

- (6) Public utility unit substations. Public utility unit substations shall be screened and constructed in such a manner as to preserve and protect the character of the district where located.¹⁶
 - (7) Mobile homes. Mobile homes, either as separate units or as component parts of a building, shall be located in the Town only in accordance with the Mobile Home Ordinance.¹⁷
 - (8) Mobile home parks. Mobile homes in a mobile home park shall be situated 40 feet distant from the side park lot line, with setback lines the same as for residences. [Amended 9-25-1989 by L.L. No. 2-1989]¹⁸
 - (9) Storage and display of merchandise. All merchandise on display for sale or rent shall be set back a minimum of 10 feet from the right-of-way. This standard shall not apply to the seasonal sale of agricultural products or to occasional sales, including but not limited to garage sales or lawn sales, lasting no more than three days in any thirty-day period. [Added 9-12-1988 by L.L. No. 6-1988]
- H. Landfills. Notwithstanding anything to the contrary stated within this Code, a sanitary landfill (nonhazardous) may be constructed anywhere within the Town of Kingsbury upon application to and approval of the Town Board, subject to site plan review by the Planning Board, and provided that all state and federal laws, rules and regulations must be met as a condition of approval.

§ 280-19.1. Solar energy collectors. [Added 9-14-2015 by L.L. No. 1-2015]

A. Purpose and intent.

- (1) The purpose of this section is to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. The intent is to allow building-integrated photovoltaic (BIPV) systems, flush-mounted solar systems, roof-mounted and building-mounted and pole-mounted solar installations that have a minimum footprint (height) to be approved using the building permit process while requiring freestanding, ground-mounted or pole-mounted solar energy system installations over a certain height and based upon certain placement, to go through the site plan review process before the Planning Board. This section is not intended to override agricultural exemptions that are currently in place for farmers.
- (2) Solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load. Energy generated

16. Editor's Note: Original Subsections G(7), pertaining to junkyards and salvage reclamation operations, as amended, and G(8), pertaining to storage of used material and equipment, which immediately followed this subsection, were repealed 9-22-2008 by L.L. No. 5-2008.

17. Editor's Note: See Ch. 185, Mobile Homes.

18. Editor's Note: Original Subsection G(11), pertaining to unregistered, old or secondhand motor vehicles, as amended, which immediately followed this subsection, was repealed 9-22-2008 by L.L. No. 5-2008.

from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.

- (3) The use of solar energy equipment for the purpose of providing electricity and for heating and/or cooling is a national priority and is a necessary component of the Town of Kingsbury's current and long-term sustainability agenda.

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

ALTERNATIVE ENERGY SYSTEM — Structure, equipment devices or construction techniques for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal source.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEM — A solar energy system that consists of integrating photovoltaic modules into the building structure such as the roof or the façade and which does not alter relief of the roof.

COLLECTIVE SOLAR — Solar installation owned collectively through subdivision homeowner association, college student groups, "adopt-a-solar panel," or other similar arrangements.

FLUSH-MOUNTED SOLAR PANEL — Photovoltaic panels and tiles that are installed flush to the surface of the roof or wall and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is directly installed on the ground and is not attached or affixed to an existing structure.

NET METERING — A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

PERMIT GRANTING AUTHORITY — The Town of Kingsbury authority charged with granting permits for the installation of alternative energy systems.

PHOTOVOLTAIC (PV) SYSTEM — A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity when light strikes them.

QUALIFIED SOLAR INSTALLER — A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's or NABCEP's list of certified installers may still be deemed qualified solar installers if the Town of Kingsbury determines such persons to have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training

shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of the exposed parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM — A solar system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SOLAR ACCESS — Space open to the sun and clear of overhangs or shade including the orientation of the streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR COLLECTOR — A solar photovoltaic cell, panel or array, or any solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air or water.

SOLAR EASEMENT — An easement recorded pursuant to the NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT/SYSTEM — Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy and is stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR PANEL — A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY — A device that stores energy from the sun and makes it available in an electrical form.

SOLAR THERMAL SYSTEM — Solar thermal systems directly heat water and other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

C. Applicability.

- (1) The requirements of this article shall apply to all solar collector system installations modified or installed after the effective date of this article.
- (2) Solar collector system installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this article, shall not be required to meet the requirements of this article, except in accordance with Subsection E(4), (5) and (6).
- (3) All applications for the installation of solar collector systems shall be designed by a licensed engineer and contain site specific building plans which bear the seal and signature of a licensed engineer and satisfy the permitting requirements contained in this chapter.

- (4) All solar collector systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the State Building Code and Town of Kingsbury Building Code.

D. Permitting.

- (1) To the extent practicable, and in accordance with the Code of the Town of Kingsbury, the accommodation of solar access to sunlight for such equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of Kingsbury.
- (2) Rooftop and building-mounted solar collectors. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town of Kingsbury subject to the following conditions:
 - (a) Building permits shall be required for installation of all rooftop and building-mounted solar collectors.
 - (b) Height limitations contained in this chapter shall apply.
 - (c) Rooftop units must have a one-foot setback on all four sides.
 - (d) Roof structures must be properly engineered to support collectors.
 - (e) Rooftop units must be installed according to manufacturer's specifications.
- (3) Building integrated photovoltaic (BIPV) systems. BIPV systems are permitted outright in all zoning districts.
- (4) Ground-mounted racks and freestanding solar collectors. Ground-mounted and freestanding solar collectors mounted on a pole are permitted as accessory structures in all zoning districts of the Town of Kingsbury, subject to the following conditions:
 - (a) Building permits are required for all ground-mounted and freestanding solar collectors.
 - (b) The location of the solar collectors must meet all applicable minimum yard size requirements for principal structures in the applicable zoning district.
 - (c) The unit should be installed in a side or rear yard; where installed in the front yard, a one-hundred-foot setback shall apply for all zoning districts.
 - (d) Units shall not exceed 20 feet in total height from the existing grade.
 - (e) The Town encourages installations that would employ landscape screening and other methods of enhancing the appeal of the ground-mounted and freestanding solar collector such as the use of architectural features, earth berms, or other screening which will harmonize with the character of the property and surrounding area.

- (f) Small experimental solar panels for charging batteries (less than one kilowatt) would not require any permits.
- (g) Solar collectors shall be located in a manner that reasonably minimizes shading of property to the north while still providing adequate solar access for collectors.
- (h) There is a permitted primary structure and use located on the premises.
- (i) The solar collectors shall not exceed 40% of the total lot coverage. { Area of solar racks? or solar envelope }
- (5) Ground-mounted racks and freestanding solar collectors. Ground-mounted and freestanding solar collectors mounted on a pole are permitted as a primary structure in all zoning districts of the Town of Kingsbury, subject to the following conditions:
 - (a) Building permits are required for all ground-mounted and freestanding solar collectors.
 - (b) The location of the solar collectors must meet all applicable minimum yard size requirements for principal structures in the applicable zoning district.
 - (c) In commercial zones, the unit shall be setback at least 170 feet from the front property line.
 - (d) In all other zones, the unit shall be setback at least 100 feet from the front property line.
 - (e) Units shall not exceed 20 feet in total height from the existing grade.
 - (f) The Town encourages installations that would employ landscape screening and other methods of enhancing the appeal of the ground-mounted and freestanding solar collector such as the use of architectural features, earth berms, or other screening which will harmonize with the character of the property and surrounding area.
 - (g) Small experimental solar panels for charging batteries (less than one kilowatt) would not require any permits.
 - (h) Solar collectors shall be located in a manner that reasonably minimizes shading of property to the north while still providing adequate solar access for collectors.
 - (i) The solar collectors shall not exceed 40% of the total lot coverage.
 - (j) All units within this subpart shall be subject to site plan review as described in Article VIII of this Chapter 280.
- (6) Solar-thermal systems. Solar-thermal systems are permitted in all zoning districts subject to the following conditions:

- (a) Building permits are required for the installation of all solar-thermal systems.
- (7) Solar energy systems and equipment shall be issued building permits only if the Town of Kingsbury Code Enforcement Officer determines that the proposed solar energy system does not present any unreasonable safety risks, including, but not limited to, the following:
 - (a) Weight load.
 - (b) Wind resistance.
 - (c) Ingress or egress in the event of fire or other emergency.
- E. Safety.
- (1) All solar collector installations must be performed by a qualified solar installer.
 - (2) Prior to operation, electrical connections must be inspected by the Code Enforcement Officer/Building Inspector and by an electrical inspection person or agency in conformance with State Building Code.
 - (3) Any connection to the public utility grid must be inspected by the appropriate public utility.
 - (4) Solar energy systems shall be maintained in good working order and shall be removed if not in use for more than 12 months by removal of such system and mounting hardware within 90 days after the 12th month.
 - (5) Rooftop and building-mounted solar collectors shall be designed to be and installed to be in conformance with the New York Uniform Fire Prevention and Building Code Standards that are applicable when the building permit is issued.
 - (6) If solar batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the laws of New York and Code and local laws of the Town of Kingsbury and any other applicable laws or regulations.
- F. Appeals.
- (1) Any person aggrieved over any order, requirement, decision or determination by an administrative agency pursuant to the provisions of this article may present an appeal for redress to the Board of Appeals in accordance with the provisions of § 267, Subdivision 2, of the Town Law and this Chapter 280.

Front (feet)	1 Side Yard (feet)	2 Side Yards (feet)	Rear (feet)
50	50	100	50

* NOTE: Properties fronting on a state highway shall provide for an additional 30 feet of setback.

§ 280-22. LDR-25 and LDR-15 Low-Density Residential Districts. [Amended 4-13-1987]

- A. Description: areas that generally have suitable soils and slopes for urban development, are accessible to other population centers, are feasible to serve with public water and sewer and are generally outside the prime agricultural areas.
- B. Purpose. The purpose of the LDR-25 and LDR-15 Districts is to accommodate a high percentage of the population growth where it can be provided with adequate facilities and utilities at densities attractive to development, leaving prime agricultural areas free of scattered development which would destroy agricultural pursuits.
- C. Density. There are two different densities associated with LDR Districts. An LDR-25 District allows one dwelling unit for every 25,000 square feet, and an LDR-15 District allows one dwelling unit for every 15,000 square feet.
- D. Permitted uses. The following uses shall be permitted in the LDR-25 and LDR-15 Districts:
- (1) Single-family dwellings.
 - (2) Accessory uses.
 - (3) Public recreational facilities.
 - (4) Essential facilities.
- E. Special permit. The following uses will be permitted in the LDR-25 and LDR-15 Districts upon a special permit being obtained from the Board of Appeals:
- (1) Two-family residential.
 - (2) Essential service buildings.
 - (3) Nursery schools.
 - (4) Day-care centers.
 - (5) Professional offices incidental to home use.
 - (6) Home industry.
 - (7) Home occupations.

F. Site plan review. The following uses will be permitted in the LDR-25 and LDR-15 Districts upon site plan review and approval by the Planning Board:

- (1) Multifamily dwelling projects.
- (2) Multidwelling projects, conversion.
- (3) Professional offices.
- (4) Hobby farms and nurseries, including the display and sale of products raised in connection with a nursery. [Amended 8-15-2005 by L.L. No. 3-2005]
- (5) Planned unit developments.
- (6) Churches.

G. Minimum requirements.

- (1) Minimum lot size.

District	Area (square feet)	Width (feet)
LDR-25	25,000*	150
LDR-15	15,000*	100

* NOTE: One and one-half lot size for duplex; 10,000 square feet for clustering.

- (2) Minimum yard dimensions.

District	Front* (feet)	1 Side Yard (feet)	2 Side Yards (feet)	Rear (feet)
LDR-25	40	25	75	50
LDR-15	40	20	40	35

* NOTE: Properties fronting on a state highway shall provide for an additional 30 feet of setback.

§ 280-23. Com-1A Commercial District. [Amended 5-12-1986 by L.L. No. 1-1986]

A. Description. These areas are intended for commercial development. They are located along main highways with heavy-duty roadbeds intended to facilitate ease of transportation for supplies as well as general traffic for commercial developments.

ARTICLE VIIIA
Nonconforming Uses and Buildings
[Added 6-9-2014 by L.L. No. 3-2014²³]

§ 280-28. Nonconforming buildings and uses.

- A. Continuing existing uses. Except as otherwise provided in this article, the lawfully existing use of land or buildings existing at the time of the adoption of this chapter may be continued, although such uses do not conform to the standards specified in this chapter for the zone in which such land or building is located. However, no land shall be subdivided so as to create a nonconforming lot, use, building or other structure, nor shall a nonconforming lot, use, building or other structure be made more nonconforming than it was at the first date of adoption of this chapter.
- B. Nonconforming use of land. Where no building or structure is involved, the lawfully existing nonconforming use of land may be continued; provided, however, that no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the first adoption of this chapter, unless specifically allowed by other provisions in this chapter, nor shall any such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this chapter; provided, further, that if such nonconforming use of land or any portion thereof ceases for any reasons for any continuous period of more than one year, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this chapter. No nonconforming use of land shall be changed to another nonconforming use.
- C. Nonconforming use of buildings.
- (1) A building or structure, the use of which does not conform to the zoning regulations for the district in which it is situated:
 - (a) Shall not be expanded or enlarged.
 - (b) Shall not be changed from one nonconforming use to another nonconforming use.
 - (c) Shall not increase or expand the nonconformity of the building.
 - (2) In order not to unnecessarily deprive anyone of value, the following will be allowed:
 - (a) The maintenance and repair of a nonconforming use.
 - (b) The replacement of a nonconforming use on the same building footprint if it is damaged by fire or natural disaster, within 24 months.
 - (c) The rebuilding or modernization of nonconforming use if not expanding by volume, area, or change use.

23. Editor's Note: This local law also repealed former Art. VII, § 280-28, Nonconforming buildings and uses, as amended.

- D. Other nonconformity. No permit shall be issued that will result in the nonconformity or the increase of any existing nonconformity of any dimensional requirement as outlined in this chapter. Nothing in this chapter shall prevent the use of any lot or the erection of a building or other structure on any lot, which does not conform to the minimum area, shape or frontage requirements of this chapter, as of the first date of adoption of this section, provided that all other requirements of this chapter have been met and the owner of such lot does not own sufficient contiguous land within the Town of Kingsbury to make a nonconforming lot more nearly a conforming lot.
- E. Discontinuance. If a nonconforming use is discontinued for a period of 12 consecutive months, for any reason other than the required participation of any owner, a tenant or essential personnel of either in the military service, the further use of the property shall be terminated.
- F. Nonconforming junkyards. Notwithstanding any other provisions of this section, nonconforming junkyards may be continued only as provided herein:²⁴
- (1) Nonconforming junkyards may be continued for a period of two years following the effective date of this section.
 - (2) Within 60 days from the effective date of this section, the owner or operator of a nonconforming junkyard may apply to the Town Board for such additional amortization period beyond the two-year period provided herein as the Town Board determines is reasonable under the circumstances considering the public benefit to be achieved and the nonconforming owner or operator's economic loss. In applying for an additional amortization period, the owner or operator must provide competent evidence demonstrating the need for such additional amortization period considering its capital investment in the nonconforming use.
 - (3) Nothing in this section shall relieve the person operating such a nonconforming junkyard from the requirement to obtain a junkyard license under applicable laws.

ARTICLE VIII

Sexually Oriented Businesses

[Added 6-11-2001 by L.L. No. 1-2001; amended 11-19-2001 by L.L. No. 2-2001]

§ 280-29. Purpose and findings.

- A. Purpose. It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

²⁴ Editor's Note: See also Ch. 174, Junkyards.