYSDEC
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Minimum Rear Yard	50 feet or distance permitted by USACOE or NYSDEC
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§ 17 Buildings

Maximum Floor Area Accessory Building - 1,600 sq. feet

§ 18 Supplemental Regulations and Exceptions

R-1 District Supplementary Regulations:

- (1) Garage and Yard Sales. This section is enacted to control and restrict garage and yard sales to protect the public health, safety and convenience and to restrict the frequency of such sales to help preserve the character of residential neighborhoods. This section further intends to eliminate repeated, perpetual and/or prolonged garage and yard sales in residential use districts. If unregulated, garage and yard sales could result in the equivalent of commercial retail businesses operating in residential areas in violation of the village's zoning laws.

- a. It shall be unlawful for any person or persons to conduct more than six (6) garage sales in a single calendar year and no more than two (2) per month for a total of six (6).

- b. The duration of any garage sale shall not last longer than three consecutive calendar days.

§ 19 Purpose

The R-2 District is designed to provide for the development of neighborhoods that include a mixture of single, two and multi-family housing and complementary services. Limited types of commercial uses are allowed in the zone to ensure the residential character is protected and enhanced.

§ 20 Permitted Uses and Structures

- (1) Single family dwelling
 - (2) Two-family dwelling
 - (3) Agricultural Operations
 - (4) Wildlife sanctuaries
 - (5) Small-scale (Tier) 1 solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
 - (6) Short-term Rental, upon permit approval and in accordance with Local Law 1 of 2023
- Prior Section 20 is hereby deleted.

§ 21 Accessory Uses

- (1) Signs subject to the provisions of Article XVI - Sign Restrictions.
 - (2) Satellite television receiving antennas subject to the provisions of Article XXI Supplemental Regulations.
 - (3) Fences, walls and hedges subject to the provisions of Article XXI - Supplemental Regulations.
 - (4) Outdoor storage of trailers (camper, boat, utility, etc.), cars, and other recreational vehicles shall be limited to those currently licensed/registered and owned by occupant of premises for personal use.
 - (5) Personal carport/garage, storage, or utility shed, subject to the provisions of Article XXI – Supplemental Regulations
 - (6) Personal recreational uses such as pools, pool house, swimming pool, tennis, pickle ball courts, etc., subject to the provisions of Article XXI – Supplemental Regulations
- Prior Section 21 is hereby deleted.

§ 22 Site Plan Review

- (1) Multi-family dwelling
- (2) Townhouses, condominiums
- (3) Assisted living
- (4) Group homes
- (5) Nursing home
- (6) Park (public)

- (7) Cemetery
- (8) Public and semi-public facilities
- (9) Essential facility
- (10) Daycare facility
- (11) Greenhouse
- (12) Wind energy facility
- (13) Accessory apartment (dwelling unit)
- (14) Home occupation

Prior Section 22 list is deleted.

§ 23 Special Use Permits

The following uses are allowed only by special use permit requiring a hearing and are subject to site plan review as outlined in Article XII- Site Plan Review:

- (1) Public safety facility
- (2) Religious institution
- (3) Private clubs, clubhouses, athletic recreation facility, golf course
- (4) Bed and breakfast
- (5) Agribusiness
- (6) Agritourism

Prior Section 23 is hereby deleted.

§ 24 Lot, Area and Yard Requirements

Minimum Lot Frontage

Single Family	120 feet
Two-Family	120 feet
Multiple Family	150 feet

Minimum land area of a lot shall not apply to prevent the construction of a one-family dwelling on a lot existing prior to April 14, 1998 and provided it's not adjoined at the side by other unoccupied land in the same common ownership shown on existing filed subdivision map and having an area of not less than nine thousand (9,000) square feet and a width at the front building line of not less than ninety (90) feet.

Area Requirements

Minimum Lot Area	1 acre
Maximum Building Coverage	35%
Maximum Lot Coverage	50%

Yard Requirements

Minimum Front Yard Depth	35 feet
Minimum Side Yard	25 feet

Minimum Rear Yard 25 feet

Prior Section 24 is deleted.

§ 25 Buildings

Maximum Building Height

Single Family	2 stories not to exceed 35 feet
Two-Family	3 stories not to exceed 40 feet
Multiple Family	3 stories not to exceed 40 feet

Minimum Floor Area

One Story Dwelling	800 square feet
Two Story Dwelling	720 square feet main floor
Other Dwellings	500 square feet per unit
Accessory Building (maximum floor area)	1,600 sq. feet

Prior Section 25 is deleted.

§ 26 R-2 District Supplementary Regulations:

- (1) Garage and Yard Sales. This section is enacted to control and restrict garage and yard sales to protect the public health, safety and convenience and to restrict the frequency of such sales to help preserve the character of residential neighborhoods. This section further intends to eliminate repeated, perpetual and/or prolonged garage and yard sales in residential use districts. If unregulated, garage and yard sales could result in the equivalent of commercial retail businesses operating in residential areas in violation of the village's zoning laws.
 - a. It shall be unlawful for any person or persons to conduct more than six (6) garage sales in a single calendar year or two (2) per month.
 - b. The duration of any garage sale shall not last longer than three consecutive calendar days.
 - c. See Part III -Regulations Applying to all Districts for additional regulations applying to the R-2 District in the Town of Dunkirk.

§ 27 Purpose

The intent of this District is to promote and encourage continued agricultural use, to protect the rural character of the Town, and help preserve valuable agricultural lands. Residential development, including a mixture of single- and two-family housing, is encouraged as well provided that development of such does not negatively impact agricultural operations as the first and foremost use for this District. Subdivision of lands should utilize conservation subdivision, clustering, or other such methods to protect sensitive resources and agriculture.

§ 28 Permitted Uses and Structures

The following are permitted uses:

- (1) Single family dwelling
- (2) Two family dwelling
- (3) Agricultural operations
- (4) Wildlife sanctuaries
- (5) Small-scale (Tier) 1 solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
- (6) Commercial-scale (Tier 2) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
- (7) Seasonal work housing
- (8) Pole barns or other enclosed structures for use for storage or in connection with an agricultural operation but not for commercial nonagricultural businesses. Such structures shall not contain living space nor be used for residential space.
- (9) Short-term Rental, upon permit approval and in accordance of Local Law 1 of 2023

Prior Section 28 is deleted.

§ 29 Accessory Uses

- (1) No more than one (1) commercial vehicle over one (1) ton capacity, except when involved in an agricultural operation, shall be parked overnight.
- (2) Signs subject to the provisions of Article XVI – Sign Restrictions.
- (3) Satellite television receiving antennas subject to the provisions of Article XXI – Supplemental Regulations.
- (4) Fences, walls and hedges subject to the provisions of Article XXI - Supplemental Regulations.
- (5) Outdoor storage of trailers (camper, boat, utility, etc.), cars, and other recreational vehicles shall be limited to those currently licensed/registered and owned by occupant of premises for personal use.
- (6) Personal carport/garage, storage, or utility shed, subject to the provisions of Article XXI – Supplemental Regulations
- (7) Seasonal roadside farm stands for the sale of farm products produced on premises.

Prior Section 29 is deleted.

§ 30 Site Plan Review

- (1) Multi-family dwelling
- (2) Assisted living; group home; nursing home
- (3) Park (public)
- (4) Public safety facility

- (5) Religious institution
- (6) Public and semipublic facility
- (7) Essential facility
- (8) Daycare facility
- (9) Greenhouse
- (10) Bed and breakfast
- (11) Veterinary Facility
- (12) Wind energy facility (Ref: local law# 3 2010)
- (13) Home occupation

Prior Section 30 is deleted.

§ 31 Special Use Permits

- (1) Commercial kennels, grooming and related animal care (non-medical)
- (2) Extraction of sand, gravel and other materials
- (3) Quarry
- (4) Lumber yards
- (5) Agribusiness
- (6) Agritourism
- (7) Private clubs, club houses, athletic-recreational facilities; golf course
- (8) Brewery, distillery, & winery, including tasting rooms and sit-down dining
- (9) Veterinary Facility

Prior Section 31 is deleted.

§ 32 Lot, Area and Yard Requirements

Lot Requirements

Minimum Lot Frontage	120 feet
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Area Requirements

Minimum Lot Area	3 acres
Maximum Building Coverage	35%
Maximum Lot Coverage	50%

Yard Requirements

Minimum Front Yard Depth	35 feet
Minimum Side Yard	25 feet
Minimum Rear Yard	75 feet

Corner Lots

The minimum width of the lot at the building line parallel to the street considered to be the front street shall be One Hundred, Twenty (120) feet. Additional yard requirements, for both yards abutting streets, shall be determined as provided in this Chapter.

§ 33 Buildings

Maximum Building Height

All uses	40 feet
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Minimum Floor Area

One Story Dwelling	900 square feet
Two Story Dwelling	720 square feet
Other Dwellings	500 square feet per unit
Accessory Building (maximum floor area)	1,600 sq. feet

§ 34 RESERVED

Prior Section 34 is hereby repealed.

§ 35 Intent

Purpose

The purpose of the C-1 District is designed to provide for the development of commercial areas within the Town to serve residents as well as provide businesses attractive to visitors in order to stimulate economic development. Site and building design of commercial uses shall incorporate elements that complement or improve the character of the surrounding area in terms of building facades, pedestrian amenities, landscaping, lighting, appropriately-scale signage, access management, etc.

§ 36 Permitted Uses and Structures

The following are permitted uses in the C-1 District:

- (1) Single family dwelling
- (2) Small-scale (Tier 1) solar energy system, subject to the provisions of Article XXI – Supplemental Regulations
- (3) Commercial-scale (Tier 2) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
- (4) Short-term Rental, upon permit approval and in accordance of Local Law 1 of 2023

Prior Section 36 is repealed.

§ 37 Accessory Uses

- (1) Enclosed structures for storage of products, equipment, materials, merchandise or vehicles incidental or accessory to the principal use. Outdoor storage (non-retail sales) shall be screened, subject to the provisions of Article XXI – Supplemental Regulations
- (2) Carport, garage, storage or utility shed, subject to the provisions of Article XXI – Supplemental Regulations
- (3) Signs subject to the provisions of Article XVI – Sign Restrictions.
- (4) Satellite television receiving antennas subject to the provisions of Article XXI – Supplemental Regulations.
- (5) Fences, walls and hedges subject to the provisions of Article XXI - Supplemental Regulations.
- (6) Personal recreational uses such as pools, pool house, swimming pool, tennis, pickle ball courts, etc., subject to the provisions of Article XXI – Supplemental Regulations
- (7) Private parking garages for employee/business use.

Prior Section 37 is repealed.

§ 38 Site Plan Review

- (1) Assisted living
- (2) Nursing home
- (3) Park (public)
- (4) Public safety facility
- (5) Religious institution
- (6) Cemetery
- (7) Funeral home
- (8) Private schools (Nursery-12)
- (9) Public and semipublic facilities
- (10) Essential facility
- (11) Hospital, medical clinic, sanitarium
- (12) Private clubs, club houses, athletic and recreational facilities, golf course
- (13) Daycare facility
- (14) Greenhouse
- (15) Bar
- (16) Restaurant, Dine-In
- (17) Bed and breakfast
- (18) Financial institution
- (19) General business office
- (20) Dance, art, music, photo studio
- (21) General retail and personal service

- (22) Professional offices

Prior Section 38 is hereby repealed.

§ 39 Special Use Permits

- (1) Library
- (2) Commercial kennels, grooming and related animal care (non-medical)
- (3) Restaurant, Drive-thru
- (4) Equipment sales and rental
- (5) Wholesale distribution warehouse and mini warehouse
- (6) Veterinary Facility
- (7) General Contractors
- (8) Small Scale Shopping Center
- (9) Brewery, distillery, & winery, including tasting rooms and sit-down dining
- (10) Executive/Administrative Offices
- (11) Office Buildings (General Purpose)
- (12) Professional Offices

Prior Section 39 is hereby repealed.

§ 40 Lot, Area and Yard Requirements

Lot Requirements - RESIDENTIAL

Minimum Lot Frontage	120 feet
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Area and Yard Requirements

Minimum Lot Area	3 acres
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Maximum Building Coverage	35%
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Maximum Lot Coverage	50%
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Yard Requirements

Minimum Front Yard Depth	35 feet
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Minimum Side Yard	25 feet
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Minimum Rear Yard	75 feet
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Lot Requirements – NON-RESIDENTIAL

Minimum Lot Frontage	40 feet
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Area Requirements

Minimum Lot Area	4,000 square feet
Maximum Building Coverage	50%
Maximum Lot Coverage	80%

Yard Requirements

Minimum Front Yard Depth	Average front yard depth of building(s) within 100 feet or 5 feet whichever is less but in no case more than one (1) foot larger than either of the front yard depths of buildings on the two adjacent lots.
Minimum Side Yard	0 feet (abutting non-residential district) OR Same as the minimum <u>side</u> yard for abutting district (if residential district)
Minimum Rear Yard	10 feet (abutting non-residential district) OR Same as the minimum <u>rear</u> yard for abutting district (if residential district)

Prior Section 40 is hereby repealed.

§ 41 Buildings

Maximum Building Height

Non-residential uses	40 feet
Residential uses	Comply with R-2 District

Floor Area

Non-residential uses	30% FLOOR AREA RATIO MAX.
Two-story non-residential use	720 square feet
Residential uses	Comply with R-2 District

Prior Section 41 is hereby repealed.

§ 42 Supplemental Regulations and Exceptions

RESERVED

Prior Section 42 is hereby repealed.

§ 43 Purpose

The C-2 District is established to encourage uses that are primarily accommodated and orientated to the automobile. Uses in this District shall incorporate building and site design elements that complement or improve the character of the surrounding area while minimizing potential environmental impacts. Though car-oriented, uses should employ access management techniques to limit expansive parking or driveways where feasible as well as pedestrian facilities and connections.

§ 44 Permitted Uses and Structures

- (1) Library
 - (2) Small-scale (Tier 1) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
 - (3) Commercial-scale (Tier 2) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
 - (4) Short-term Rental, upon permit approval and in accordance of Local Law 1 of 2023
- Prior Section 44 is hereby repealed.

§ 45 Accessory Uses

- (1) Enclosed structures for storage of products, equipment, materials, merchandise or vehicles incidental or accessory to the principal use. Outdoor storage (non-retail sales) shall be screened, subject to the provisions of Article XXI – Supplemental Regulations
 - (2) Signs subject to the provisions of Article XVI – Sign Restrictions.
 - (3) Satellite television receiving antennas subject to the provisions of Article XXI – Supplemental Regulations.
 - (4) Fences, walls and hedges subject to the provisions of Article XXI - Supplemental Regulations.
 - (5) Private parking garages for employee/business use, subject to the provisions of Article XXI – Supplemental Regulations
- Prior Section 45 is hereby repealed.

§ 46 Site Plan Review

- (1) Assisted living
- (2) Nursing home
- (3) Park (public)
- (4) Public safety facility
- (5) Religious institution
- (6) Cemetery
- (7) Funeral home
- (8) Private schools (Nursery-12)
- (9) Public and semi-public facilities

- (10) Essential facility
- (11) Vehicle parking and storage facility
- (12) Hospital, medical clinic, sanitarium
- (13) Private clubs, club houses, athletic and recreational facilities, golf courses
- (14) Daycare facility
- (15) Brewery, distillery, & winery, including tasting rooms and sit-down dining
- (16) Bar
- (17) Restaurant, Dine-In
- (18) Bed and breakfast
- (19) Hotel, motel, motor court
- (20) Financial institution
- (21) General business office
- (22) Contractors Yards
- (23) Dance, art, music, photo studio
- (24) Large Shopping center
- (25) General retail and personal services

Prior Section 46 is hereby repealed.

§ 47 Special Use Permits

- (1) Commercial kennels, grooming and related animal care (non-medical)
- (2) Restaurant with drive-thru
- (3) Equipment sales, rental and service
- (4) Recreational vehicle, recreational mobile home, and boat sales
- (5) Motor vehicle service station
- (6) Automobile sales (new and used)
- (7) Lumber yards
- (8) Wholesale distribution warehouse and mini warehouse
- (9) Veterinary Facility
- (10) Cannabis dispensary
- (11) Professional Offices
- (12) Office Buildings (General Purpose)
- (13) Laboratories & related facilities
- (14) Executive/Administrative Offices
- (15) Cannabis (retail)

Prior Section 47 is hereby repealed.

§ 48 Lot, Area and Yard Requirements

The following Lot requirements apply to the C-2 District:

Lot Requirements

Minimum Lot Frontage 50 feet

Area Requirements

Minimum Lot Area 5,000 square feet

Maximum Lot Coverage 80%

Yard Requirements

Minimum Front Yard Depth Average front yard depth of building(s) within 100 feet or 5 feet whichever is less but in no case more than 1 foot larger than either of the front yard depths on buildings on the two adjacent lots

Minimum Side Yard 0 feet (abutting non-residential district)

OR

Same as the minimum side yard for abutting district
(if residential district)

Minimum Rear Yard 10 feet (abutting non-residential district)

OR

Same as the minimum rear yard for abutting district
(if residential district)

Prior Section 48 is hereby repealed.

§ 49 Buildings

The following requirements apply to Buildings constructed in the C-2 District:

Maximum Building Height

Non-residential uses 40 feet

Residential uses Comply with R-2 District

Floor Area

Non-residential uses 30% FLOOR AREA RATIO

	MAX.
Two-story non-residential use	720 square feet
Residential uses	Comply with R-2 District

Previous Section 49 is hereby repealed.

§ 50 RESERVED

Article VIII-CR Commercial Residential District

§ 51 Purpose

The purpose of the C-R District is to promote a mix of uses that include residential, retail and service uses which are catered to and support residents and visitors. Uses within this District shall be developed in such a manner to protect and enhance the adjacent local neighborhood(s) by encouraging aesthetically appealing building and site design that conforms to, rather than detracting from, adjacent buildings and uses, including pedestrian-scale features, landscaping, appropriate selection of building materials, and other such elements. Access management strategies shall be incorporated to provide safe ingress and egress and provide facilities for pedestrians and vehicles alike - strip-style design and development is prohibited.

§ 52 Permitted Uses and Structures:

The following are permitted uses:

- (1) Single family dwelling
- (2) Two family dwelling
- (3) Wildlife sanctuaries
- (4) Small-scale (Tier 1) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
- (5) Commercial-scale (Tier 2) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
- (6) Agricultural Operations
- (7) Short-term Rental, upon permit approval and in accordance of Local Law 1 of 2023

Prior Section 52 is hereby repealed.

§ 53 Accessory Uses

The following are the accessory uses, building and structures permitted in the C-R District:

- (1) Carport, garage, storage or utility shed, subject to the provisions of Article XXI – Supplemental Regulations
- (2) Trailer (camp, boat, utility)

- (3) Personal recreational uses such as pools, pool house, swimming pool, tennis, pickle ball courts, etc., subject to the provisions of Article XXI – Supplemental Regulation

Prior Section 53 is hereby repealed.

§ 54 Site Plan Review

The following uses are permitted subject to site plan review as outlined in Article XII- Site Plan Review:

- (1) Assisted living
- (2) Nursing home
- (3) Park (public)
- (4) Public safety facility
- (5) Religious institution
- (6) Cemetery
- (7) Funeral home
- (8) Private schools
- (9) Public and semi-public facilities
- (10) Essential facility
- (11) Vehicle parking and storage facility
- (12) Hospital, medical clinic, sanitarium
- (13) Private clubs, club houses, athletic and recreational facilities, golf courses
- (14) Daycare facility
- (15) Brewery, distillery, or winery
- (16) Bar
- (17) Bed and breakfast, lodging house
- (18) Hotel, motel, motor court
- (19) Financial institution
- (20) General business office
- (21) Dance, art, music, photo studio
- (22) Shopping center, Small
- (23) General retail and personal services
- (24) Greenhouse

Prior Section 54 is hereby repealed.

§ 55 Special Permitted Uses

The following uses are permitted only by a special use permit requiring a hearing and site plan review:

- (1) Library
- (2) Commercial kennels, grooming and related animal care (non-medical)
- (3) Restaurant, Drive Thru & Dine-In
- (4) Equipment sales, rental and service
- (5) Wholesale distribution warehouse and mini warehouse
- (6) Agribusiness
- (7) Agritourism
- (8) Executive/Administrative Offices
- (9) Office Buildings (General Purpose)
- (10) Veterinary Facility

Prior Section 55 is hereby repealed.

§ 56 Lot, Area and Yard Requirements

The following Lot requirements apply to the CR District:

Lot Requirements

Minimum Lot Frontage	120 feet
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Area Requirements

Minimum Lot Area	21,780 square feet (with water or sewer)
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Maximum Building Coverage	35%
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Maximum Lot Coverage	50%
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Yard Requirements

Minimum Front Yard Depth	Average front yard depth of building(s) within 100 feet or 5 feet whichever is less but in no case more than 1 foot larger than either of the front yard depths on buildings on the two adjacent lots
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Minimum Side Yard	25 feet (abutting residence on each side) 12.5 feet (abutting commercial on each side) 25 feet (abutting commercial or residential on only <u>one</u> side)
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Minimum Rear Yard	25 feet
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Prior Section 56 is hereby repealed.

§ 57 Buildings

The following requirements apply to Buildings constructed CR District:

Maximum Building Height

Single-family/two-story	35 feet
Two-family/three-story	40 feet
Commercial uses	40 feet

Prior Section 57 is hereby repealed.

§ 58 RESERVED

Article IX – M High-Tech/Industrial District

§ 59 Purpose

This District is intended to encourage a range of industrial and high-tech businesses along with associated administrative offices primarily for heavy commercial and industrial uses. The activities of these types of businesses should not constitute a significant fire hazard, emit smoke, cause glare, create excessive noise, odor or dust or in any other way constitute a nuisance to be detrimental to neighboring properties. It is generally understood that business operations within this District may be more intensive in nature and operate at atypical hours; therefore, adequate buffering, screening, and other such measures are to be utilized to minimize environmental and aesthetic impacts in the Town of Dunkirk.

Prior Section 59 is hereby repealed.

§ 60 Permitted Uses and Structures

The following are permitted uses:

- (1) Public Safety Facility
- (2) Executive or administrative offices
- (3) Engineering, architectural and design services
- (4) Computer programming and other software services
- (5) Small-scale (Tier 1) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations
- (6) Commercial-scale (Tier 2) solar energy systems, subject to the provisions of Article XXI – Supplemental Regulations

Prior Section 60 is hereby repealed.

§ 61 Accessory Uses

The following are the accessory uses, building and structures permitted in the M District:

- (1) Enclosed structures for storage of products, equipment, materials, merchandise or vehicles incidental or accessory to the principal use. Outdoor storage (non-retail sales) shall be screened, subject to the provisions of Article XXI – Supplemental Regulation
- (2) Signs subject to the provisions of Article XVI – Sign Restrictions.
- (3) Satellite television receiving antennas subject to the provisions of Article XXI – Supplemental Regulations.
- (4) Fences, walls and hedges subject to the provisions of Article XXI - Supplemental Regulations.
- (5) Private parking garages for employee/business use, subject to the provisions of Article XXI – Supplemental Regulation

Prior Section 61 is hereby repealed.

§ 62 Site Plan Review

The following uses are permitted, subject to site plan review as outlined in Article 12

- (1) Park (public)
- (2) Essential facility
- (3) Contractors Yards
- (4) Equipment sales, rental and service
- (5) Light Manufacturing
- (6) Laboratories and related facilities for research, experimentation, testing and product development when conducted entirely within a building
- (7) Office buildings for general purposes
- (8) Research and development and light manufacturing support by research and development.
- (9) Educational facilities

§ 63 Special Use Permits

The following uses are permitted only by a special use permit requiring a hearing and site plan review:

- (1) Recreational vehicle, mobile home and boat sales
- (2) Motor vehicle service station
- (3) Automobile sales; used and new
- (4) Heavy Manufacturing

- (5) Extraction of sand, gravel and other materials
- (6) Lumber Yards
- (7) Wholesale distribution, warehouse and mini warehouse
- (8) Utility-scale (Tier 3) solar energy systems
- (9) Tier 2-Utility Battery Energy Storage Systems
- (10) Adult bookstore, theater, exotic dancing

Prior Section 63 is hereby repealed.

§ 64 Lot, Area and Yard Requirements

The following Lot requirements apply to the M-2 Zone

Lot Requirements

Minimum Lot Frontage 100 feet

Area Requirements

Minimum Lot Area 10,000 square feet

Maximum Lot Coverage 80%

Yard Requirements

Minimum Front Yard
Depth 50 feet

Minimum Side Yard 25 feet (abutting non-residential)
50 feet (abutting residential uses or districts)

Minimum Rear Yard 25 feet

§ 65 Buildings

The following requirements apply to Buildings constructed in the M-2 Zone

Maximum Building Height 40 feet

Maximum Floor Area 30%

§ 66 RESERVED

§ 67 Purpose

The SBO District implements the policies of local community plans, County of Chautauqua, or regional plans, and the Great Lakes Seaway Trail Corridor Management Plan, and the cooperative efforts of the regional planning. The Seaway Trail has been identified as an important scenic and visual resource and should be protected. The SBO District is developed as a waterfront protection zone that recognizes the significance of beaches, bluffs, erosion control, shoreline protection and the scenic quality of the corridor.

§ 68 Application

This overlay applies to all properties and uses on properties with frontage along the Great Lakes Seaway Trail. In any underlying district where the overlay district applies, limitations and standards contained in this Article shall apply. In the event of conflicting provisions of such a combined district, the requirements of the Overlay District shall take precedence over the requirements of the underlying zone. Uses permitted in the Overlay district, must in each instance, be in compliance with those uses permitted by the applicable underlying district regulations and any other district regulations.

§ 87 Procedure for Review and Approval

- (1) Sketch Plan/Pre-Application. Prior to submittal of a formal site plan and application, it is recommended that the applicant exercise their option to an informal preapplication conference with the Zoning Enforcement Officer at a minimum and may also involve the Chair of Planning Board/Zoning Board or a representative, a representative from the Town Board, any consultants or other parties as deemed necessary for the purpose of discussing the proposed project and identifying any concerns prior to incurring design costs. The Town Board may request the applicant submit a sketch plan as well. Consultant fees that may be incurred by the Town shall be reimbursed in accordance with Article XXIII.
- (2) Application Submittal. The application and appropriate fees for site plan review shall be submitted to the Zoning Enforcement Officer. The content of the site plan application package (application, plans, and any supporting information as noted in §88) shall be reviewed by the Zoning Enforcement Officer prior to filing and distribution to staff, the Planning Board and Town Board to ensure completeness. If the application is deemed incomplete, the package shall be returned to the applicant. For complete applications, the applicant shall submit twelve (12) copies of all plans, the site plan checklist (SEE ATTACHMENT 4 – Site Plan Checklist), and supplementary information; additional copies may be requested for additional review agencies.
 - a. Distribution by the Zoning Enforcement Officer will include:
 - i. Highway Superintendent
 - ii. Fire Department
 - iii. Police Department

- iv. Planning Board - one per member
 - v. Town Board - one per member
 - vi. Other review Agencies, as required or requested by the Planning Board (e.g., outside consultants). Consultant fees shall be reimbursed in accordance with Article XXIII.
- b. Review agencies shall submit a report to the Planning Board seven (7) calendar days prior to the scheduled Planning Board meeting.
- (3) Planning Board Action. The site plan and supporting information shall be reviewed to ensure the plan is in conformance with this Chapter, the approved development plan, if one exists, and all other applicable laws. Within thirty (30) of calendar days of its receipt of a complete application for site plan approval, the Planning Board shall review the application, site plan and supporting data and, at a regular meeting of the Board, after determining that all requirements have been met, shall take the following actions on the site plan:
- a. Environmental Review. Undertake a review as required under the State Environmental Quality Review Act (SEQRA), initially identifying the action and determining if a coordinated review is as necessary in accordance with SEQRA regulations. If chosen, the Planning Board will declare its intent to act as Lead Agency and notify the other involved and interested agencies.
 - b. Public Hearing. Within sixty-two (62) of calendar days of its receipt of a complete application for site plan approval or renewal, the Planning Board may hold a public hearing; this time period may be extended by mutual consent of the applicant and Town Board.
 - c. County Referral. Notify County Planning as required under § 239-m of the General Municipal Law.
- (4) Planning Board Approval. Following the completion of the above actions, the Planning Board shall decide:
- a. Approval, Approval with modifications or conditions, Disapprove
 - b. Determination support. The Planning Board's action shall be in the form of a written report or noted in approved minutes of said meeting of approval or disapproval of the site plan, giving due consideration to the criteria for review contained herein. In approving the site plan, conditions limiting the use and the occupancy of the land or proposed buildings consistent with the Intent and purposes of this Chapter and other applicable laws may be imposed on the development. If the site plan is denied approval, the Planning Board shall state its reasons for disapproval. Approval of any site plan shall remain in effect for a period of not more than twelve (12) months unless a successful application for a building permit has been made within that period. One six (6) month extension may be granted to obtain the building permit.
 - c. Performance Bond as Condition of Approval. For all commercial and industrial uses, the Planning Board shall require, as a condition of site plan approval, the property owner to file a performance bond, coordinated with the Town Board as needed, in such amount and form as determined by the Zoning Enforcement Officer and Highway Superintendent to ensure that the proposed development is built in compliance with the approved plans.

Prior Section 87 is hereby repealed.

§ 88 Submission of Site Plan and Additional Information

The Zoning Enforcement Officer may waive requirements set forth in this section as deemed appropriate, and shall note the reason for such waiver on the application.

The remainder of current Section 88 is hereby continued.

§ 91 RESERVED

Prior Section 91 is hereby repealed.

§ 92 RESERVED

Prior Section 92 is hereby repealed.

§ 94 RESERVED

Prior Section 94 is hereby repealed.

§ 97 Findings

Reference shall be made to the Town of Dunkirk's most recently adopted current Comprehensive Plan.

All other provisions of existing Section 97 are hereby continued.

§ 101 Uses

No uses, buildings, or structures shall be allowed which are not in accordance with the Town of Dunkirk's current Comprehensive Plan.

§ 104 Open Space

Lands considered undevelopable due to the presence of wetlands, floodplains, steep slopes, or other constraints shall not encompass more than 25% of the calculation of open space.

The remaining provisions of Section 104 are hereby continued.

§ 106 Site and Structure Requirements

Reference in this Section to the Region's Comprehensive Plan, is hereby deleted. Reference shall now be to the Town of Dunkirk Current Comprehensive Plan.

(1) The Planned Unit Development shall make provisions for the preservation of natural, or protected features such as streams and shorelines, ponds, lakes, trees, grasses, wooded cover and rough terrain.

(8) Permitted Uses. The following uses shall be allowed in a PUD provided that they do not adversely affect surrounding development and that they are in accordance with the purpose, intent, and objectives of this chapter.

- a. Dwelling units in detached, semidetached, attached, clustered or multistoried structures or combinations thereof
- b. Commercial uses, where such uses are scaled primarily to serve residents of the PUD, such as retail sales, personal services, and professional offices
- c. Public and private institutional facilities
- d. Recreational facilities
- e. Light industrial uses

The remaining sub-sections of this Section, otherwise not in conflict, are hereby continued.

§ 108 Planning Board Recommendation, subsection (1)

Reference to the Region's Comprehensive Plan is hereby repealed. Reference shall now be made to the Town of Dunkirk current Comprehensive Plan.

All other provisions in Section 108 are hereby continued.

§ 111 Purpose (5)

- (6) Sensitive natural resources

§ 112 Authority

- (1) The Town Board of the Town of Dunkirk is authorized to modify applicable provisions of this Chapter simultaneously with the approval of any plat within the Town subject to the conditions in this Article in accordance with §278 of New York State Town Law. Cluster housing shall be permitted within all zoning districts as defined in this Chapter. The Town Board may require the use of the cluster concept when one or more of the following conditions exist:
 - a. Important ground or surface waters, wetlands, floodplains, steep slopes, unique or locally important natural or historical areas exist on the parcel.
 - b. The number or length of new roads or driveways obtaining access from existing roads will be reduced.
 - c. Agricultural soils of state or local importance exist on the parcel.
 - d. An active agricultural operation or cropland exists on the parcel.
 - e. Preservation of important views or community open space will be ensured.

- f. The land to be developed is contiguous to a recreational area(s), parkland or permanently protected open space or has the potential to be converted to such uses.
- g. The specific goals and policy recommendations of the Master Plan will be accomplished.
- h. Significant environmental impacts identified through the State Environmental Quality Review Act (SEQR) may be mitigated.

Prior Section 112 is hereby repealed.

§ 113 Clustering Requirements

RESERVED

Prior Section 113 is hereby repealed.

§ 114 Density Transfer

Clustering Requirements

- (1) In each zone allowing cluster development, the lot requirements may be reduced from the lot requirements established in this Chapter as deemed acceptable to the Town Board. All such lot reductions shall be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic value, recreation or conservation purposes.
- (2) In the approval of a cluster subdivision, in no case shall the maximum density specified for the applicable zone be increased, nor shall the other applicable regulations or use limitations for the zone be changed or modified.
- (3) Nothing shall prevent the Town Board from requiring that ten (10) percent of the entire cluster housing subdivision be set aside or otherwise permanently dedicated for park and recreation purposes and provisions for maintenance of said area shall be established to the satisfaction of the Town Board. Under certain conditions, the Town Board may require the payment of a recreational fee per dwelling unit rather than the dedication of park land. In either instance, the park space or fee shall be in addition to the private land assembled in common as the result of the clustering process referred to in these regulations.
- (4) The land set aside shall be provided in such a manner that the area is usable for recreation, continued agricultural use, or other such similar open space uses/activities. "Usable" land is otherwise developable but may contain no more than 20 percent of land that can otherwise not be developed due to feature restrictions, i.e., wetlands or floodplains. Where recreational and other such uses are proposed, they shall be accessible to all residents of the subdivision or, where the land has been dedicated to the Town, to the general public.
- (5) Siting Guidelines. Within a cluster development, lots shall be laid out so that dwelling units will be located in a manner that carries out the goals of the Town's Master Plan and consistent with the purpose of this Chapter. The following siting guidelines are to be considered, when applicable, on a case-by-case basis by the Town Board:

- a. On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural uses;
- b. Within any woodland contained in the parcel, or along the far edges of the open fields (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind and to enable new construction to be visually absorbed by natural landscape features);
- c. To provide permanent protection for significant natural, historic or cultural features identified on the site;
- d. To minimize the number of driveways with access to existing roads;
- e. In such a manner that the common boundary between the house lots and any active farmland is minimized in length (to reduce potential conflicts);
- f. In locations least likely to block or interrupt scenic vistas as seen from the public roadway(s) or other public vantage points;
- g. In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities; and
- h. In cluster developments exceeding 20 dwelling units, the Planning Board shall consider the layout of smaller groupings, each having some open space immediately surrounding it, so that large concentrations of units with little or no differentiation can be avoided, and so that cluster development will be more compatible with the neighborhood in which it is located.

Prior Section 114 is hereby repealed.

§ 115 Review Criteria, subsection (1)

Reference to the Region's Comprehensive Plan is hereby deleted. Reference shall now be to the Town of Dunkirk current Comprehensive Plan.

All other provisions of current Section 115 are hereby continued.

§ 120 General Provisions

- (1) Commercial Electronic Variable Messaging Signage (hereinafter referred to as CEVMS) are signs capable of displaying words, symbols, figures or images that can be electronically changed by remote or automatic means. CEVMS shall be permitted only in the C-1 and C-2 district and shall comply with the following:
 - a. Message Transition: The maximum length of time between a transition of messages shall be two (2) seconds
 - b. Message Display: The static display time of each message or image shall be ten (10) seconds. The change of message or image shall occur simultaneously for the entire sign face.
 - c. Intensity/Brightness: All CEVMS shall be equipped with technology that automatically dims the electronic variable message displays according to ambient light conditions to a luminance of not more than 0.3 foot-candles (as measured using a foot-candle meter at 100 feet). The nighttime brightness level shall not exceed 500 NIT and the daytime brightness level shall not exceed 5000 NIT (meets FHWA Administration Guidelines)

- d. Animation: Animation is permitted, except letter and/or text which are scrolling, blinking, flashing or changing of any light movement are prohibited (continuously lighted is permitted)
 - e. Orientation/Setback: CEVMS may be placed perpendicular to the street (single or double sided) and must be at least ten (10) feet from the street right of way
 - f. Height: The Maximum height of a CEVMS shall not exceed a hundred (25) feet measured from ground level
 - g. Size: the maximum size of the CEVMS shall not exceed fifty (50) square feet per side
 - h. All CEVMS are subject to site plan review
 - i. Permit Fee Schedule: Applications for CEVMS (which requires site plan review) will be charged \$250.00
 - j. Political signage: no political signage allowed
 - k. Off premise advertising is prohibited.
- (2) Signs on Public Property - No private sign shall be placed in any street right of way or on other public property. No sign shall be allowed in the triangle formed from measuring back on both streets from an intersection right of way a minimum of nine (9) feet or more as determined by the Town Board in accordance with any applicable standards, including, but not limited to the American Association of State Highway and Transportation Officials (AASHTO) and a height of 3 ½ feet above grade.

§ 120 General Provisions, subsection (10)

(10) Temporary Signs - All temporary signs, including but not limited to, banners, pennants, spinners, etc., are prohibited in the Town of Dunkirk except as described in this Article.

(11) Distance from Property Line - No attached sign shall extend within a street or road property line unless said line is the building line, in which case, signs may extend over the street or road property line for a distance not exceeding four (4) feet.

(13) Non-Conforming Signs - Any non-conforming sign which is portable in nature shall be removed within one hundred eighty (180) calendar days of the effective date of this Chapter. Any non-conforming sign painted, pasted or otherwise applied to a fence, wall or facade of a building shall not be repainted, restored or replaced.

Previous subsections (1), (2), (10), (11), (13) and (15) are hereby repealed.

All other provisions of current Section 120, not otherwise repealed herein, are continued.

§ 121 Zoning District Sign Restrictions

All such sign may be illuminated only by a full cut-off, non-flashing light.

All other parts of this Section are continued.

1) (a) A single sign not over two (2) square feet in area attached to a building or detached and located in the front yard of a residential dwelling unit lawfully occupied as a home occupation in the Town of Dunkirk.

Former subsection (1)(a) is hereby repealed.

2) Such signs may be illuminated only by a full cut-off, non-flashing light.

3) Commercial Zones - The following signs shall be permitted in the C-1, C-2, and C-R Commercial Zones. Special requirements for signage related to adult entertainment, beyond the general regulations contained herein, are found in Article XVII.

- a. Wall signs identifying uses or services on the premises, totaling two and one half (2.5) feet in area for every foot of an occupant's building frontage to a maximum of two hundred (200) square feet of each premise. Where a building fronts on more than one (1) street, the frontage shall not exceed the length of the longest side of one (1) street.

Wall signs may be painted on or affixed to any wall of a building (projecting no more than six (6) inches from the face of such building), or signs composed of individual letters without a background may be located on the edge of a roof or wall on a flat roof or at the line of the eaves on other types of roof, but not projecting above the edge of the facade or wall or line of the eaves. The area of signs composed of individual letters without a background shall be taken as that enclosed by a series of lines joined to form a perimeter bounding all parts of the display. Signs projecting more than six (6) inches shall be considered projecting signs and subject to §120-16 above.

- b. Freestanding signs shall not be permitted in the Commercial Zones unless the following provisions are met:
- i. The overall height of the freestanding signs, inclusive of any base or base structure, shall not exceed fifteen (15) feet above the ground
 - ii. Freestanding signs shall be set back a minimum of five (5) feet from the street right of way
 - iii. Freestanding signs in excess of four (4) feet in height above the ground shall be set back at least one foot for every one foot above four (4) feet in height from the street right of way
 - iv. No freestanding signs shall be permitted to create a hazard or obstruction to vehicular or pedestrian circulation or to interfere with traffic sight lines
 - v. Freestanding signs shall be limited in display surface area to a maximum of forty (40) square feet per side of sign, with such sign area to be included within the two hundred (200) square feet overall maximum sign area
 - vi. Freestanding signs shall be limited in number to one (1) sign (single or double sided) per lot

- vii. All freestanding signs shall be fixed in place and of a permanent nature. Such signs shall not be revolving nor of an animated nature, nor shall they contain flashing lights.
 - c. No billboard sign or billboard type sign advertising any business or entity off-site or off-premises shall be permitted.
- 4) M Zone- The following signs shall be permitted in the M zone.
 - a. Wall signs identifying uses or services on the premises, totaling one (1) square feet in area for every foot of an occupant's building frontage to a maximum of two hundred (200) square feet of each premise. Where a building fronts on more than one (1) street, the frontage shall not exceed the length of the longest side of one (1) street.

 Wall signs may be painted on or affixed to any wall of a building (projecting no more than six (6) inches from the face of such building), or signs composed of individual letters without a background may be located on the edge of a roof or wall on a flat roof or at the line of the eaves on other types of roof, but not projecting above the edge of the facade or wall or line of the eaves. The area of signs composed on individual letters without a background shall be taken as that enclosed by a series of lines joined to form a perimeter bounding all parts of the display. Such signs shall not face an adjoining lot in a residential zone and may be illuminated only by a full cut-off, non-flashing light. Animated or revolving signs shall be prohibited. Signs projecting more than six (6) inches shall be considered projecting signs and subject to §120-16 above.
 - b. Freestanding signs shall not be permitted in the M Zone unless the following provisions are met:
 - i. The overall height of the freestanding signs, inclusive of any base or base structure, shall not exceed eight (8) feet above the ground;
 - ii. Freestanding signs shall be set back a minimum of five (5) feet from the street right of way;
 - iii. Freestanding signs in excess of four (4) feet in height above the ground shall be set back at least one foot for every one foot above four (4) feet in height from the street right of way;
 - iv. No freestanding signs shall be permitted to create a hazard or obstruction to vehicular or pedestrian circulation or to interfere with traffic sight lines;
 - v. All freestanding signs shall be fixed in place and of a permanent nature. Such signs shall not be revolving nor of an animated nature, nor shall they contain flashing lights.
 - c. A maximum of two (2) signs on each lot identifying the name of the company and product or services rendered shall be allowed. These signs shall not exceed a surface area of one hundred (100) square feet in each sign and shall be located only on the face of the building or free-standing, within fifteen (15) feet of the ground level at the location of the sign. Illuminated signs

shall be erected so as not to create a nuisance to abutting properties or safety hazards on adjacent public streets.

Prior Sections (3) and (4) of Section 121 are hereby repealed.

§ 122 Temporary or Portable Signs

- (1) d. Advertising or notification of an event(s)
- (2) Reference shall now be to zones AR-1, C-1, C-2, C-R, and M zones.
- (6) Application must be submitted and, if approved, the sign will be permitted for no longer than thirty (30) days. There will be no charge for the application.

§ 124 Political Signs

Temporary signs in support of a political party or candidate are permitted in all zones in the Town of Dunkirk. Signs may be erected up to two (2) weeks prior to the first day of early voting and must be removed within seven (7) calendar days following the election. No political sign shall exceed thirty-two (32) square feet in size. No political signs shall be permitted in the public right of way or easements. Violations of this section on political signs shall be chargeable to the property owner, owning the site and location on which the sign is located.

Prior Section 124 is hereby repealed.

§ 131 General Provisions

The flood damage prevention regulations shall apply to all areas of special flood hazard as identified and defined on FEMA Flood Insurance Rates Maps (FIRM) covering the Town of Dunkirk, effective November 1989 and any revisions subsequent thereto. These regulations are not intended to supersede regulations of FEMA, and as said FEMA Rules and Regulations are changed or amended, these local regulations will continue to confirm with, and be in addition to the FEMA Rules and Regulations.

§ 138 Residential Districts

(3) Parking for commercial vehicles is prohibited in residential districts unless associated with a permitted business or agricultural use, subject to §138 and any other conditions set forth. Pickup or light trucks, 10,000 pounds gross weight or less, which are primarily used by the property owner for transportation purposes are exempt.

§ 139 Commercial and Industrial Districts

Subsection (2) is hereby repealed.

§ 140 Special Parking Restrictions

Subsection 140 (3) is hereby repealed.

§ 141 Parking Incentives

In order to facilitate and encourage low impact development, a reduction in pavement, and proper access management, the Town Board may grant an applicant/owner an incentive such as, but not limited to, an adjustment in permissible density, development area/coverage, height, or open space otherwise required in the applicable zoning district; the Town Board reserves the authority to determine the adequacy of the methods/amenities to be accepted and the particular incentive to be provided to an owner/applicant. Continued maintenance and use of the amenity(ies) is required as a condition of any incentive granted. Where mitigation is required as part of the environmental review process that incorporate any of the amenities noted below, incentives shall not be granted.

- (1) Shared driveway/access between two uses or lots (shared use agreements may be needed) resulting in no more than one (1) driveway per use.
- (2) Cross access driveways, thereby resulting in no more than one (1) access driveways (shared use agreements may be needed).
- (3) Significant reductions in storm water management or more than 50% of any parking area utilizing “green infrastructure” techniques such as, but not limited to, vegetated swales, permeable pavers, bio retention facilities or constructed wetlands, grey water systems for recycle and on-site use, or rain gardens.
- (4) Provisions for parking spaces for compact cars, electric vehicle charging stations, or other vehicle fuel-reduction measures.
- (5) A dedicated bus/transit stop and shelter
- (6) Internal circulation systems to minimize access onto main thoroughfares

Previous Section 141, Payment in Lieu of Providing Off-Street Parking, is hereby repealed.

§ 142 Exceptions

- (3) The regulation is excessive for proposed development, as applied to individual landowner, and the applicant/owner can show that a reduction in parking is feasible. Applicant/owner shall indicate areas of the property that could utilized for expanded parking in the event it is needed, temporary or permanent.
- (4) The new development is within five-hundred (500) feet of a public parking facility.
- (5) Applicant can document that a notable percentage of their customers will be transported to and from their premises in buses, bikes, walking or other forms of alternative transportation.
- (6) Applicant provides a transportation management plan documenting off-peak work hours, preferential parking, financial incentives, or some other manner for reducing parking demand.

Prior Section 142(3) and 142(4) are hereby repealed.

§ 143 Off-street Parking Requirements

In all zones, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of required parking units and changes in use that require a site plan review, special use permit, rezoning or variance;

- (1) Residential Uses
 - a. Single-Family Dwellings – 2 spaces per dwelling unit
 - b. Multiple Family Dwellings – 1.5 spaces per dwelling unit
 - c. Senior living, adult care, and other similar uses – 0.5 spaces per room + 1 space per employee
 - d. Bed & Breakfast – in addition to required spaces for dwelling unit, 1 space per bedroom rented
- (2) Commercial Uses
 - a. Professional services including offices – 1 space per 200 square feet of gross floor area
 - b. Personal services – 1 per patron service
 - c. Automobile repair and service facility – 1 space per 300 square feet + 2 per service bay
 - d. Automobile sales – 2 spaces per employee
 - e. Gasoline filling stations – 1 space per pump
 - f. Restaurants, eat-in – 1 space per 150 square feet of gross floor area
 - g. Restaurants, other – 1 space per 250 square feet of gross floor area
 - h. Recreational facility, including membership-based clubs and for-profit facilities – 1 space per 200 square feet devoted to activity + 1 space per employee
 - i. Auditorium, theatre, and other large gathering spaces – 1 space per 4 seats
 - j. Hotels, motels, and other lodging – 1 space per room + 1 space per 2 employees
 - k. Retail store, including those associated with other uses – 5 spaces per 1,000 square feet
 - l. Daycare and similar child care uses – 1 space per 300 square feet of gross floor area
- (3) Institutional/Community/Public Uses
 - a. Educational building, including primary/secondary schools – 1 space per employee + 1 space per 10 students
 - b. Schools (post-secondary and similar) – 1 space per employee + 1 space per 2 students
 - c. Hospital, urgent care, other emergency medical facility – 4 spaces per beds or medical care room
 - d. Religious facilities – 1 space per 5 seats or 25 square feet of gross floor area
 - e. Community center or other civic or semi-public facility – 1 space per 250 square feet gross floor area + 1 space per 2 employees
- (4) Industrial/High Intensity Uses
 - a. Manufacturing, assembly, light industrial or similar – 1 space per 2 employees on shift

- b. Wholesale, storage, warehouse facilities, including yards – 1 space per 2 employees + 1 space per 3,000 square feet of storage area
- c. Research & development, labs and other similar uses – 1 space per 200 square feet of floor area OR 1 space per 2 employees on shift

Prior Section 143 is hereby repealed.

§ 159 Drive In Businesses

Plans for the erection or structural alteration of drive-in (drive-thru/drive-through) establishments, as herein defined, shall be submitted to the Town Board for approval. The Town Board may require such changes therein in relation to yards, driveways, driveway entrances and exits and the location and height of buildings and enclosures as it may deem best suited to ensure safety, to minimize traffic hazards or difficulties and to safeguard adjacent properties. The Town Board shall utilize the following criteria when reviewing such facilities and identifying appropriate site/design changes:

- (1) Traffic flow – drive-in aisles shall be separate from internal circulation routes necessary for ingress or egress and shall have an appropriate amount of stacking space to avoid queuing into internal circulation routes, driveways, or any public thoroughfares. Traffic analysis may be requested as necessary.
- (2) Facility siting – side or rear only, no frontage drive-in facilities are permitted to maintain visual aesthetics along public thoroughfares
- (3) Buffering – drive-in areas shall be buffered and screened from adjacent residential or mixed-use uses with landscaping and/or fencing to effectively minimize noise, odors and light from headlights and display boards. Screening materials shall be of an adequate height, density, and type as determined by the Town Board, but shall not block visibility from ingress or egress aisles.
- (4) Noise - Any drive-in speaker system shall emit no more than fifty (50) decibels (dBa) and at no time shall any speaker system be audible above daytime ambient noise levels beyond the property lines of the site. The system shall be designed to compensate for ambient noise levels in the immediate area.

Prior Section 159 is hereby repealed.

§ 165 Manufactured Homes

§ 166 Manufactured/Mobile Home Parks

- 4) Additional Requirements - Wherever located, a mobile home park shall conform to the following additional requirements:
 - a. The park shall be located on a well-drained site suitable for the purpose, with and adequate entrance road at least twenty-two (22) feet wide
 - b. Individual mobile home lots shall have an area of not less than three thousand (3000) square feet with a minimum width of forty (40) feet and a minimum depth of seventy-five (75) feet

- c. The total number of mobile home lots shall not exceed twelve (12) per gross acre
 - d. The park shall be adequately buffered with landscaping, as approved by the town board but no less than 10 feet in depth, along any property line to provide an adequate level of screening, especially where adjacent to other residential uses to account for the higher density attributed to the park design and layout, while maintaining required line of sight at intersections/thoroughfares
 - e. Each mobile home shall have an entrance platform to conform with the overall plan
 - f. Each mobile home park shall provide sanitary services and conveniences including water supply, sewage disposal, lighting, garbage disposal and incinerator, according to the regulations in this article
 - g. A dedicated parking space on a durable surface for at least one vehicle for each mobile home shall be provided
 - h. Space for overflow parking within the park shall be provided
 - i. Each mobile home foundation shall be skirted with a durable material and adequately maintained
 - j. Within the management office of the park, there shall be a bound book containing the records of the names of all persons accommodated at the park with their home address, vehicle license number, and contact information, said records being made available for inspection by the zoning enforcement officer or any police officer (any applicable privacy regulations shall be enforced and protected)
 - k. Additions shall be limited to awnings or other similar weather protective structure(s).
- (6) Sewage and Refuse Disposal – Waste water from showers, toilets, and laundries shall be connected to the Town of Dunkirk Municipal Waste Water Sewer System in a manner approved by the applicable Sewer District and the Chautauqua County Health Department. All kitchen sinks, washbasins, lavatories, bath and showers, washing machines in a mobile home located in any mobile home park shall be connected to a Municipal Sewer District in the Town of Dunkirk.

Prior Sections 166(4) and (6) are hereby repealed.

§ 170 Shopping Centers

- (3) Shopping centers shall utilize the following design standards:
 - a. Retail development shall be arranged in a shopping center layout, with large-scale stores complemented by ancillary small-scale stores.
 - b. Professional office and office buildings shall be arranged in campus-style layouts.
 - c. Driveway openings and curb cuts shall be aligned with existing curb cuts where practicable, in order to reduce the potential addition of traffic lights and conflicting turning movements.

- d. Continuous sidewalks, off-street transit stops (where routes exist or are planned) and bike racks close to business entrances shall be provided for properties public roadways.
- e. Signage shall be provided in accordance with this chapter.
- f. Buffering and transitions - Trash/dumpster areas shall be screened by wood fences or landscaping, or a combination thereof.
- g. Buffer plantings or opaque fences, preferably wood fences, shall be provided between commercial uses and adjoining residential uses or zones, as well as along frontages with arterial roads. In order to provide shade, parking lots with 21 or more spaces shall have plantings at one tree per 10 off-street spaces. Such trees shall be spread throughout the parking lot, rather than clustered only along the edges.

Prior Section 170 is hereby repealed.

§ 172 Solar Systems

Reference is now made to Local Law #3 and #4 of 2021.

Prior Section 172 is hereby repealed.

§ 173 Storage

(1) Visual impacts/screening. To provide visual protection from the storage of equipment and materials, all such storage in any District shall be within completely enclosed buildings or, if left open to the sky, shall be effectively screened from public view. Screening shall be of sufficient height and density to completely hide the storage from public view. In certain cases, fencing may be necessary to supplement landscaping. All screening shall be maintained in such manner as to present a neat and orderly appearance at all times.

(2) Stand-alone storage structure. A structure used for storage on lots with no primary structure(s) shall be subject to the following standards:

- a. A site plan shall be required for any single structure over 1,000 square feet, subject to Article XII – Site Plan Review.
- b. One (1) stand-alone storage structure shall be permitted on every two (2) acres of land with a maximum distance of 100 feet between structures. No more than three (3) structures shall be permitted on any lot over six (6) acres.
- c. All structures shall be located on the lot in accordance with the setback and dimensional requirements of the District it is located in plus an additional 50 feet beyond the front yard setback to account for the construction of a future primary dwelling. Applicant shall indicate on the site plan where a primary dwelling may be located to ensure adequate spacing and placement of such dwelling. No stand-alone storage structure(s) shall be located beyond the front building line of a future primary dwelling.
- d. The structure shall be non-habitable (no kitchen, dining, bathroom or sleeping quarters) by humans or animals. Electrical service (one meter) is allowed.
- e. Structure shall not be used for commercial purposes.
- f. Storage (cargo) containers are not permitted.

- g. All materials, equipment, etc. shall be stored inside the structure or otherwise subject to screening and setbacks.
- h. Structures shall be subject to applicable building codes, constructed of durable building materials that are complimentary to adjoining uses, and permanently affixed to the ground.
- i. Driveways shall be gravel, crushed asphalt/millings, or other durable material from the edge of the public road and extending into the lot a minimum of 50 feet to prevent unnecessary tracking of mud and other debris onto the public roadway.

Prior Section 173 is hereby repealed.

§ 181 Administrative Procedure

(3) Site Plan Review

All references to the Town Board of the Town of Dunkirk are hereby deleted. References shall now recite The Planning Board of the Town of Dunkirk. The Planning Board of the Town of Dunkirk shall be the permitting Board under site plan review.

(3)b Staff Review

A sketch plan conference should be held by the Zoning Enforcement Officer, the Planning Board Chair, and the applicant prior to the preparation and submission of a formal site plan to the Planning Board. A sketch plan conference should be held between the Zoning Enforcement Officer, the Planning Board Chair, and the applicant prior to the preparation and submission of a formal site plan to the Planning Board. Preparing a sketch plan offers an opportunity for the applicant to determine the issues and satisfy staff that the site plan is in conformance with the Zoning Law. The conference also enables the Zoning Enforcement Officer to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the specific information to be required on the site plan. The project's status under the State Environment Quality Review Act will be determined at this time.

(3)(c) Preliminary/Final Site Plan

As required in this Chapter, an application for site plan approval shall be made, in writing, to the Planning Board and shall be accompanied by a preliminary site plan as outlined in Article XII - Site Plan Review. Once the plan is deemed complete by the Zoning Enforcement Officer, the plan shall be reviewed by the Planning Board who shall approve, approve with conditions or disapprove the preliminary site plan.

(4) Use and Area Variance Review

(c) Preliminary Review

As required in this Chapter, an application for variance approval shall be made, in writing, to the Chairperson of the Zoning Appeals through the Zoning Enforcement Officer and shall be

accompanied by a preliminary application. As part of the approval process, within thirty (30) calendar days of receipt of the complete application for a variance shall hold a public hearing.

Prior Section 181(3)(b)(c) are hereby repealed. All other provisions as set forth in Section 181 are hereby continued.

§ 188 Procedure

(1) Filing of Petition – A petition to amend, change or supplement the text of this local law or any zoning district, as designated on the zoning map of the Town of Dunkirk, shall be filed with the Clerk, and transmitted to the Town Board. The Town Board shall have jurisdiction of review under the State Environmental Quality Review Act.

§ 190 Definitions

The following definitions are hereby Added to Section 190:

Agricultural Operation - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise. These operations may also include commercial horse boarding operation; timber operation; compost, mulch or other biomass crops; and a commercial equine operation as further defined by the NYS Department of Agriculture and Markets.

Agribusiness - Business that provides products and services directly to consumers and where a majority of the goods sold are grown or produced on-premises.

Agritourism - Agribusiness that conducts activities by and for the enjoyment or education of the public, which primarily promotes the sale, marketing, production, harvesting or use of the products of the farm to enhance the public's understanding and awareness of farming and farm life.

Brewery, distillery, winery – A facility which processes/produces wine, beer, hard ciders, mead, liquor and other similar alcoholic liquids under licensure from the New York State Liquor Authority and may also include direct sales and distribution. Each of these businesses require separate licenses from the State of New York.

Contractors Yard - A property or portion of a property, with or without support structures and buildings, where the storage and loading/unloading of materials and/or equipment used in the construction and property maintenance/improvement industries can be found. Equipment commonly found in contractor's yards include, but are not necessarily limited to, dump trucks, bucket loaders, excavators, backhoes, bulldozers, mowers, equipment hauling trailers, and the like. A contractor's yard may also be used for the stockpiling of construction material acquired in anticipation of use at remote locations.

Greenhouse – Any building or structure where fruits, vegetables, flowers, trees, shrubs or plants are produced by controlled temperature and/or humidity for the purpose of selling such products.

Heavy Manufacturing – Facilities and/or the lands containing such facilities that use capital and energy intensive machinery to produce large and complex products, which may include the processing of raw materials into other products for further processing.

Kennel, Commercial - Any establishment, including cages, dog runs and structures, wherein more than three (3) dogs which are over six (6) months old are harbored.

Laboratory - A facility used for testing, analysis, and/or similar uses.

Light Manufacturing – Facilities which include the fabrication, manufacturing, assembly and/or processing of materials that are already in a processed form, i.e., not raw materials.

Lumber Yard - Use of land, buildings or structures for the purpose of the buying, selling and open storage of wood and wood products and lumber, but does not include any manufacturing or processing uses.

Cannabis Dispensary – A business that has been licensed by New York State for the acquisition, retail sale, limited quantity storage, and transport of cannabis and cannabis-infused products. Such facility does not include cultivation, processing, or consumption of cannabis on site.

Research and Development - Testing research, analysis, product development, light assembly of components and related office, warehousing/distribution. These type uses will occur within a building that typically resembles an office structure.

Restaurant, Dine In – Any establishment where food or drink is prepared for sale or sold in which indoor and/or outdoor facilities are provided for onsite consumption of such food or drink.

Restaurant, Drive-Thru – Any establishment where food or drink is prepared for sale or sold in which no dedicated facilities are provided for onsite consumption. This may also include establishments regarded as “pick up” or “curbside delivery”

Mobile Home Park/Manufactured Home Park – Land on which are located, or which is maintained or used by two or more manufactured/mobile homes.

Mobile Home/Manufactured Home – A structure, transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. A mobile home/manufactured home shall be construed to remain a mobile home/manufactured home, subject to all regulations applying, whether or not wheels, axles, hitch or appurtenances of mobility are removed and regardless of the nature of the foundation provided. This definition SHALL NOT BE CONSTRUED to include factory manufactured homes known as “modular homes” bearing an insignia issued by the State Fire Prevention and Building Code Council as required in 9 NYCRR 1212.

The following definitions are hereby deleted:

- Agriculture
- Autobody Repair Station
- Automobile Repair Station
- Automobile Service Station
- Automobile Wrecking
- Church or Other Place of Worship
- Circus
- Clinic – Dental
- Clinic – Medical
- Farm
- Freight Terminal
- Lodging House
- Motor Freight Terminal
- Museum

Section Four – Repeal:

All current and prior sections or parts of Town of Dunkirk Zoning Law inconsistent with this Local Law are hereby repealed. All current and prior sections or parts of Town of Dunkirk Zoning Law not inconsistent with this Local Law are hereby continued.

Section Five – Separability Clause:

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the remainder of this Local Law or the application thereof to other persons or circumstances and the Town Board of the Town hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section Six – Validity:

The invalidity of any specific provision of any specific provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section Seven - Effective Date: This Local Law shall take effect immediately with the Secretary of State of the State of New York.

1. I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2024 of the Town of Dunkirk was duly passed by the Town Board of the Town of Dunkirk on July 16 , 2024, in accordance with the applicable provisions of law.

(Seal)


Rebecca Yacklon
Clerk of the Town of Dunkirk
Date: July 16, 2024