

Town of Henrietta, NY
Wednesday, August 28, 2024

Chapter 295. Zoning

Article III. Districts

§ 295-4. Zoning Map.

[Amended 2-18-2015 by L.L. No. 1-2015]

The areas of the foregoing districts are bounded and defined as shown on the map entitled the "Official Zoning Map of the Town of Henrietta," which map, with all explanatory matter thereon annexed, is hereby made a part of this chapter, to be duly certified as such by the Town Clerk and posted and filed according to law. Descriptions of the land use districts are on file in the Town offices.^[1]

[1] *Editor's Note: The official Zoning Map of the Town of Henrietta is on file in the office of the Director of Engineering and Planning. The map can also be found in the misc. documents folder under Public Documents in eCode360®.*

Article VI. B Commercial Districts

§ 295-13.1. Purpose and intent.

[Added 2-27-2019 by L.L. No. 3-2019]

It is the principal purpose of the B-1 and B-2 Commercial Districts to provide for businesses that meet the local day-to-day shopping and service needs of residents and visitors that draw from neighborhood and regional populations, in a manner that is compatible with surrounding uses and supports the desired visual character of the Town. These districts are appropriately located along major transportation corridors and within areas served by public infrastructure and that can be adequately buffered from adjacent residential neighborhoods.

§ 295-14. Permitted uses in B-1 Districts.

[Amended 6-20-1990; 7-19-2000 by L.L. No. 3-2000; 2-18-2015 by L.L. No. 1-2015]

A. Except as hereinafter limited or prohibited, the following uses are permitted in B-1 Commercial Districts. The uses permitted under Subsection **A(1), (2), (3), (4), (5), (7), (8), (9)** and **(10)** are permitted to be carried on only within a building. If a material part of said business is to be carried on out of doors, the user shall first obtain a special use permit from the Town Board after a public hearing as provided in Article **XII** of this chapter. A special use permit shall be required to locate two or more buildings with separate entrances on the same lot.

[Amended 6-7-2017 by L.L. No. 2-2017; 6-21-2017 by L.L. No. 4-2017; 2-27-2019 by L.L. No. 3-2019; 6-26-2019 by L.L. No. 5-2019; 9-22-2021 by L.L. No. 12-2021; 12-8-2021 by L.L. No. 15-2021; 4-12-2022 by L.L. No. 8-2022]

(1) Stores and shops for the conducting of any retail business not otherwise listed in § **295-15** or **295-14B**.

(2) Personal service shops (barbershops, beauty shops, etc.).

- (3) Banks, theaters (excluding drive-in theaters), offices, office buildings and undertakers' establishments.
- (4) Banking, confectionery, dressmaking, laundry and tailoring shops, provided that all goods or products manufactured or processed shall be sold at retail on the premises.
- (5) Plumbing and heating appliance and electrical stores.
- (6) Animal hospitals.
- (7) Wholesale houses.
- (8) Warehouses.
- (9) Sales of boats and marine supplies.
- (10) Rooftop residential solar energy systems.
[Amended 11-16-2022 by L.L. No. 21-2022]
- (11) Public parks, playgrounds and similar recreational areas and structures not operated for gain.
- (12) Churches, schools and institutions of higher education, public hospitals, public libraries and municipal and special district buildings, provided that no such building shall be located within 50 feet of any adjoining lot line, and off-street parking shall be provided as set forth in § **295-44**.
- (13) Customary home occupations as defined in § **295-2**, and provided that the office or studio is located in the dwelling in which the practitioner resides and does not occupy more than 30% of the total floor area of the residence. Not more than one employee may be used. No other offices shall be located on the premises, nor shall any other profession be practiced or conducted on the premises. Any instruction given or professional services or care rendered shall be to one student, patient, client or customer at a time. Adequate off-street parking must be provided and maintained on the premises. The area of the building, exclusive of the portion used for such office, shall conform to the minimum requirements as provided in this chapter. There shall be no display of goods or advertising other than an accessory sign as provided in Chapter **224**, Signs.
- (14) Child-care centers, day-care centers, nursery schools, preschool nurseries and family day-care homes shall be permitted under the following conditions.
 - (a) Child-care centers, day-care centers, nursery schools and preschool nurseries shall be permitted when housed in an established church facility which shall be duly licensed by the New York State Department of Social Services and the building facilities of which shall be annually inspected by the Building Inspector or designee for compliance with all building and fire codes. The Building Inspector or designee shall issue a new certificate of occupancy as evidence that the facility is in compliance with the codes. The cost for such inspection and certificate of occupancy shall be included in a child-care center registration fee established by the Town Board.
 - (b) Child-care centers, day-care centers, preschool nurseries and nursery schools, when not housed in an established church facility, shall apply to the Town Board for a special use permit as per the requirements of Article **XII** of this chapter. If such permit is granted, the licensing and inspection requirements at Subsection **A(14)(a)** above shall apply.
 - (c) A family day-care home shall be housed in a single-family dwelling and shall be an accessory use to the principal use of the structure. The operation shall be licensed by the New York State Department of Social Services or certified by the Monroe County Department of Social Services. Such license and certification shall be available for inspection during normal daytime hours. A family day-care home shall provide child care for not more than six children based on the age formulas established in Part 458 of the regulations of the State Department of Social Services (Family Day-Care Homes). The

building facilities shall be annually inspected by the Building Inspector or designee. The licensing and inspection requirements at Subsection A(15)(a) above shall apply.

(15) Nursing homes and comfort care homes, upon obtaining a special use permit from the Town Board in accordance with procedures as set forth in Article **XII** of this chapter.

(16) Small-scale solar energy systems.

(17) Rooftop nonresidential solar energy system.
[Added 11-16-2022 by L.L. No. 21-2022]

B. The following uses shall be permitted in B-1 Commercial Districts, subject in each case to the granting of a special use permit by the Town Board of the Town of Henrietta after a public hearing as provided in Article **XII** and in accordance with the procedures set forth in Article **XII** of this chapter:

[Amended 6-21-2017 by L.L. No. 4-2017; 6-30-2021 by L.L. No. 6-2021; 9-22-2021 by L.L. No. 12-2021; 1-26-2022 by L.L. No. 1-2022; 2-24-2022 by L.L. No. 4-2022; 3-23-2022 by L.L. No. 7-2022; 4-12-2022 by L.L. No. 8-2022]

(1) Poolrooms and billiard rooms.

(2) Motels, hotels, motor courts, bars, taverns, and bowling alleys.

(3) Dry-cleaning establishments.

(4) Outdoor or drive-in theaters.

(5) Fruit and vegetable stands, hot dog stands, ice cream stands, and other roadside stands.

(6) Any other business or commercial uses not specifically enumerated herein and not herein specifically prohibited. (See § **295-15.**)

(7) A residence or residences and private garages, subject to all the regulations as to building height, lot occupancy, size of lot and yards, minimum building size and other regulations applicable to residences and garages in R-2-15 Districts.

(8) Medium-scale solar energy systems.

(9) Motor vehicle showroom, sales and service facilities, but only on lots fronting West Henrietta Road between Jefferson Road and Lehigh Station Road, and only upon obtaining a special use permit from the Town Board.

(10) Vehicle storage lots for dealerships/motor vehicle sales businesses, for new cars and trucks only, for dealerships/motor vehicle sales businesses legally existing in the Town of Henrietta, for the purposes of storing new vehicles for sale through said Town of Henrietta dealership/motor vehicle sales business off site, but only if there is no customer activity and no sales activity taking place on the storage lot, and only upon obtaining a special use permit from the Town Board, which special use permit may be issued for a limited duration (and which may be renewed upon application therefore under these same regulations). Additional factors to be assessed upon considering the special use permit include minimizing the visual impact of the storage lot from any public street; minimizing the visual impact on any surrounding properties (especially residential properties); minimizing the impact on the operation of any surrounding properties; whether the parking lot will comprise re-use of an existing parking lot and, if not, the visual and environmental impacts expected as a result of paving required; and sufficient ingress, egress and circulation for the safe loading and unloading of vehicles.

(11) Retail firearm and ammunition sales.

(12) Restaurants, with additional requirements at § **295-54.1.**

(13) Cannabis retail dispensaries, subject to obtaining a special permit, but only on lots with zoning street frontage sufficient for ingress/egress to the dispensary on: a) Jefferson Road, between

John Street and Winton Road; or b) West Henrietta Road, between Dorschel Parkway and the CSX Rail overpass north of Jefferson Road.

- (14) Air-supported dome structures, subject to the additional special use permit requirements for air-supported dome structures set forth in this chapter.^[1]

[Added 4-12-2022 by L.L. No. 9-2022]

[1] *Editor's Note: See § 295-54.1.*

- (15) Smoke shops, subject to obtaining a special use permit in accordance with § 295-54.1, but only on lots with zoning street frontage sufficient for ingress/egress to the smoke shop on a) Jefferson Road, between John Street and Winton Road, or b) West Henrietta Road, between Dorschel Parkway (the private road situated at the southern edge of 3755 West Henrietta Road, parcel ID 161.15-1-27.11) and the CSX Rail overpass north of Jefferson Road.

[Added 10-25-2023 by L.L. No. 10-2023]

- C. Minimum transitional buffers shall be required as per § 295-32 herein.
[Amended 2-27-2019 by L.L. No. 3-2019]
- D. The applicant, in its submission to the Planning Board, shall provide the Planning Board and the Engineering Department of the Town of Henrietta with such plans as are necessary to show the natural and established flow of surface water and the anticipated flow of water after construction and, where necessary, shall provide for, at the applicant's cost, the installation of swales, catch basins, storm drains, detention or retention ponds and such other methods of controlling the surface water as deemed necessary by the Planning Board and the Engineering Department.
[Added 2-27-2019 by L.L. No. 3-2019]

§ 295-15. Prohibited uses in B-1 Districts.

No building, structure or premises shall be erected, constructed or used within any B-1 Commercial District for any of the following purposes:

- A. Automobile dismantling or junkyards.
- B. Used car lots.
- C. Junk, scrap metal, paper or rag storage, cloth clippings, sorting or bailing.
- D. Airports.
- E. Cemeteries.
- F. Garbage, rubbish or refuse dumps other than town-owned dumps.
- G. Public heliports.
- H. All uses that are noxious, offensive, dangerous or injurious by reason of production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, radiation or similar substances or conditions or which constitute a nuisance.
- I. Public garages.
[Added 6-20-1990]
- J. Gasoline filling stations and motor vehicle service or supply stations.
[Added 6-20-1990]
- K. Motor vehicle showroom, sales and service facilities, except as specifically permitted under § 295-14B(9) of this chapter.
[Added 6-20-1990; amended 2-6-2002 by L.L. No. 2-2002; 2-18-2015 by L.L. No. 1-2015; 8-8-2018 by L.L. No. 7-2018; 6-30-2021 by L.L. No. 6-2021]

- L. Any use not otherwise enumerated herein as permitted in a B-1 District.
[Added 2-18-2015 by L.L. No. 1-2015]
- M. Self-storage facilities.
[Added 8-8-2018 by L.L. No. 6-2018]
- N. Multiple dwellings.
[Added 2-27-2019 by L.L. No. 3-2019]
- O. Cannabis retail dispensaries, except only as otherwise specially permitted at § **295-14B(13)**.
[Added 12-8-2021 by L.L. No. 15-2021; amended 3-23-2022 by L.L. No. 7-2022]
- P. Cannabis on-site consumption sites.
[Added 12-8-2021 by L.L. No. 15-2021]
- Q. Smoke shops, except only as otherwise specially permitted at § **295-14B**.
[Added 10-25-2023 by L.L. No. 10-2023]

§ 295-20.1. Zoning conditions applicable to parcels in Commercial District.

[Added 6-9-2022 by L.L. No. 12-2022]

The following additional zoning regulations (i.e., conditions and/or "specifics") shall apply to the parcels/lands identified below (via reference to the Zoning Map Designation), in addition to the regulations of the standard zoning district(s) pertaining to such lands (i.e., the regulations of the Industrial District), all as set forth below. Where there is any inconsistency between the regulations of the standard zoning district and these additional regulations, these additional regulations shall prevail.

- A. "Marketplace Mall B-1 Commercial Lands" at Zoning Map Designation: D(6).
 - (1) That the specific use for this land for a shopping mall is hereby approved without the need for further site plan approval, except as hereinafter enumerated, and that those areas designated on the developer's plans as of the date of the public hearing which are marked "undeveloped" or "yet to be developed" shall be subject to preliminary and final site plan approval by the Henrietta Planning Board in the manner presently required by the present Henrietta Planned Unit Development Ordinance. Among other matters deemed to be pertinent by the Planning Board, particular effort shall be directed towards securing realistic means of vehicular and pedestrian ingress and egress to the subject site from contiguous lands so as to provide coordination of facilities with such contiguous lands.
 - (2) That prior to construction of the mall, all provisions of the existing Drainage Ordinance of the Town of Henrietta shall be met, and detailed drainage plans shall be submitted to the Director of Engineering and Planning for his review and approval, and, in addition thereto, all flood control measures presently in effect in the Town of Henrietta shall be met, but the developer shall be given the option of presenting its own flood control data to the Town Board for its review and approval.
 - (3) That the developer shall present to the Town Board for its review and approval, detailed landscaping, lighting, sign, and parking plans. Such parking and landscaping plans shall provide the minimum number of parking spaces which are economically feasible.
 - (4) That the balance of the land which is designated in the Henrietta Comprehensive Land Use Plan as high-density planned unit development shall not be developed until such time as an article for the Town Zoning Ordinance which provides for a high-density planned unit development is adopted by the Town Board. It is understood that the owners of such parcels shall work closely with the Town in framing such an ordinance. Rezoning of this parcel or parcels and the subject premises as a high-density planned unit development shall follow the adoption of this article.

- (5) That until the adoption of a high-density planned unit development ordinance, all applications for preliminary and final site plan approvals for the areas enumerated "undeveloped" or "yet to be developed" shall be referred to the Monroe County Planning Department for advisory reports. Such reports shall be rendered to the Town Board within 30 days of referral. This ordinance shall become effective within 10 days of the posting and publishing of the same in accordance with the provisions of applicable law.
- B. "St. Patrick Park B-1 Commercial" for lands at Zoning Map Designation: D(14).
- (1) The rezoning of the subject parcel is expressly subject to and conditioned upon the conveyance by the owners of a parcel of land comprising Tax Account 558-265 described below and approximately 18.32 acres in size (Parcel north of St. Patrick Drive, Tax ID #161.19-1-13). The parcel to be conveyed to the Town shall be designated on the Zoning Map as public lands for park use.
 - (2) It is understood and agreed that there shall be no ingress or egress to and from the lands hereby rezoned and the portion to be conveyed to the Town.
 - (3) The owners may erect at their expense in a manner and location to be approved by the Town Board a suitable plaque commemorating the dedication of the subject portion of their lands to the Town of Henrietta for public purposes.
- C. "East Henrietta, Wright-Calkins B-1 Commercial" for lands at Zoning Map Designation: D(15).
- (1) Permitted uses.
 - (a) Medical centers.
 - (b) Offices and office buildings.
 - (c) Banks.
 - (d) Professional buildings.
 - (e) Any other business or commercial uses not specifically enumerated herein and not specifically prohibited by § **295-15** or § **295-16B** may be allowed upon obtaining a special use permit from the Town Board after notice and a public hearing in accordance with the procedures as set forth in Article **XII** of this chapter.
 - (2) Prohibited uses.
 - (a) All uses prohibited in B-1 Commercial Districts, § **295-15**.
 - (b) All uses prohibited in B-2 Commercial Districts, § **295-16B**.
 - (3) Additional considerations.
 - (a) A visual screen buffer between commercial and residential will be established along the western boundary. This buffer will be reviewed by the Planning Board at the time of site plan approval.
 - (b) Curb cuts to the rezoned area will be limited to those presently provided by the New York State road and sidewalk system.
- D. "East Henrietta, Calkins-Castle B-2 Commercial" for lands at Zoning Map Designation: E(3).
- (1) No building permit shall be issued for buildings or structures in any part of the premises described in Exhibit A unless and until the applicant shall have first submitted to the Planning Board of the Town of Henrietta and obtained the approval of such Board of site plans with reference to building location, landscaping, lighting, parking, drainage construction, and remodeling of existing buildings or structures.
 - (2) In no event shall parking be permitted in the rear of any building.