

§ 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 permit from the Town Board after a public hearing as provided in Article XII of this chapter. A special 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]**

- (1) Stores and shops for the conducting of any retail business.
- (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) Residential rooftop solar energy systems.
- (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. **[Amended 6-26-2019 by L.L. No. 5-2019]**
 - (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 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. **[Amended 6-26-2019 by L.L. No. 5-2019]**
- (15) Nursing Homes and comfort care homes, upon obtaining a special permit from the Town Board in accordance with procedures as set forth in Article XII of this chapter.
- (16) Small-scale solar energy systems. **[Added 9-22-2021 by L.L. No. 12-2021]**
- B. The following uses shall be permitted in B-1 Commercial Districts, subject in each case to the granting of a special 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:

- (1) Poolrooms and billiard rooms.
 - (2) Motels, hotels, motor courts, restaurants 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 or fast-food restaurants.
 - (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. **[Added 6-21-2017 by L.L. No. 4-2017; amended 9-22-2021 by L.L. No. 12-2021]**
 - (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 permit from the Town Board. **[Added 6-30-2021 by L.L. No. 6-2021]**
 - (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 permit from the Town Board, which special 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 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. **[Added 6-30-2021 by L.L. No. 6-2021]**
- 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]