

PENFIELD TOWN BOARD RESOLUTION NO. 24T- 133

DATE: August 7, 2024

BY: Councilperson Lee

Law & Finance Committee

NAME Adopt a Local Law to Amend Town Code Sections Town Code Section 250-5.10 (Four Corners District), Section 250-6.2 (Historic Overlay Districts) and Related Town Code Sections

WHEREAS, the Town Board of the Town of Penfield wishes to adopt a Local Law to amend Section 5.10 (Four Corners District), Section 250-6.2 (Historic Overlay District) to revise to clarify development requirements and design standards, re-organize the regulations to improve clarity, improve efficiency of development review, and delineate the review process associated with administrative reviews and approvals; and

WHEREAS, the amendment to Section 250-5.10 addresses signage requires and requires the removal of Section 250-10.26 in order to avoid duplication or conflicts; and

WHEREAS, the Penfield Town Board was best suited to act as "lead agency" within the meaning of the State Environmental Quality Review Act (SEQRA) and designated itself as "lead agency" pursuant to SEQRA; and

WHEREAS, the subject application was determined to be an unlisted action pursuant to the State Environmental Quality Review Act (SEQRA).

WHEREAS, the Town conducted a public hearing on the matter on June 5, 2024 in conformance with NYS Municipal Home Rule Law; and

WHEREAS, the Town Board completed the environmental review and adopted a negative declaration, which concluded SEQRA.

NOW, THEREFORE, BE IT

RESOLVED, AND HEREBY ENACTED BY THE TOWN BOARD OF THE TOWN OF PENFIELD AS FOLLOWS:

Local Law No. 7 of 2024, set forth in attached Schedule A; and

BE IT FURTHER RESOLVED, after its adoption by the Town Board of the Town of Penfield, this local law shall take effect immediately upon its filing with the Office of the Secretary of State of the State of New York.

Moved: Lee

Seconded: Berry

Vote: Berry Aye
Lee Aye
Leenhouts Aye
Ockenden Aye
Teglash Aye

FILED
PENFIELD, N.Y.
2021 AUG -2 AM 11:41
AMY N. STERN, DP
TOWN CLERK

Schedule A

Town of Penfield

Local Law # 7 of 2024

Amending Penfield Town Code Section 250-5.10 (Four Corners District) and Section 250-6.2 (Historic Preservation Overlay District) and Section 250-10.26 (Four Corners Signage).

Be it enacted by the Town Board of the Town of Penfield as follows:

Section 1. Title.

This Local Law shall be known as “Amending Penfield Town Code Section 250-5.10 (Four Corners District) and Section 250-6.2 (Historic Preservation Overlay District)”

Section 2. Legislative Intent and Purpose

The Town of Penfield has identified revisions to the existing regulations that clarify the development and operational standards for the district, recognize the historic character of the district and reference the presence of historic overlay districts, and establishes a more efficient process for administrative review for specific ministerial changes in occupancy or ownership of properties within the district boundaries.

Given the correlation between the Four Corners District and the Historic Preservation Overlay District, this local law also includes a minor addition to the Certificate of Appropriateness criteria, which will provide the Historic Preservation Board the opportunity to consider costs associated with improvements. The modification will also make Penfield’s historic preservation guidelines more consistent with similar historic districts in neighboring communities.

Section 3. Proposed Changes to Town Code Section 250-5.10

Penfield Town Code Section 250-5.10 shall be removed and replaced with the following:.

250-5.10

A. Purpose and Intent. The purpose of the Four Corners District is to encourage a mix of commercial and residential uses that preserves the historic character of the area and creates a walkable, “village-like” center. It is the intent of this District to encourage development patterns and uses that address the following priorities:

- (1) Establish a compatible mix of residential, retail, business, service and civic uses.

- (2) Preserve and protect the integrity of historic resources that contribute to the character of the Four Corners District.
- (3) Ensure new construction and exterior modifications to existing structures are aesthetically pleasing and visually complement adjacent buildings.
- (4) Encourage shared access across adjacent lots to reduce curb cuts, where feasible, and improve traffic flow and safety.
- (5) Encourage shared use of, and shared access to, off-street parking areas.
- (6) Foster safe pedestrian connectivity.
- (7) Ensure adequate buffers between developments and encourage well-designed landscaping and greenspaces on, and between, development sites.

B. Permitted Uses. The Four Corners District shall have no uses permitted by right. Any uses existing at the time of the effective date of this section, as amended or changed, shall be permitted to continue to operate as is. Any future changes in use or intensity of use within the district will be subject to the regulations contained in this section.

C. Conditional Uses. The following uses may be permitted once the required conditional use permit and any other required approvals have been approved.

- (1) Retail stores
- (2) Restaurants (sit-down or take out)
- (3) Personal service salons and shops (e.g., barber shops, hair salon, aesthetics salon, etc.)
- (4) Professional and medical offices
- (5) Financial institutions
- (6) Gasoline service station, without vehicle repair
- (7) Places of worship
- (8) K-12 schools (private and public)
- (9) Childcare and nursery schools
- (10) Instructional schools for dance, music, trades, tutoring and other skill-building training programs
- (11) Photo studios, art galleries and similar
- (12) Senior living facilities, including skilled nursing facilities
- (13) Residential structures
- (14) Off-street parking lots
- (15) Combinations of conditionally permitted residential and non-residential uses
- (16) Other uses determined by the Town Board to be compatible with, and/or similar to, the conditional uses outlined above and consistent with the priorities of the Four Corners District and the Town's current adopted Comprehensive Plan. Uses approved under this provision require a public hearing to be conducted before the conditional use permit can be issued.

- D. **Accessory Uses and Structures.** Subordinate uses and structures needed to support the conditionally permitted use(s) are deemed appropriate in the district and shall be reviewed by the Town Board and/or authorized official having jurisdiction. Accessory uses and structures include, but are not limited to, sheds and storage structures, dumpster enclosures, EV charging stations, patios, gazebos, pergolas, and other covered outdoor areas.
- E. **Design Guidelines.** The following design guidelines provide a framework for the development and redevelopment of properties located within the Four Corners District. They emphasize the need for flexibility and creativity in this district to ensure that the village-like development pattern is maintained over time. Additions or modifications to existing structures or properties in this district must conform to the requirements set forth herein, notwithstanding any related provisions contained elsewhere in Chapter 250.
- (1) **Lot Area and Coverage.** There are no set minimums or maximums in this district. Proposed development and/or redevelopment projects shall demonstrate their ability to meet all local, state and federal regulations (e.g., stormwater management, traffic, parking, site ingress and egress, etc.). Town Engineer approval will be required.
 - (2) **Setbacks.** No structure within the Four Corners District shall be located closer than 30 feet to the front property line, 10 feet to a side property line or 30 feet to a rear property line. On corner lots, the 30-foot minimum front setback shall be provided along each road frontage. A buffer area of at least 50 feet shall be provided along the boundary line between the Four Corners District and any developed parcel located in an adjacent residential zoning district. The Town Board shall have the power to modify applicable provisions of this Subsection E(2) if the setbacks would promote appropriate land use and development and/or facilitate the efficient use of streets, parking and/or utility infrastructure, provided the proposed setbacks meet setback requirements contained in the NYS Uniform Code
 - (3) **Building Massing and Design.** Building design is flexible in this district. The Town Board shall consider the parcel location, topography, proposed architectural features and design, exterior building materials and distance(s) to adjacent structure(s) when determining whether a proposed building fits the character of the district. In general, building designs should conform to, and complement, the recommendations in the Four Corners District Plan, as amended or updated. Larger-massed buildings proposed in this district should include design elements that break up the façade and replicate a village-like scale. Building height shall not exceed three stories or 45 feet or whichever is less. The Town Board may consider taller building height if the topography and surrounding development

support the increase in height.

(4) Off-Street Parking and Access Management. Shared parking and access are encouraged to the greatest extent feasible in the Four Corners District.

(a) Minimum parking required. While there is no specific ratio of parking spaces based on specified uses, applications for new conditional use permits and site plan approval shall demonstrate enough parking for employees and their customers and clients. The Town may require a parking study as part of their review of an application.

(b) Shared parking. Parking associated with proposed development and/or new land uses may be provided on nearby parcels.

[1] Off-site parking on private property will require a shared parking agreement and/or easement, subject to Town Attorney approval prior to being filed in the Monroe County Clerk's Office.

[2] Proposed off-site parking in Town-owned parking lots shall be approved by the Town Board and, based on the Town Attorney's review and guidance, may require legal agreement(s) and County Clerk filing(s).

(c) Shared access is encouraged and may be provided through common driveways, private drives, or parking lot access aisles.

[1] Shared access shall be documented in shared access easement(s), which will be subject to Town Attorney approval before being filed in the Monroe County Clerk's Office.

[2] In instances where driveway entrances to parking areas are one-way only property owners shall ensure directional signage and pavement markings are provided at highly visible locations near the driveway entrance(s) and exit(s).

(5) Signage. Signage shall incorporate design elements and materials that reflect the historic character of the district and complement traditional architectural building elements. Once signage design has been approved in accordance with the approvals outlined herein, required sign permit(s) must be obtained through the Building Department prior to installation or replacement.

- (a) Free-standing, ground-mounted monument signage is preferred over pole mounted signage.
 - (b) Lighting for signage should be provided via gooseneck-style/overhanging exterior-mounted fixtures to the greatest extent practicable. If ground-mounted lighting is proposed, it shall be sized and installed in a way that minimizes light spill off the sign surface.
 - (c) Chandelier lit free-standing or building mounted signage may be considered if the design of the sign complements the building style and there will be zero light spill beyond the property line.
 - (d) Portable temporary signs (e.g., A-frame sign) are permitted and must conform with the requirements of 250-10.11 M. One sign may be displayed for each business. If more than one A-frame sign is proposed for any business, application to the Town Board for review and approval shall be required.
 - (e) Temporary signs and/or banners, excluding A-frame signs outlined in (d) herein, may be permitted for limited periods of time. The temporary signs and/or banners must be located on private property in proximity to the business and may not exceed 24 square feet in size. Special permits will be granted administratively in one-week intervals for a maximum of 4 weeks total in a given calendar year. Each week's special permit shall require a sign permit issued through the Building Department.
- (6) Pedestrian and bicycle accommodations. As new development and redevelopment occurs, opportunities for enhanced pedestrian and bicycle amenities should be provided, including sidewalks, pedestrian pathways through parking lots, bicycle storage areas (e.g., racks or indoor storage), outdoor seating, and other physical improvements and fixtures deemed appropriate by the Town Board.
- (7) Conformance with applicable Historic Preservation Overlay District regulations. Properties located in designated historic districts and properties that are designated as local, state and/or federal landmarks shall conform to the historic preservation requirements set forth in Section 250-6.2 of the Town Code.

F. Operational Standards.

- (1) Hours of Operation. Non-residential uses are permitted to be open to the public anytime between the hours of 6:00 a.m. and 12:00 a.m. (midnight). The Town Board may allow hours of operation beyond this limit if the proposed use and

location warrant such consideration in the issuance of the conditional use permit. Any granting of extended hours requires a public hearing before the Town Board can render its decision. Any extended hours granted by the Town Board shall expire when the granted use ceases.

(2) Property Maintenance. All property owners are responsible for the maintenance and upkeep of their properties and buildings. As a condition of approval, the Town Board or authorized official(s) may require a non-residential development to provide a maintenance agreement as described in 250-7.12.

(3) Waste Management. All receptacles for refuse and recycling shall be stored in a way that minimizes their view from public rights-of-way. Dumpsters shall be enclosed in a structure as approved by the Town Board or authorized official(s).

G. Specialty District Application Required. Before any subdivision of land, changes in use or occupancy, alteration(s) of a building or site, installation of new or replacement signage occurs, a specialty district application shall be submitted to the Town of Penfield using the forms and instructions provided by the Department of Developmental Services. The Department of Developmental Services will review the application to determine the appropriate review and approval process.

(1) Application fees are set forth in the Town's fee schedule, as adopted by the Penfield Town Board.

H. Town Board Review.

(1) Town Board approval shall be required for the following:

- (a) subdivision of land;
- (b) site plan approval for construction of any new building;
- (c) site plan approval is required for addition(s) to an existing building and/or construction of any accessory structure(s) that exceed 200 square feet;
- (d) site plan approval for site modifications that alter parking configuration, site access, pedestrian connectivity, lighting, or disturb more than 1,000 square feet of land;
- (e) modifications to existing building facades that noticeably alter the building's exterior aesthetic appearance;
- (f) issuance of a conditional use permit for a new occupancy that will result in a change in use classification per the NYS Uniform Code;
- (g) installation of permanent signage in a new location and/or alteration or replacement of an existing sign's materials, size, design or location.

(2) Public Hearing Required. A public hearing shall be conducted for any application that involves subdivision of land, site plan approval as outlined in 250-5.10 (H)

(1), and/or any Town Board approval that requires variations from design standards or operational standards contained herein.

(3) Authority to grant approval(s). The Town Board maintains unfettered discretion in the granting or denying of its approvals and may determine, on a case-by-case basis, if variations from design guidelines and/or operational standards are warranted to meet the purpose and intent of the Four Corners District. However, in all cases, the Town Board and authorized official(s) will ensure compliance with all applicable state and federal regulations and/or requirements.

I. Administrative Review.

(1) Notwithstanding the provisions of 250-13, administrative Review may be conducted for the following:

- (a) Replacement of signage that is similar in size, location, and materials, with no significant change in the sign type or design elements (e.g. sign lighting). Temporary signage as described in E(5)(d) herein is subject to administrative review but may be referred to the Town Board for review and approval.
- (b) Replacement of dumpster enclosures with similar in-kind materials.
- (c) Building additions, accessory structures or site modifications below the thresholds contained in H (1)(c) and (d) herein.
- (d) Parking lot repairs, resurfacing and restriping, with no change to configuration except for bringing the lot into conformance with local, state or federal regulations (e.g., ADA Design Standards).
- (e) Revised conditional use permit to reflect changes in property ownership.
- (f) Revised conditional use permit required for changes in building or tenant space occupancy that do not create a change in use classification per the NYS Uniform Code and have a similar intensity of use as the previous occupant (e.g., type of occupancy, parking needs, hours of operation, number of employees and customers, etc.).

(2) Staff Approval Required. Any applications eligible for administrative review, shall be reviewed and approved by the Director of Developmental Services and/or other Authorized Official prior to the Town's issuance of any revised Conditional Use Permits or issuance of any other required permits or approvals (e.g., building permit, fire marshal approval or sign permit, etc.). Additionally, any administrative applications that include physical alterations of a site or building

shall be reviewed and approved by the Town Engineer prior to the issuance of any other permits or approvals, including but not limited to building permits and sign permits

- (3) Right to refer to Penfield Town Board. Any application eligible for administrative review may be referred to the Town Board at any time, at the discretion of the authorized official(s) reviewing the application.

Section 4. Amendment to Section 250-6.2(F)1

Section 250-6.2(F) shall be amended to include the following additional item.

(3) Special considerations for existing buildings. For existing buildings, the Historic Preservation Board shall consider the availability of materials, technology, and craftsmanship that is in keeping with existing styles, patterns, textures and overall detailing. When several acceptable alternatives are deemed appropriate, costs may be considered by the Historic Preservation Board.

Section 5. Remove Section 250-10.26

Section 250-10.26 shall be removed in its entirety.

~~Businesses operating within the Four Corners District shall be subject to the requirements of this article, with the exception of the following:~~

- ~~A. Freestanding signs shall not be located closer than 15 feet to the front property line nor closer than 50 feet to any adjacent residential property.~~
- ~~B. Freestanding signs shall be no greater than eight feet in height.~~
- ~~C. Illumination of wall mounted or freestanding signs shall only be from an external source.~~
- ~~D. Such sign shall be consistent in design, architectural treatment and the use of materials with the buildings and uses it is intended to serve.~~
- ~~E. Businesses shall be permitted to display one portable temporary on-site sign. Portable temporary on-site signs are permitted, subject to the requirements of § 250-10.11M of this article.~~

Section 6. Severability

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

Section 7. Effective Date

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.