

Chapter 300

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Lyons. Amendments noted where applicable.]

Part 1
General Provisions; Definitions

ARTICLE I
General Provisions

§ 300-1.1. Title.

This chapter shall be known and may be cited as the "Town of Lyons Zoning Law."

§ 300-1.2. Purpose.

The purpose of this chapter is to classify, regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size, depth and width of yards and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes; to establish districts and the boundaries thereof for said purposes; and to provide for the administration and enforcement of this chapter so as to promote the public health, safety, morals, and general welfare of the Town of Lyons.

§ 300-1.3. Interpretation.

For purposes of interpretation and application, the provisions of this chapter shall be held to be the minimum requirements necessary for the promotion of the public health, safety, comfort, convenience and general welfare.

§ 300-1.4. Conflict with other laws.

The provisions of this chapter shall not be construed so as to interfere with, supersede, or annul any law, ordinance, code or regulation affecting the safety, construction or sanitation of any building or structure, provided that whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, laws or ordinances, the most restrictive, or that imposing the higher standards, shall govern; nor shall the provisions of this chapter annul or interfere with existing deed or plat restrictions, easements or other agreements between persons, or permits previously adopted or issued, except those sections thereof which are contrary to and in conflict with this chapter.

§ 300-1.5. Severability.

If a court of competent jurisdiction should find any article, section, subsection, paragraph, sentence, clause or provision of this chapter invalid, in whole or in part, the effect of such decision shall be limited to those articles, sections, subsections, paragraphs, sentences, clauses or provisions which are expressly stated in the decision to be invalid, and the remainder of this chapter shall be and remain in full force and effect.

ARTICLE II
Definitions

§ 300-1.6. Word usage and interpretation.

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this chapter. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "structure" shall include the word "building"; the word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased," or "intended to be used"; and the word "shall" is mandatory and not optional.

§ 300-1.7. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING — A supplemental building, the use of which is incidental to that of the main or principal building and located on the same lot therewith.

ACCESSORY LIVING QUARTERS — An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

ACCESSORY STRUCTURE — A structure not greater than 3,000 square feet in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ADULT BOOKSTORE — An establishment or business, whether retail or wholesale, having as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals, films and viewing materials for sale or viewing on the premises which are distinguished or characterized by their emphasis on sexually explicit material, or an establishment or business containing a segment or section devoted to the sale or display of such material.

ADULT CARE FACILITY — A family-type home for adults, a shelter for adults, a residence for adults, an enriched housing program or adult home which provides temporary or long-term residential care and services to adults who, though not requiring continual medical or nursing care, are, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, unable or substantially unable to live independently.

ADULT MOTION-PICTURE THEATER — An enclosed or unenclosed building or structure or portion of a building or structure used for presenting sexually explicit material as a dominant theme or emphasis for observation by patrons therein.

ADULT USE — Any establishment or business involved in the dissemination of sexually explicit material as defined in this chapter, including but not limited to adult bookstores and adult motion-picture theaters.

AGRICULTURAL ACTIVITY — A customary farm occupation; farm service use; hog, pig, poultry and fur-bearing animal farm; riding academy; livery stable; farm-related use; farm labor housing; large-scale cattle or dairy farm; or roadside stand.

AGRICULTURAL BUILDING — A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

AGRICULTURAL ENVIRONMENTAL MANAGEMENT (AEM) PLAN — A comprehensive farm management plan, developed by an agricultural engineer, which details various methods and strategies to be used in mitigating

§ 300-1.7 any adverse environmental impacts resulting from agricultural activities, in accordance with generally accepted good farming practices. § 300-1.7

AGRICULTURAL SIGN — A sign which advertises an agricultural activity.

AGRICULTURAL STRUCTURE — Any customary nonresidential farm building, including barns, storage sheds, milking parlors, animal pens, silos, grain bins, corn cribs, silage bunkers, windmills, and similar structures when used in conjunction with agricultural activities.

AIRPORT — An area of land or structural surface that is used, or intended for use, for the landing and taking off of aircraft with an overall length greater than 39 feet and an overall exterior fuselage width greater than 6.6 feet, and any appurtenant areas that are used or intended for use for airport buildings and other airport facilities.

ALTERATION — A change or rearrangement in the structural parts of an existing building or structure, or an enlargement, whether by extending on a side or by increasing in height, or by moving from one location or position to another.

ALTERATION, STRUCTURAL — Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, including additions thereto.

AMBULATORY CARE FACILITY — Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less-than-twenty-four-hour basis to persons who are not rendered incapable of self-preservation by the services provided.

AMUSEMENT CENTER — An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

APARTMENT COMPLEX — Two or more detached multiple dwellings located on a parcel of land in one ownership or cooperative ownership and having a yard or court in common.

APARTMENT GARAGE — A detached accessory structure containing a private garage on the first floor and a single dwelling unit on the first and/or second floor.

APPROVED — Acceptable to the Code Enforcement Officer.

ATTIC — The space between the ceiling beams of the top story and the roof rafters.

ATTIC, FINISHED — A finished area enclosed by the roof above, knee walls (if applicable) on the sides, and floor, and having level ceilings at least seven feet high, and at least six feet four inches under beams, ducts and other obstructions. If a room has a sloped ceiling, at least one-half of the finished floor area must have a ceiling height of at least seven feet. Finished attics must be accessible by a conventional stairway or other approved access.

AUTOMATIC FIRE ALARM SYSTEM — A building system designed to detect the presence of heat, smoke or flame; and which, upon such detection, relays an alarm to the local fire department.

AUTOMOBILE SALES — The sale or offering for sale of three or more vehicles on any lot within any one-year period of time.

AUTOMOBILE SALES AND SHOWROOM — An open or enclosed area, other than a street, used for the display, sale or rental of new or used motor vehicles in operable condition.

AUTOMOTIVE MOTOR FUEL-DISPENSING FACILITY — That portion of property where flammable or combustible liquids or gases used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles.

AWNING — An architectural projection that provides weather protection, identity or decoration and is partially or wholly supported by the building to which it is attached. An awning is comprised of a lightweight frame structure over which a covering is attached.

BARN CONVERSION — The changing of use of an agricultural structure to residential use.

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BASEMENT — A story of a building which is partly or wholly underground.

BED-AND-BREAKFAST ESTABLISHMENT — A dwelling, other than a hotel or motel, incidental to and located within an owner-occupied single-family residence, which accommodates no more than 10 transient lodgers, with meals provided or offered, for compensation.

BEDROOM — Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

BLEACHERS — Tiered seating supported on a dedicated structural system and two or more rows high and not a building element.

BOARDINGHOUSE — A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

BOATHOUSE — A house or shed for sheltering boats, usually but not necessarily located on the shoreline of a water body.

BONFIRE — An outdoor fire utilized for ceremonial purposes.

BUILDING — A structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.

BUILDING (OR FRONT SETBACK) LINE — A line parallel to the front lot line, between which line and the front lot line no building may be built.

BUILDING AREA — The total horizontal area measured at the main grade level of the principal building and all accessory structures, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

BUILDING HEIGHT — The vertical distance measured from the ground surrounding the building to the highest point of the roof, but not including chimneys, spires, silos, towers, tanks, and similar projections.

BUILDING, MAIN OR PRINCIPAL — A structure in which is conducted the principal use of the site on which it is located. In any residential (R-A or R-1) district, any dwelling shall be deemed to be a principal building on the zone lot on which the same is located.

BULK PLANT OR TERMINAL — That portion of a property where flammable or combustible liquids are received by tank vessel, pipelines, tank car or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank or container.

CABIN, RECREATIONAL — A building used or intended to be used as temporary shelter, for recreational purposes such as hunting, fishing, camping or hiking, but which does not include plumbing facilities.

CAMP — Any one or more of the following, other than a hospital, place of detention, or school offering general instruction:

- A. **TYPE 1** — Any area of land or water on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for recreational purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise; or
- B. **TYPE 2** — Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes; and any of the foregoing establishments, whether or not conducted for profit and whether or not occupied by adults or children, either as individuals, families or groups.

CAMPGROUND — Any parcel or tract of land under the control of any person, organization, or governmental entity wherein two or more campsites are offered for use by the public or members of an organization for overnight stays.

CAMPING TENTAGE — Any portable temporary shelter or structure designed to protect persons from the elements or to form an enclosure or screen, all or a portion of the covering of which is made of fabric or other

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pliable materials. This includes, but is not limited to, the following: camping tents, play tents, recreational vehicle awnings, dining flies and canopies, fabric screen houses, add-a-rooms, ice fishing tents, back-pack tents, and camping tent trailers. § 300-1.7

CANOPY — A structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration, and may be structurally independent or supported by attachment to a building on one end and by not less than one stanchion on the outer end.

CERTIFICATE OF OCCUPANCY — A statement signed by the Zoning Inspector setting forth either that a building or structure complies with the provisions of this chapter, or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

CHANGE OF OCCUPANCY — A change in the use of a building or portion of a building. A change of occupancy shall include a change of occupancy classification, any change from one group to another group within an occupancy classification or any change in use within a group for a specific occupancy classification.

CIDER MILL — A facility for processing apples or other fruits into juice or cider, which may include retail sales to the general public.

CLINIC, OUTPATIENT — Buildings or portions thereof used to provide medical care on a less-than-twenty-four-hour basis to persons who are not rendered incapable of self-preservation by the services provided.

CODE ENFORCEMENT OFFICER — See "Zoning Inspector."

COMMERCIAL CENTER, REGIONAL — A completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A regional center shall provide for the sale of general merchandise, apparel, furniture, home furnishings, and other retail sales and services, in full depth and variety.

COMMERCIAL LOGGING OPERATION — A use or activity in which trees are cut down and cut into logs for transport to a sawmill or other industry, for profit. This definition shall not apply to the farming of Christmas trees and other nursery uses, the seasonal sale of firewood, or the clearing of land for agricultural purposes or as may be necessary to perform work authorized by a building permit.

COMMERCIAL MOTOR VEHICLE — A motor vehicle used to transport passengers or property where the motor vehicle has a gross vehicle weight rating of 10,000 pounds or more or is designed to transport 16 or more passengers, including the driver.

COMMERCIAL SELF-SERVICE STORAGE FACILITY — A building having two or more tenants or occupants that is used for the purpose of storage of personal property, when conducted as a business.

COMMISSARY — An establishment where food is manufactured, stored, prepared, portioned or packaged, or any combination of these, where such food is intended for consumption at another establishment or place. It is also the place which is used as the base of operations for one or more mobile food service establishments or pushcarts, where such unit or units are serviced, cleaned, supplied, maintained, and where the equipment, utensils and facilities are serviced, cleaned and sanitized.

COMMUNITY GARDEN — An area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food ornamental crops, such as flowers, for personal or group use, consumption, sale, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

COMPOST — A humus-like organic material resulting from the biological decomposition of solid waste.

COMPOSTING — Combining organic wastes (e.g., yard trimmings, food scraps, manures) in proper ratios into piles or rows, or vessels; adding moisture and bulking agents (i.e., wood chips) as necessary to accelerate the breakdown of organic materials; and allowing the finished material to fully stabilize and mature through a curing process.

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CONGREGATE LIVING FACILITIES — A building or part thereof that contains sleeping units where residents share bathroom or kitchen facilities, or both.

CONSUMER FIREWORKS RETAIL SALES FACILITY (CFRS FACILITY) — A permanent or temporary building or structure, stand, tent, canopy, or membrane structure that is used primarily for the retail display and sale of consumer fireworks to the public.

CONVALESCENT HOME — See "nursing home."

CONVERSION — A change of occupancy or use of a building from a one-family dwelling to a two-family dwelling or multiple dwelling.

COTTAGE — A single-family dwelling used or intended to be used as a seasonal residence only.

COVERED MALL BUILDING — A single building enclosing a number of tenants and occupants such as retail stores, drinking and dining establishments, entertainment and amusement facilities, passenger transportation terminals, offices, and other similar uses wherein two or more tenants have a main entrance into one or more malls. Anchor buildings shall not be considered as a part of the covered mall building. The term "covered mall building" shall include open mall buildings as defined below.

- A. ANCHOR BUILDING — An exterior perimeter building, of an occupancy other than High-Hazard Group H, having direct access to a covered or open mall building but having required means of egress independent of the mall.
- B. FOOD COURT — A public seating area located in the mall that serves adjacent food preparation tenant spaces.
- C. MALL — A roofed or covered common pedestrian area within a covered mall building that serves as access for two or more tenants and not to exceed three levels that are open to each other. The term "mall" shall include open malls as defined below.
- D. OPEN MALL — An unroofed common pedestrian way serving a number of tenants, not exceeding three levels.
- E. OPEN MALL BUILDING — Several structures housing a number of tenants, such as retail stores, drinking and dining establishments, entertainment and amusement facilities, offices and other similar uses, wherein two or more tenants have a main entrance into one or more open malls. Anchor buildings are not considered as a part of the open mall building.

CUSTOMARY FARM OCCUPATION — A principal or accessory use for the purpose of producing agricultural, horticultural, floricultural, vegetable and fruit products of the soil, livestock, dairy products, nuts, honey, wool and hides, but shall not include riding academies, livery stables, kennels, sawmills, commercial logging operations or hog, pig, poultry and fur-bearing animal farms as defined herein. A garden accessory to a residential use shall not be deemed a farm or farm use.

DANGEROUS — Any building, structure or portion thereof that meets any of the conditions described below shall be deemed dangerous:

- A. The building or structure has collapsed, has partially collapsed, has moved off its foundation or lacks the necessary support of the ground.
- B. There exists a significant risk of collapse, detachment or dislodgment of any portion, member, appurtenance or ornamentation of the building or structure under service loads.

DAY CARE, FAMILY — The keeping for part-time care and/or instruction, whether or not for compensation, of six or fewer children at any one time within a dwelling, not including members of the family residing on the premises.

DAY-CARE FACILITY — An activity providing for the care and supervision of minors away from their own

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homes as a daily program, such as day nursery, preschool program or day-care center.

DETACHED BUILDING (HAZARDOUS MATERIALS) — A separate single-story building, without a basement or crawl space, used for the storage or use of hazardous materials and located an approved distance from all structures.

DORMITORY — A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management.

DRIVE-THROUGH FACILITY — An establishment where a patron is provided with products or services without departing the vehicle. Also includes facilities that are labeled "drive-thru," "drive-in," and "drive-up." Drive-through facilities may serve the primary use of the site or may serve accessory uses. Examples are drive-up windows; menu boards; order boards or boxes; gas pump islands; car wash facilities; auto service facilities, such as air compressor, water, and windshield washing stations; quick-lube or quick-oil change facilities; and drive-in theaters.

DRIVEWAY — A private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.

DRY-CLEANING PLANT — A facility in which dry cleaning (i.e., cleaning by solvents) and associated operations are conducted, including the office, receiving area, and storage rooms.

DUMP — A lot of land or part thereof used primarily for the disposal, abandonment, dumping, burial, burning, or by any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING — Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons.

DWELLING UNIT — A single unit, providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, MULTIPLE — A building containing three or more dwelling units.

DWELLING, ONE-FAMILY — A building that consists solely of one dwelling unit.

DWELLING, TWO-FAMILY — A building that consists solely of two dwelling units.

DWELLING, UPPER STORY OVER BUSINESS — A dwelling unit located on the second floor or higher of a building with nonresidential uses located on the street level.

EQUIPMENT PLATFORM — An unoccupied, elevated platform used exclusively for mechanical systems or industrial process equipment, including the associated elevated walkways, stairways, alternating-tread devices and ladders necessary to access the platform.

EXTRACTIVE INDUSTRY — A lot of land or part thereof used for the purpose of extracting stone, sand, gravel, or other mineral substance, or topsoil for sale, as an industrial operation, and exclusive of the process of excavating or grading a lot or lots preparatory to the construction of a building.

FAMILY — One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, motel, hotel, club or fraternity.

FARM — A tract of land, including all of the structures thereon, which is devoted to an agricultural activity. This definition shall include all contiguous farmland, whether owned, rented or leased as part of an independently operated agricultural activity.

FARM ANIMAL REMAINS — Any carcasses or less-than-skeletal remains of dead farm animals.

FARM ANIMALS — Animals raised or maintained for their product or labor, or for show, including but not necessarily limited to dairy cows, beef cattle, poultry, sheep, horses, goats, mules, hogs, pigs, or other livestock.

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FARM BUILDING — Any building located on a farm.

FARM EQUIPMENT — Any farm truck, tractor, plow, combine, harvester, sprayer, wagon, planter, rake, conveyor, harrow, thresher, or similar agricultural implement, whether or not self-propelled.

FARM LABOR HOUSING — The use of any dwelling(s), located on a farm, for sheltering persons employed on such farm. This definition shall not necessarily include a migrant labor camp.

FARM MARKET — An indoor or outdoor display for sales purposes of farm produce, homemade baked or canned goods, or crafts, exceeding 500 square feet in area.

FARM-RELATED USE — A cider mill; portable sawmill; U-pick; winery; farm market; petting zoo; hay ride; cornfield maze; agricultural museum or exposition; Christmas tree farm; nursery or greenhouse; or maple syrup processing.

FARM SERVICE USE — Any milk processing plant; feed storage or supply facility; agricultural laboratory; farm equipment or machinery sales or service; storage or processing facility for fruits, vegetables or other agricultural products; fertilizer or farm pesticides storage or supply facility; farmers' cooperative; grange hall; fruit ripening facility; or grain elevator.

FARMHOUSE — The principal residential structure on a farm.

FLEET VEHICLE MOTOR FUEL DISPENSING FACILITY — That portion of a commercial, industrial, governmental or manufacturing property where liquids or gases used as fuels are stored and dispensed into the fuel tanks of motor vehicles that are used in connection with such businesses, by persons within the employ of such businesses.

FLOOR AREA — The sum of the gross horizontal area of the several floors of a building, excluding cellar and basement, attic storage, garage and breezeway.

FOOD SERVICE ESTABLISHMENT — A place where food is prepared and intended for individual portion service and includes the site at which the individual portions are provided, whether consumption occurs on or off the premises. The term excludes food processing establishments, retail food stores without commercial kitchens, private homes where food is prepared or served for family consumption, and food service operations where a distinct group mutually provides, prepares, serves and consumes the food, such as a "covered-dish supper" limited to a congregation, club or fraternal organization.

GARAGE, PRIVATE — A detached or attached accessory building or enclosed space used for the storage of private passenger vehicles, owned or rented.

GARAGE, PUBLIC — Any garage, other than a private garage, which is used for the storage, repair, rental, servicing or supplying of fuel or oil to motor vehicles.

GRANDSTAND — Tiered seating supported on a dedicated structural system and two or more rows high and not a building element (see "bleachers").

GROUP HOME — A facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care.

GUEST ROOM — A room used or intended to be used by one or more guests for living and sleeping purposes.

HAZARDOUS MATERIALS — Those chemicals or substances which are physical hazards or health hazards as defined and classified in the Uniform Code, whether the materials are in usable or waste condition.

HELIPORT — An area of land or water or a structural surface that is used, or intended to be used, for the landing and taking off of helicopters, and any appurtenant areas that are used, or intended for use, for heliport buildings and other heliport facilities.

HELIPORT, EMERGENCY USE — An area for accommodating helicopters in support of emergency public safety agency operations, but that is not permitted or licensed as a heliport or helistop, and which is not used as a heliport for any other purpose.

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HELISTOP — The same as "heliport," except that fueling, defueling, maintenance, repair or storage of helicopters is not permitted.

HIGH-PILED COMBUSTIBLE STORAGE — The storage of combustible materials in closely packed piles or combustible materials on pallets, in racks or on shelves where the top of storage is greater than 12 feet in height.

HIGH-RISE BUILDING — A building with an occupied floor located more than 75 feet above the lowest level of Fire Department vehicle access. This term shall include any building exceeding five stories or 50 feet in height.

HISTORIC BUILDINGS — Buildings that are listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law.

HOG, PIG, POULTRY OR FUR-BEARING ANIMAL FARM — A farm used for the raising of hogs, pigs, poultry or fur-bearing animals.

HOME GARDEN — A garden located at or adjacent to a residence, and in which food and ornamental plants are grown solely for personal use.

HOME OCCUPATION — Any occupation customarily conducted within a dwelling used for living purposes. The home occupation must be incidental and secondary to the use of the dwelling for residential purposes. Home occupations shall not include, among others, the following: medical and dental clinics, restaurants or on-premises consumption food services, kennels or animal hospitals.

HOSPICE RESIDENCE — A one- or two-family dwelling operated for the purpose of providing care to more than two but not more than eight hospice patients.

HOSPITALS AND PSYCHIATRIC HOSPITALS — Facilities that provide care or treatment for the medical, psychiatric, obstetrical, or surgical treatment of inpatient care recipients that are incapable of self-preservation.

HOTEL — A dwelling containing sleeping rooms for 15 or more persons, which rooms are available to the public for less than a week at a time for compensation, with no cooking or dining facilities except a general kitchen and public dining room.

HOUSEHOLD PETS — Dogs, cats, rabbits, birds, etc. for family use only (noncommercial), with cages, pens, etc.

INCINERATOR — A furnace, machine, apparatus or container that is used for burning trash, garbage, rubbish or other waste material.

INDUSTRIAL OCCUPANCY — Includes factories that manufacture products of all kinds and properties devoted to operations such as processing, assembling, mixing, packaging, finishing or decorating, and repairing.

INDUSTRIAL OR RESEARCH PARK — A tract of land developed according to a master site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to ensure a harmonious integration into the neighborhood.

INHABITED BUILDING — A building regularly occupied in whole or in part as a habitation for people, or any place of religious worship, schoolhouse, railroad station, store or other structure where people are accustomed to assemble.

JUNK — Materials, including scrap metals and their alloys, bones, used items and products such as rags and cloth, rubber, rope, tinfoil, bottles, old tools and machinery, automobiles, fixtures and appliances, lumber, boxes or crates, pipe and pipe fittings, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

JUNKYARD — An area of land, with or without buildings, primarily used for the storage, outside of a completely enclosed building, of junk or used and discarded material, including but not limited to wastepaper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage of two or more unlicensed or unregistered or uninspected or inoperable or wrecked or broken motor vehicles, or the major parts of two or more such vehicles, shall be deemed to make the lot a junkyard.

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KENNEL — A structure to accommodate the commercial boarding, sale or care of dogs, cats and other domestic animals or the harboring of more than four such animals.

LANDING STRIP — Ground set aside for the takeoff and landing of aircraft, without normal airport facilities.

LANDSCAPING — The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

LARGE-SCALE AGRICULTURAL STRUCTURE — An agricultural structure exceeding 20,000 square feet in area in floor area.

LARGE-SCALE BUSINESS DEVELOPMENT — A tract of land not less than five acres in area for nonresidential development, and which is planned for development as units under single ownership and control and which includes two or more nonresidential principal buildings.

LARGE-SCALE CATTLE OR DAIRY FARM — A farm upon which 300 or more cattle or dairy cows are harbored.

LARGE-SCALE INDUSTRIAL DEVELOPMENT — A tract of land not less than 10 acres in area for nonresidential development, and which is planned for development as units under single ownership and control and which includes two or more nonresidential principal buildings.

LATRINE — A toilet, usually of the non-flushing type, that is not connected to an approved sanitary sewer or septic system.

LIQUID STORAGE WAREHOUSE — A building classified as a High-Hazard Group H occupancy used for the storage of flammable or combustible liquids.

LODGING HOUSE — A one-family dwelling where one or more occupants are primarily permanent in nature and rent is paid for guest rooms.

LOT — A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this chapter, and having frontage on a public street.

LOT AREA — The computed area contained within the lot lines of a lot.

LOT COVERAGE — That percentage of the lot or land covered by the building area.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines.

LOT LINE, FRONT — The lot line separating a lot from a street right-of-way.

LOT LINE, REAR — The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE — Any lot line other than a front or rear lot line.

LOT LINES — The property lines bounding a lot.

LOT WIDTH — The distance between the two side lot lines measured at the front building line.

LOT, CORNER — A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an angle of less than 135°. The point of intersection of the street is the "corner."

LOT, THROUGH — A lot located between and having frontage upon two parallel or approximately parallel streets.

LPG BULK PLANT — A facility where the primary function is to store liquefied petroleum gas prior to further distribution. LP gas is received by cargo tank vehicle, railroad tank car, or pipeline, and then distributed by portable container delivery, by cargo tank vehicle, or through gas piping.

LPG DISPENSING STATION — Fixed equipment where liquefied petroleum gas is stored and dispensed into

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portable containers.

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MAGAZINE — A building, structure or container, other than an operating building, used for storage of explosive materials.

MAJOR AGRICULTURAL STRUCTURE — An agricultural structure exceeding 2,000 square feet in floor area but not exceeding 20,000 square feet in floor area.

MANUFACTURED HOME — A structure, transportable in one or more sections, that, in the traveling mode, is eight feet or more in width or 40 feet or more length or, when erected on site, is 320 square feet minimum, and that was built on or after June 15, 1976, on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all of the requirements and with respect to which the manufacturer voluntarily files a certification required by the Federal Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle.

MANUFACTURED HOME PARK — A parcel (or continuous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARINA AND BOATYARD — A facility that stores and services boats in berths, on moorings, or in dry storage. Such storage and services may include berthing of boats, fueling, sanitary sewage pumpout, seasonal or short-term boat storage, seasonal boat painting, boat engine maintenance, repairing, hauling from water and launching of boats.

MARINE TERMINAL — A facility comprising one or more berths, slips, piers, wharves, loading and unloading areas, warehouses, and storage yards used for transfer of people and/or cargo between waterborne carriers and land.

MARINE MOTOR FUEL DISPENSING FACILITY — That portion of property where flammable or combustible liquids or gases used as fuel for watercraft are stored and dispensed from fixed equipment on shore, piers, wharves, floats or barges into the fuel tanks of watercraft and shall include all facilities used in connection therewith.

MARQUEE — A canopy that has a top surface which is sloped less than 25° from the horizontal and is located less than 10 feet from operable openings above or adjacent to the level of the marquee.

MEZZANINE — An intermediate level or levels between the floor and ceiling of any story, not greater than one-third of the floor area of the story below.

MIGRANT LABOR CAMP — A tract of land and all vehicles, mobile homes, buildings or other structures pertaining thereto, any part of which may be used or occupied by persons employed as laborers in farm activities, including sleeping facilities, provided in whole or in part by the employer of such persons, the owner, lessee, or operator thereof, with or without a stipulated agreement as to the duration of their stay, whether or not they are supplied with meals, but who are supplied with such services or facilities as are necessary for their use of such property.

MINOR AGRICULTURAL STRUCTURE — An agricultural structure not exceeding 2,000 square feet in floor area.

MOBILE FOOD SERVICE ESTABLISHMENT — A self-contained food service operation, located in a vehicle or a movable stand, self- or otherwise propelled, used to store, prepare, display or serve food intended for individual portion service.

MOBILE HOME — A structure, transportable in one or more sections, which, in the travelling mode, is eight body feet or more wide and 40 or more body feet in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein, and bearing a seal issued by the Federal Department of Housing and Urban Development.

MOBILE HOME PARK — A tract of land where two or more mobile homes are placed for nontransient use and

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developed in accordance with the provisions of this chapter.

MODULAR HOME — A factory-built structure intended for use as a dwelling when placed upon a permanent foundation, which is transported onto site in one or more sections, and certified as being constructed in accordance with the New York State Uniform Fire Prevention and Building Code.

MORTUARY, FUNERAL HOME — An establishment in which the dead are prepared for burial or cremation. The facility shall be permitted to include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings, and/or display of funeral equipment.

MOTEL — A series of attached, semidetached or detached dwelling units, one or more stories in height, containing a bedroom, bathroom and closet space, but excluding cooking facilities, which are devoted to the use of automobile transients.

MOTOR VEHICLE REPAIR SHOP — A building or place of business in which motor vehicles are repaired, serviced, rebuilt or reconditioned, with or without the sale of automotive parts and accessories, at retail, and exclusive of the dispensing of gasoline or other automotive fuels. Any use commonly referred to as a "collision," "body," "engine rebuilding," "transmission" or "auto paint shop" shall be deemed a "motor vehicle repair shop."

MOTOR VEHICLE SERVICE STATION — A building or place of business in which motor vehicles are repaired, serviced or cleaned, with or without the sale of automotive parts and accessories at retail, and which may include the dispensing of gasoline or other automotive fuels. Any use commonly referred to as a "gas station," "car wash," muffler, brake, tire, or oil and lube station shall be deemed a "motor vehicle service station."

MULTIWIDE MOBILE HOME — A mobile home that is made up of two or more transportable sections.

MURAL — A work of decorative art applied on or attached to an exterior wall or fence within public view that does not include graphics or text that can be interpreted as commercial advertising. Embellishments to or decoration of architectural elements is not considered a mural. Notwithstanding the above definition, a mural may contain bona fide historic recreations of vintage advertising.

NIGHTCLUB — Any use of a building or portion thereof where the subject space is classified in Assembly Group A; and where at least 20% of the subject assembly space is for concentrated occupancy, with or without fixed seating, where the net assembly floor area per person is seven square feet or less; and live or recorded entertainment, including but not limited to vocalists, bands, musical reviews, comedy acts, dance music and similar entertainment, is normally provided. Entertainment shall not be deemed to include jukeboxes, background music or similar uses of live or recorded music. This definition shall not apply to places of religious worship as defined herein.

NONCONFORMING USE — A use of a building or land, existing at the time that this chapter is enacted or amended, which does not conform with the requirements herein for the district in which it is located.

NURSING HOME — A facility providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing.

OCCUPANCY CLASSIFICATION — For purposes of this chapter, certain occupancies are defined as follows:

- A. **ASSEMBLY GROUP A** — The use of a building or structure, or a portion thereof, for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption; or awaiting transportation. Exception: small buildings and spaces. A building or tenant space used for assembly purposes with an occupant load of fewer than 50 persons shall be classified a Business Group B occupancy.
- B. **BUSINESS GROUP B** — The use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts. Business occupancies may include, but not be limited to, banks, barber and beauty shops, civic administration, educational occupancies for students above the 12th grade not otherwise classified, electronic data processing, testing and research laboratories, post offices, print shops, professional services (architects, accountants, attorneys, dentists, physicians, engineers, etc.), radio and television stations, telephone exchanges, and training or skill development not in a school or academic program (such as but not limited to tutoring centers, martial arts

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studios, gymnastics and similar uses not otherwise classified).

- C. EDUCATIONAL GROUP E — The use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade.
- D. FACTORY INDUSTRIAL GROUP F — The use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as High-Hazard Group H or Storage Group S occupancy.
- E. HIGH-HAZARD GROUP H — The use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of hazardous materials in quantities in excess of those allowed in control areas in accordance with the Uniform Code.
- F. INSTITUTIONAL GROUP I — The use of a building or structure, or a portion thereof, not otherwise classified, in which care or supervision is provided to persons who are or are not capable of self-preservation without physical assistance or in which persons are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Exception: Care facilities for five or fewer persons receiving care that are within a one-family dwelling shall not be deemed an Institutional Group I occupancy.
- G. MERCANTILE GROUP M — The use of a building or structure, or a portion thereof, for the display and sale of merchandise, and involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall be subclassified as follows:
- (1) CLASS A — All mercantile occupancies having an aggregate gross area of more than 30,000 square feet or occupying more than three stories for sales purposes.
 - (2) CLASS B —
 - (a) All mercantile occupancies of more than 3,000 square feet, but not more than 30,000 square feet, aggregate gross area and occupying not more than three stories for sales purposes; or
 - (b) All mercantile occupancies of not more than 3,000 square feet gross area and occupying two or three stories for sales purposes.
 - (3) CLASS C — All mercantile occupancies of not more than 3,000 square feet gross area and used for sales purposes occupying one story only.
- H. MIXED OCCUPANCY — A building or structure in which two or more classes of occupancy exist.
- I. RESIDENTIAL GROUP R — The use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I occupancy. Residential occupancies shall be subclassified as follows:
- (1) RESIDENTIAL GROUP R-1 — Occupancies containing sleeping units where the occupants are primarily transient in nature, including but not limited to boardinghouses, hotels and motels for the traveling public.
 - (2) RESIDENTIAL GROUP R-2 — Occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including but not limited to apartment houses and nontransient boardinghouses.
 - (3) RESIDENTIAL GROUP R-3 — Occupancies where the occupants are primarily permanent in nature and not otherwise classified, which do not contain more than two dwelling units.
 - (a) Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a one-family dwelling shall be deemed R-3 occupancies.

§ 300-1.7 (4) RESIDENTIAL GROUP R-4 — Buildings, structures, or portions thereof for more than five persons but not more than 16 persons, excluding staff, who reside on a twenty-four-hour basis in a supervised residential environment and receive custodial care. This occupancy shall include assisted-living facilities, group homes, rehabilitation centers, etc. § 300-1.7

J. STORAGE GROUP S — The use of a building or structure, or portion thereof, for storage that is not classified as a hazardous occupancy.

K. MISCELLANEOUS GROUP U — Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy, such as, but not limited to, agricultural buildings, residential aircraft hangars, barns, carports, fences, grain silos (accessory to a residential occupancy), greenhouses, private garages, sheds, tanks, and towers.

OPEN BURNING — The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or the use of portable outdoor fireplaces.

OPEN PARKING GARAGE — A structure or portion of a structure with openings on two or more sides that is used for the parking or storage of private motor vehicles.

OPERATING PERMIT — Where required by any law, rule or regulation of the Town of Lyons, a permit issued by the Town Board of the Town of Lyons setting forth the operating conditions, including time limits, to be met by the applicant as determined by the Town Board to be necessary to protect the health, safety and welfare of the Town of Lyons and to assure operation of the use in harmony with the remainder of the Zoning Code of the Town of Lyons. **[Added 4-27-2022 by L.L. No. 1-2022]**

OXYGEN-LIMITING SILO — A sealed silo with tight construction that limits the amount of oxygen inside.

PARKING LOT — An open area, other than a street, used for the parking of automobiles.

PENTHOUSE — An enclosed, unoccupied rooftop structure used for sheltering mechanical and electrical equipment, tanks, elevators and related machinery, and vertical shaft openings.

PIT PRIVY — A small, enclosed room or structure having one or more holes in a seat built over a pit and serving as a toilet.

PLANNED DEVELOPMENT GROUP — A structure or a group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative group, and which has certain facilities in common, such as yards and open spaces, recreation areas, garages and parking areas.

PLAYGROUND — An improved area with a specific design to allow children to play there. It may be indoors but is typically outdoors.

PORTABLE OUTDOOR FIREPLACE — A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

PORTABLE SAWMILL — A sawmill utilizing readily portable machinery, and not operated for profit.

PORTABLE TOILET — A portable latrine used where other rest room facilities are unavailable (as at a construction site) or insufficient (as at special events).

PUBLIC PLACE — Any street, sidewalk, avenue, road, alley, lane, highway, concourse, driveway, yard, court, culvert, crosswalk, square, parking lot, stream, river, waterway and park.

PUBLIC UTILITY STATION — A structure or facility used by a public or quasi-public utility agency to store, distribute or generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

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RECREATION, COMMERCIAL — Recreational facilities operated as a business and open to the general public for a fee.

RECREATION, INDOOR — An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion-picture theaters, and related amusements.

RECREATION, OUTDOOR — An area free of buildings except for rest rooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

RECREATION, PRIVATE, NONCOMMERCIAL — Recreation facilities operated by a nonprofit organization and open only to bona fide members of such nonprofit organization.

RECREATION, PUBLIC — Recreation facilities operated as a nonprofit enterprise by any governmental agency or nonprofit organization and open to the general public.

RECREATIONAL FIRE — An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of three feet or less in diameter and two feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

RECREATIONAL PARK TRAILER — A trailer-type unit that is primarily designed to provide temporary living quarters for recreational camping or seasonal use; and is certified by the manufacturer as complying with ANSI A119.5 (Recreational Park Trailer Standard).

RECREATIONAL VEHICLE — A vehicular-type unit that is primarily designed as temporary living quarters for recreational, camping or seasonal use; has its own motive power or is mounted on or towed by another vehicle; is regulated by the National Highway Traffic Safety Administration as a vehicle or vehicle equipment; does not require a special highway use permit for operation on the highways; and can be easily transported and set up on a daily basis by an individual.

RECYCLING FACILITY — Any location whose primary use is as a place where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials. This term does not include a redemption center as defined herein.

REDEMPTION CENTER — A business that accepts empty beverage containers for redemption from the public and pays the refund value. This definition includes a person who contracts with one or more dealers or distributors to collect, sort and obtain the refund value and handling fee of empty beverage containers for, or on behalf of, such dealer or distributor.

REFINERY — A plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline or other hydrocarbon sources.

REHABILITATION CENTER — An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles.

RELIGIOUS WORSHIP, PLACE OF — A building or portion thereof intended for the performance of religious services.

REMOVABLE-RECEPTACLE PRIVY — A latrine in which the receptacle for human waste consists of a removable container surmounted by a superstructure.

REPAIR GARAGE — A building, structure or portion thereof used for the repair, servicing or maintenance of motor vehicles, trailers and similar mechanical equipment, including paint, body and fender, engine and engine part overhaul, brake, muffler, upholstery work, tire repair and change, lubrication, tune-ups, and transmission work.

RESIDENTIAL AIRCRAFT HANGER — An accessory building less than 2,000 square feet in area and 20 feet in

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RESTAURANT — An establishment that sells prepared food for consumption.

RIDING ACADEMY OR LIVERY STABLE — Any use or structure in which horses can be had for hire, or where horses are kept for a fee, or a school where horseback riding is taught. Any horse, pony, mule, or donkey shall, for purposes of this definition, be deemed a "horse."

ROADSIDE STAND — A stall or booth for the display and sale of farm products only.

ROOFTOP GARDEN — Any garden located on the roof of a structure.

ROOMING HOUSE — A building containing a single dwelling unit and containing rooms for the rooming and/or boarding of at least three persons, but not more than 25 persons, by prearrangement for definite periods of not less than one week.

SAWMILL — A building, use or activity in which logs are sawn into planks, beams or boards, or are otherwise roughly prepared, by machinery, for market or for use in the construction of buildings or ships or for the use of carpenters, joiners or other artisans. This definition shall not include a lumber or building materials storage yard and shall not include the assembly, fabrication, manufacture or processing of any other wood products.

SCHOOL, COMMERCIAL — A school establishment to provide the teaching of industrial, clerical, managerial or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete academic educational curriculum (e.g., beauty school or modeling school).

SELF-SERVICE STORAGE FACILITY — Real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

SEXUALLY EXPLICIT MATERIAL — The less than completely and opaquely covered human genitals or female breast below the top of the areola, or the human male genitals in a discernibly turgid state even if completely and opaquely covered, or the human genitals in a state of sexual stimulation or arousal, or acts of human masturbation, sexual intercourse or sodomy, or the fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SHOPPING CART — Any rolling or nonrolling basket or container and any part or parts thereof commonly used in supermarkets or self-service stores or mercantile establishments as a conveyor of goods, wares, and merchandise.

SIDEWALK CAFE — An area adjacent to and directly in front of a street-level eating or drinking establishment located within the sidewalk area of the public right-of-way used exclusively for dining, drinking and pedestrian circulation. The encroachment area of a sidewalk cafe may be separated from the remainder of the sidewalk by railings, fencing or landscaping planter boxes or a combination thereof.

SIDEWALK SALE — An outdoor sale conducted on sidewalks immediately adjacent and contiguous to commercial establishments, provided the merchandise being sold is consistent with the merchandise of the adjacent and contiguous business.

SIGN — A name, identification, description, display or illustration or any other visual display which is affixed to, or painted or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. This definition shall not include any display of official court or public office notices nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or religious group. A sign shall not include a sign located completely within an enclosed building except for an illuminated or animated sign or signs within show windows. Each display surface of a sign shall be considered to be a sign.

SIGN, ADVERTISING — A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered elsewhere than on the premises where the sign is located.

SITE-BUILT HOME — A conventionally built dwelling, erected on site without using major prefabricated

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components.

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SLEEPING UNIT — A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms or spaces that are also part of a dwelling unit are not sleeping units.

SPECIAL AMUSEMENT BUILDING — A building that is temporary, permanent or mobile that contains a device or system that conveys passengers or provides a walkway along, around or over a course in any direction as a form of amusement arranged so that the egress path is not readily apparent due to visual or audio distractions or an intentionally confounded egress path, or is not readily available because of the mode of conveyance through the building or structure.

SPECIAL CONDITIONS — Where required by any law, rule or regulation of the Town of Lyons, as part of any land use approval, a recital of the conditions imposed as part of the approval to be met by the applicant as determined by the approval resolution or Code Enforcement Officer to be necessary to protect the health, safety and welfare of the Town of Lyons and to assure operation of the use in harmony with the remainder of the Zoning Code of the Town of Lyons. **[Added 4-27-2022 by L.L. No. 1-2022]**

SPECIAL USE — A use which because of its unique characteristics requires individual consideration in each case by the Zoning Board of Appeals and the Planning Board before it may be permitted.

STORAGE TRAILER — A wheeled trailer or nonwheeled container, built primarily to be used for the commercial transport of goods by air, rail, sea, or highway. This definition shall not apply to horse trailers, small contractors' trailers, or similar equipment not intended for heavy commercial use or permanent placement.

STORAGE YARD — An outdoor area where vehicles, equipment, merchandise, raw materials, or other items are accumulated and stored for an indefinite period until needed. Storage yards are often used in conjunction with a warehouse, storage buildings, sheds or other structures and may be public or private.

STORAGE, HAZARDOUS MATERIALS — The keeping, retention or leaving of hazardous materials in closed containers, tanks, cylinders, or similar vessels; or vessels supplying operations through closed connections to the vessel, and where the quantities in storage are required to be reported pursuant to General Municipal Law § 209-u.

STORM SHELTER — A building, structure or portions thereof constructed in accordance with generally accepted standards and designed for use during a severe wind storm event, such as a hurricane or tornado.

STORY — That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above (see "attic," "attic, habitable," "basement," "building height," and "mezzanine"). For purposes of this definition, the term "story" shall include finished attics, but shall not include basements and mezzanines.

STORY, HALF — A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

STRUCTURE — Anything constructed, the use of which requires permanent location on the ground, or attachment to something having permanent location on the ground, including stationary and portable carports.

STRUCTURE, NONCONFORMING — A structure or sign, the design or size of which does not conform with the regulations of this chapter for the district in which it is located.

SWIMMING POOL — Any structure intended for swimming, recreational bathing or wading that contains water over 24 inches deep. This includes in-ground, above-ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

TELECOMMUNICATIONS FACILITY — Any communication facility such as a radio or television transmitting studio and tower, directional beacon and antenna, cellular telephone or microwave tower, and attendant buildings, but excluding police and fire communications towers used for dispatching purposes, and private, noncommercial television or radio receiving antennas and similar equipment.

TEMPORARY STAGE CANOPY — A temporary ground-supported membrane-covered frame structure used to

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cover stage areas and support equipment in the production of outdoor entertainment events.

TEMPORARY USE — A use that is authorized to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

TENT — A structure, enclosure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported in any manner except by air or the contents that it protects.

THEATER — A building used primarily for the presentation of live stage productions, performances or motion pictures.

TIMBER AND LUMBER PRODUCTION FACILITIES — Facilities where raw wood products are processed into finished wood products.

TIRES, BULK STORAGE OF — The storage of tires where the area available for storage exceeds 20,000 cubic feet indoors and/or 2,500 square feet outdoors.

TOWN BOARD — The governing body of the Town of Lyons.

TOWNHOUSE — A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.

TRAILER, HOUSE — A transportable structure meeting the definition of a "mobile home," except that it was constructed prior to June 15, 1976, and bears no seal issued by the Federal Department of Housing and Urban Development.

TRAVEL TRAILER — Any vehicle mounted on wheels and movable either by its own power or by being drawn by another vehicle, and licensed for travel on any highway for the purpose of temporary living or sleeping quarters in a campground or park.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code and/or Energy Conservation Construction Code, and any amendments thereto.

U-PICK — The retail sale of farm produce to self-service customers who gather the produce in fields or orchards located on a farm.

UNIMPROVED BUILDING LOT — A lot conforming to minimum area, width and depth requirements, but not exceeding one acre in size, upon which no principal building has been erected.

URBAN AGRICULTURE — The growing of plants and raising of animals in and around urban areas (beyond that which is strictly for home consumption or educational purposes). This definition generally includes agricultural activities occurring on less than one acre of land, but excludes a home garden.

USABLE OPEN SPACE — Required open space which shall be entirely open (except for plantings, landscaping, and recreational equipment) and shall be available for the sole enjoyment of the occupants of the lot of which it is a part, and shall not include any side yards, driveways, and accessways.

VARIANCE — A Zoning Board of Appeals authorized departure from the terms of this chapter in accordance with the procedure set forth in this chapter.

VESSEL — A motorized watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation. Non-transportation vessels, such as houseboats, boathouses and barges, are included in this definition.

WAREHOUSE — A building or premises in which goods, merchandise or equipment is stored for eventual distribution.

WHARF — A structure or bulkhead constructed of wood, stone, concrete or similar material built at the shore of a harbor, lake or river for vessels to lie alongside of and to anchor piers or floats.

WINERY — A facility for processing grapes into wine, which may include retail sales to the general public.

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YARD — An open space by a structure which lies between the principal buildings or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

YARD, FRONT — An open space extending the full width of the lot between a principal building and the front lot line, unoccupied and unobstructed from the ground upward.

YARD, REAR — An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.

YARD, SIDE — An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

ZONING INSPECTOR — The administrative officer charged with the duty of enforcing the provisions of this chapter.

ZONING MAP — The Official Zoning Map of the Town of Lyons, New York, dated December 17, 1969, together with all amendments subsequently adopted.

**Part 2
Districts****ARTICLE III
Establishment of Districts****§ 300-2.1. Designation of districts.**

The Town of Lyons is hereby divided into the following types of districts:

R-A	Residential-Agricultural District
R-1	General Residential District
F-P	Floodplain District
C-1	Commercial District
M-1	Industrial District

§ 300-2.2. Official Zoning Map.

The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of the Town of Lyons, which is attached hereto and is hereby made a part of this chapter.¹ Said map or maps and all notations, references, and designations shown thereon shall be, as such, a part of this chapter as if the same were all fully described and set forth herein.

§ 300-2.3. Interpretation of boundaries.

- A. Designation of district boundaries. The district boundary lines are intended generally to follow the boundary lines of streets, the center lines of railroad rights-of-way, existing lot lines, waterways, or Town boundary lines, all as shown on the Official Zoning Map; but where a district boundary line does not follow such a line, its position is shown on the Official Zoning Map by a specific dimension expressing its distance in feet from a street line or other boundary line as indicated.
- B. Determination of locations of boundaries. In unsubdivided property or where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on the Official Zoning Map, shall be determined by the use of the map scale shown thereon. Where the boundary of a district follows a stream or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Lyons, unless otherwise indicated. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Inspector shall request the Board of Appeals to render its determination with respect thereto.

1. Editor's Note: The Zoning Map is included as an attachment to this chapter.
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ARTICLE IV
District Regulations

§ 300-2.4. Applicability of regulations.

- A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered to exceed the height, occupy a greater percentage of lot area, or have narrower or smaller rear yards, front yards, side yards or other open spaces than are specified herein for the district in which it is located.
- C. No part of a yard or other open space or off-street parking or loading space required about or in connection with any structure for the purpose of complying with this chapter shall be included as a part of a yard or other open space or off-street parking or loading space similarly required for another structure.
- D. Every principal building shall be built upon a lot with frontage upon a public street improved to meet the standards of the Town of Lyons.
- E. Every residential building hereafter erected shall be located on a lot as defined herein, and there shall be not more than one residential building on one lot, except as specifically permitted elsewhere in this chapter. If more than one lot is located on a piece of property, each lot must meet the requirements of this chapter.
- F. If any use could be construed to be incorporated within a general use listing, the more restrictive listing, if any, shall control.
- G. Any uses not specifically permitted within any district shall be deemed prohibited.

§ 300-2.5. Residential-Agricultural (R-A) District regulations.

The following regulations shall apply in the Residential-Agricultural District:

- A. Permitted principal uses:
 - (1) Single-family dwelling.
 - (2) Two-family dwelling.
 - (3) Customary farm occupation.
 - (4) Public utility structure.
 - (5) Church or similar place of worship, parish house, convent, rectory or parsonage.
 - (6) Public building of a governmental or cultural nature, school and other educational institution, public park and playground, day-care facility.
 - (7) Hospital, nursing or convalescent home, adult care facility.
 - (8) Bed-and-breakfast establishment.
 - (9) (Reserved)²
 - (10) Mobile home.

2. Editor's Note: Former Subsection A(9), rooming house, was repealed 4-27-2022 by L.L. No. 1-2022.
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- (11) Modular home, as a single-family or two-family dwelling.
- (12) Farm-related use.
- (13) Barn conversion.
- (14) Cottage or recreational cabin.
- (15) House trailer.

B. Permitted accessory uses:

- (1) Home occupation.
- (2) Private garage.
- (3) Other customary accessory use and building, provided such use is incidental to the principal use and does not include an activity commonly conducted as a business.
- (4) Professional office of a physician, lawyer, dentist, architect or engineer, surveyor or attorney, when conducted in a dwelling by the inhabitant thereof.
- (5) Roadside stand, in connection with a farm occupation, for the display and sale of agricultural products.
- (6) Off-street parking and loading.
- (7) Signs.
- (8) Accessory farm buildings.
- (9) Apartment garage.
- (10) Recreational cabin.
- (11) Boathouse.
- (12) Farm labor housing.

C. Uses requiring a special permit:

- (1) Abattoir.
- (2) Airfield, landing strip and related facilities.
- (3) Kennel, animal hospital and veterinary clinic.
- (4) Camp.
- (5) Cemetery.
- (6) Community building, golf course, social hall, club, lodge and fraternal organization.
- (7) Extractive industry and commercial logging operation.*
- (8) Sawmill.*
- (9) Hog, pig, poultry or fur-bearing animal farm.*
- (10) Migrant labor camp.
- (11) Mobile home park.*

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- (12) Multifamily dwelling.*
- (13) Riding academy and livery stable.*
- (14) Large-scale business or industrial development.
- (15) Planned development group.*
- (16) Telecommunications facility.*
- (17) Farm service use.
- (18) Large-scale cattle or dairy farm.
- (19) Rooming houses. [Added 4-27-2022 by L.L. No. 1-2022]

D. Lots, minimum requirements:

- (1) Lots not served with public sewer or water:
 - (a) Area: one acre.*
 - (b) Width: 150 feet.
 - (c) Depth: 100 feet.
- (2) Lots served with either public sewer or public water:
 - (a) Area: 10,000 square feet.*
 - (b) Width: 125 feet.
 - (c) Depth: 200 feet.

E. Yards, minimum requirements:

- (1) Front: 50 feet.*
- (2) Rear: 40 feet.*
- (3) Each side: 20 feet.

F. Maximum building height: 2 1/2 stories, not to exceed 35 feet.*

G. Maximum lot coverage: 30%.

* See also: Specific standards for special permits, § 300-2.12.

§ 300-2.6. General Residential (R-1) District regulations.

The following regulations shall apply in the General Residential District:

- A. Permitted principal uses: all permitted principal uses as regulated in R-A Districts, except a mobile home.
- B. Permitted accessory uses: all permitted accessory uses as regulated in R-A Districts, except a roadside stand.
- C. Uses requiring a special permit: multiwide mobile home.
- D. Lots, minimum requirements:

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- (1) Lots not served with public sewer or water:
 - (a) Area: 30,000 square feet.
 - (b) Width: 125 feet.
 - (c) Depth: 200 feet.
- (2) Lots served with either public sewer or public water:
 - (a) Area: 20,000 square feet.
 - (b) Width: 100 feet.
 - (c) Depth: 150 feet.

E. Yards, minimum requirements:

- (1) Front: 50 feet.
- (2) Rear: 30 feet.
- (3) Each side: 15 feet.

F. Maximum building height: 2 1/2 stories, not to exceed 35 feet.

G. Maximum lot coverage: 30%.

§ 300-2.7. Floodplain (F-P) District regulations.

The following regulations shall apply in the Floodplain District:

A. Permitted principal uses:

- (1) Customary farm occupation, but shall not include or permit the spreading, accumulation, feeding or use of garbage in any manner.
- (2) Park, playground or community recreation area, operated by a governmental agency.
- (3) None of the above uses shall include the creation of any building or structure for residential purposes.

B. Permitted accessory uses:

- (1) Home occupation and professional office in an existing residential structure.
- (2) Private garage.
- (3) Off-street parking and loading.
- (4) Office incidental and necessary to the conduct of a permitted use.
- (5) Sign.
- (6) Other accessory uses and buildings customarily appurtenant to a permitted use.

C. Uses requiring a special permit:

- (1) Private noncommercial recreation area, use and facility, including sportsman's club and facility.
- (2) Kennel.

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- (3) Outdoor theater, golf driving range, and similar commercial recreation facility.
- (4) Private airport or landing strip.
- (5) Dumping of noncombustible materials for landfill purposes.
- (6) Equipment and material storage yard.

D. Lots, minimum requirements:

- (1) Lots not served with public sewer or water:
 - (a) Area: two acres.
 - (b) Width: 250 feet.
 - (c) Depth: 200 feet.
- (2) Lots served with either public sewer or public water:
 - (a) Area: one acre.
 - (b) Width: 150 feet.
 - (c) Depth: 200 feet.

E. Yards, minimum requirements:

- (1) Front: 50 feet.
- (2) Rear: 50 feet.
- (3) Each side: 40 feet.

F. Maximum building height: three stories, not to exceed 40 feet.

G. Maximum lot coverage: 35%.

§ 300-2.8. Commercial (C-1) District regulations.

The following regulations shall apply in the Commercial District:

A. Permitted principal uses:

- (1) Retail business or service establishment.
- (2) Office, bank or other financial institution.
- (3) Social hall, club or lodge.
- (4) Motel or hotel.
- (5) Motor vehicle service station.
- (6) Theater or auditorium.
- (7) Motor vehicle repair shop.
- (8) Public garage.
- (9) Funeral parlor.

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- (10) Bowling alley.
- (11) Automobile sales and showroom.
- (12) Highway commercial establishment catering generally to the tourist, such as a gift shop, antique shop, and specialty shop.
- (13) Public utility structure.
- (14) Farm service use.
- (15) Cider mill.
- (16) Winery.
- (17) Portable sawmill.

B. Permitted accessory uses:

- (1) Dwelling except as to ground floor commercial space. [**Amended 4-27-2022 by L.L. No. 1-2022**]
- (2) Sign.
- (3) Off-street parking and loading.
- (4) Farm labor housing.
- (5) Boathouse.
- (6) Other accessory uses and buildings which are clearly incidental to a permitted use.

C. Uses requiring a special permit:

- (1) Travel trailer sales.
- (2) Mobile home sales and repair.
- (3) (Reserved)³
- (4) Public and semipublic uses of a welfare, educational, recreational or cultural nature.
- (5) Nursing or convalescent home.
- (6) Railway or bus passenger station.
- (7) Commercial self-service storage facility.
- (8) Marina and boatyard.

D. Lots, minimum requirements:

- (1) Lots not served with public sewer or water:
 - (a) Area: 20,000 square feet.
 - (b) Width: 125 feet.
 - (c) Depth: 150 feet.

3. Editor's Note: Former Subsection C(3), Mobile home park, was repealed 4-27-2022 by L.L. No. 1-2022.

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(2) Lots served with either public sewer or public water:

- (a) Area: 20,000 square feet.
- (b) Width: 125 feet.
- (c) Depth: 100 feet.

E. Yards, minimum requirements:

- (1) Front: 50 feet.
- (2) Rear: 25 feet.
- (3) Each side: 15 feet.

F. Maximum building height: three stories, not to exceed 45 feet.

G. Maximum lot coverage: 80%.

§ 300-2.9. Industrial (M-1) District regulations.

The following regulations shall apply in the Industrial District:

A. Permitted principal uses:

- (1) Agricultural or nursery uses, including the display and sale of farm products and the raising of stock and poultry, but not including dwellings.
- (2) Public utility structure.
- (3) Wholesale business, warehousing and distribution plant; storage and sales yard, open or enclosed, used for the storage of fuel, wood and coal, building materials, produce and meat, and machinery; contractor's equipment storage yard.
- (4) Heavy commercial uses, including machine shops, trade schools, machinery sales, laundries, bakeries, bottling works, dry cleaning and dyeing, custom manufacturing, manufacture of electronic equipment or precision instruments, furniture, optics and watches, research and other laboratories.
- (5) The manufacture, assembly or storage of products not objectionable or injurious because of smoke, dust, noise, vibration, odors, glare, noxious gas, hazardous materials, waste or particulate matter, traffic hazard or congestion, or fire or explosive hazard. Such materials would include: cloth, metal, plastic, paper, wood, leather, precious or semi-precious metals or stones, electronic or electrical instruments or devices, candy, food products, pharmaceuticals and the like.
- (6) Commercial self-service storage facility.
- (7) Farm service use.
- (8) Cider mill.
- (9) Winery.
- (10) Portable sawmill.

B. Permitted accessory uses:

- (1) Accessory uses and buildings clearly incidental to a permitted use.

(2) Sign.

(3) Off-street parking and loading.

(4) Private garage.

(5) Farm labor housing.

(6) Boathouse.

C. Uses requiring a special permit:

(1) Freight or truck terminal for the overnight parking of trucks, tractors or trailers.

(2) Retail business or service establishment.

(3) Junkyard, wrecking yard and scrap processing.

(4) Dump.

(5) Adult use.

D. Lots, minimum requirements:

(1) Lots not served with public sewer or water:

(a) Area: one acre.

(b) Width: 200 feet.

(c) Depth: 150 feet.

(2) Lots served with either public sewer or public water:

(a) Area: 20,000 square feet.

(b) Width: 100 feet.

(c) Depth: 200 feet.

E. Yards, minimum requirements:

(1) Front: 75 feet.

(2) Rear: 35 feet.

(3) Each side: 25 feet.

F. Maximum building height: four stories, not to exceed 60 feet.

G. Maximum lot coverage: 50%.

ARTICLE V
Regulations Governing Special Uses

§ 300-2.10. Special permit required. [Amended 4-27-2022 by L.L. No. 1-2022]

- A. Notwithstanding any provision of Chapter 300 to the contrary, land uses or activities requiring a special permit shall be permitted only upon authorization by the Town Board after review by the Town Planning Board, provided that such uses shall be found by the Town Board to comply with the following general requirements and any other applicable requirements as set forth in this chapter, or the rules, regulations and statutes of the Town of Lyons, Wayne County, State of New York. Notwithstanding any provision of this chapter to the contrary, all references to "Board of Appeals" appearing in this Chapter 300 insofar as they may relate to special use permits or special permits shall mean the Town Board of the Town of Lyons. It is the intention of this section of this section to transfer the authority to grant special use permits and special permits back to the Town Board to better assure compatibility of special use permits and special permits with the intent of Chapter 300. However, nothing in this section is intended to restrict the authority of the Zoning Board of Appeals as set forth in § 300-4.4 with the exception of § 300-4.4G(3).
- B. In determining any applications for a special permit, the Town Board may impose time duration limits on the special permit in addition to all other conditions as may be necessary to effectuate the laws, rules and regulations of the Town of Lyons, County of Wayne, State of New York and United States of America. Nothing in this section shall be viewed as limiting the authority of the Town of Lyons Zoning Board of Appeals as is set forth in Chapter 157, Article VI, Variance Procedure, or the authority granted to the Lyons Zoning Board of Appeals under § 300-4.4 with the exception of Subsection G(3) of § 300-4.4 which now reads: "To issue special use permits for any use for which this chapter requires the obtaining of such permits from the Board of Appeals" is deleted and repealed by this section.

§ 300-2.11. General standards.

Special permitted uses, as allowed under this article, shall comply in all respects with the provisions of this article and those of Articles IV and VI.

- A. The use should be one specifically enumerated as a special use in the district in which it is to be located.
- B. The use shall be compatible with adjoining development, shall not cause substantial injury to the value of other property where it is to be located, shall provide adequate landscaping and screening, and shall not jeopardize the public health, safety, welfare and convenience.
- C. The use shall provide vehicular access and off-street parking and loading so as to minimize interference with traffic on the thoroughfares and shall provide appropriate pedestrian walkways so as to ensure public safety.

§ 300-2.12. Specific standards.

In addition to the general standards prescribed for all special permits, the following specific standards shall apply to the listed uses.

§ 300-2.13. Junkyards, wrecking yards and scrap processing.

- A. Any area used for a junkyard, wrecking yard or scrap processing shall be enclosed by a substantial and solid fence at least eight feet in height, with openings only for access and egress, which shall be kept in good order and repair.
- B. Any area used for a junkyard, wrecking yard or scrap processing shall not be located nearer than 200 feet to any residential or commercial district and shall be no nearer than 50 feet to any public highway right-of-way line.

§ 300-2.14. Retail uses in Industrial Districts.

Retail uses in Industrial Districts shall be permitted only where the applicant can prove to the Board of Appeals that such use is necessary to serve primarily industrial uses in the vicinity.

§ 300-2.15. Sawmills.

- A. A site plan showing the following data shall be submitted upon application for a special permit to build or operate a sawmill:
- (1) The proposed area of operation.
 - (2) The minimum distance of any sawmill and related facilities from an existing or proposed street.
 - (3) The proposed manner of operation, including the routing of traffic to and from the site.
 - (4) The hours of operation.
- B. No sawmill shall be located any closer than 500 feet to any off-premises building used as a residence.
- C. No sawmill shall be located within 200 feet of any public right-of-way.
- D. No sawmill shall be located closer than 500 feet to another existing sawmill.

§ 300-2.16. Extractive industries and commercial logging operations.

- A. A site plan showing the following information shall be submitted upon application for a special permit to operate an extractive industry or commercial logging operation:
- (1) The proposed area of operation.
 - (2) The minimum distance of any excavation, mining or logging operation from an existing or proposed street.
 - (3) Property lines.
 - (4) The proposed manner of operation, including the routing of traffic to and from the site.
 - (5) The proposed restoration or improvement of the site at the conclusion of the operation.
 - (6) The hours of operation.
- B. The final slope of any spoil in any excavation, mining or logging operation shall not exceed the normal angle of repose of the material. Any spoil mounds or areas stripped shall be seeded or planted with vegetation to prevent erosion.
- C. No depression, pit or mine shall be left open or below the surrounding ground level unless adequately drained and properly fenced.
- D. The area of operation shall not occur any closer than 1,000 feet to any existing structure or building intended for residential purposes, nor within 200 feet of any public right-of-way.
- E. Arable soil in the area of the operation shall be set aside and used in the reclamation of the site in accordance with Subsection A above.
- F. The Board of Appeals may prescribe other reasonable measures to preserve the appearance of the area and avoid hazardous conditions.

§ 300-2.17. Planned development groups.

The following shall apply to special permits for planned development groups:

- A. Under the standard provisions of this chapter, a separate ground area must be designated, provided and continuously maintained for each structure or use. Pursuant to the procedure hereinafter set forth, two or more such structures may be erected and maintained on the same lot. Also, several lots may be combined into one plan covering a planned development group. The procedure is intended to permit diversification in the location of structures and to improve circulation facilities and other site qualities while ensuring adequate standards relating to the public health, safety, welfare and convenience in the use and occupancy of buildings and facilities in planned groups.
- B. Before approval of a special permit, the Planning Board shall review the site plan and shall make findings in regard to the following:
- (1) Traffic access. All proposed site traffic accessways are adequate, but not excessive in number, adequate in grade, width, alignment and visibility, and not located too near street corners, the entrances to schools or places of public assembly and other similar considerations.
 - (2) Circulation and parking. The interior traffic circulation system is adequate and all required parking spaces are provided and are easily accessible.
 - (3) Paving and drainage. There shall be adequate design of grades, paving, gutters, drainage and treatment of turf to handle stormwaters, prevent erosion and formation of dust.
 - (4) Disposal of usable open space. In accordance with the intent of this chapter, wherever possible, usable open space is disposed of in such a way as to ensure the safety and welfare of residents.
 - (5) Arrangement of buildings. Adequate provision has been made for light, air, access and privacy in the arrangement of buildings to each other. Each dwelling unit shall have a minimum of two exterior exposures.
 - (6) Proper landscaping. The proposed site is properly landscaped, the purpose of which is to further enhance the natural qualities of the land. Where adjacent land use dictates, proper screening and buffering zones may be required.
 - (7) Signs and lighting. Signs and lighting devices shall be properly arranged with respect to traffic control devices and adjacent residential areas.

§ 300-2.18. Multiple dwellings.

- A. The minimum lot size for multiple dwellings shall be:
- (1) Lots not served with public sewer or water: 10,000 square feet per dwelling unit and not less than 24,000 square feet total.
 - (2) Lots served with either public sewer or public water: 5,000 square feet per dwelling unit and not less than 20,000 square feet total.
- B. The minimum size of dwelling units, exclusive of additional building area required for common use of the tenants, such as lobbies, corridors, stairways, elevators and storage space, shall be:
- (1) For an efficiency apartment: 550 square feet, but not more than 25% of the total dwelling units provided may be efficiency apartments.
 - (2) For a one-bedroom apartment: 675 square feet.

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- (3) For a two-bedroom apartment: 800 square feet.
 - (4) For a three-bedroom apartment: 950 square feet.
 - (5) In any dwelling unit, any room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space. Any room occupied for sleeping purposes by two persons shall contain at least 100 square feet of floor space. No more than two persons may occupy any single bedroom or sleeping area.
- C. The maximum permitted height for multiple dwellings shall be three stories, not to exceed 40 feet.
- D. Multiple dwellings shall have a minimum front yard setback of 70 feet and a minimum rear yard setback of 50 feet.
- E. No exterior wall shall exceed 100 feet in length unless there is a lateral offset of at least 10 feet in its alignment.
- F. All stairways to the second or higher floor shall be located inside the building.
- G. Access to public streets shall be provided as follows:
- (1) All multiple dwellings shall have direct access to a dedicated highway.
 - (2) If there are more than 12 dwelling units in a multiple dwelling or complex, direct access shall be provided to a county or state highway by a private driveway or road dedicated to the Town by the developer.
 - (3) If there are more than 50 dwelling units in an apartment complex, or if, in the opinion of the Planning Board, the location or topography of the site indicates the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.
- H. Off-street parking shall be provided as required by this chapter, except that parking areas shall not be located within the front yard or required side yard setbacks. Parking areas which abut or face upon a residential use or residentially zoned property shall be effectively screened from view by an opaque fence or dense planting of evergreens not less than six feet in height.
- I. The minimum distances between separate buildings in an apartment complex shall be as follows:
- (1) Between the front of one building and the front or rear of another building: 1/2 the sum of the heights of the opposing buildings, but not less than 50 feet and not needing to exceed 80 feet.
 - (2) Between the rear of one building and the rear of another building: 4/10 of the sum of the heights of the opposing buildings, but not less than 50 feet and not needing to exceed 60 feet.
 - (3) Between the front or rear of one building and the side of another building: 1/5 of the sum of the heights of the opposing buildings, but not less than 50 feet and not needing to exceed 75 feet.
- J. There must be an adequate supply of potable water for domestic consumption and fire-fighting purposes. If there are more than 50 dwelling units in the apartment complex, public water must be available.
- K. If there are more than 50 dwelling units in the apartment complex, public sewers must be available. The provisions for the disposal of all sewage must be approved by the New York State Department of Health before final approval can be acquired and a permit issued.
- L. The street systems of apartment complexes shall meet the following minimum requirements, absent control by another jurisdiction:
- (1) Roads connecting the street system to a public highway shall have a minimum road pavement width of

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34 feet where parking is permitted on both sides, and a minimum road pavement width of 27 feet where parking is limited to one side. Where an entrance road is more than 100 feet long and does not provide access to abutting buildings along such distance, the minimum road pavement width may be 20 feet, provided that parking is prohibited on both sides.

- (2) Internal streets shall have a minimum road pavement width of 25 feet, provided that parking is limited to one side.
 - (3) Internal streets may have a minimum road pavement width of 18 feet if no parking is provided and either of the following conditions applies:
 - (a) The street is less than 500 feet long and serves fewer than 25 dwelling units.
 - (b) The street is one-way and provides access to abutting buildings on one side only.
 - (4) Dead-end streets shall be limited in length to 1,000 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet.
 - (5) All streets shall be surfaced with a hard, smooth, dustless material, shall be durable and well-drained under normal use and weather conditions, and shall be striped to delineate parking spaces. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base.
 - (6) Within 100 feet of an intersection, streets shall be at approximately right angles. A distance of at least 150 feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two streets at one point shall be avoided.
- M. All areas of the apartment complex shall be provided with artificial light of sufficient intensity to afford safe movement of vehicles and pedestrians at night, with special consideration given to potentially hazardous locations, such as street intersections, steps and ramps.
 - N. The entire apartment complex shall be provided with safe, convenient, concrete pedestrian walkways between individual dwelling units, streets, parking areas, buildings and facilities provided for residents. Walkways shall be a minimum of 3 1/2 feet in width and separated from the street system by at least four feet.
 - O. Trees and shrubs shall be provided along all walks and streets, where feasible, and around recreation areas. Trees shall be planted at intervals of approximately 50 feet.
 - P. The storage, collection and disposal of refuse in the apartment complex shall be conducted so as not to create health hazards, rodent harborage, insect breeding areas, fire hazards, or noxious odors. All refuse shall be stored in watertight, insect- and rodent-proof containers which shall be located not more than 150 feet from any individual dwelling unit. Containers shall be provided in sufficient number and capacity to properly store all refuse. Refuse containers shall be separated from all adjoining lots or rights-of-way by a screening device not less than four feet in height, or otherwise contained within an enclosed structure, except during such times as are designated for the removal of contents. All refuse shall be collected at least weekly.
 - Q. Storage areas shall be maintained so as to prevent rodent harborage. Lumber, pipes, and other building materials shall be stored at least one foot above grade. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials. The growth of brush, weeds, and grass shall be controlled to prevent the harborage of ticks, chiggers and other noxious insects. Apartment complexes shall be maintained to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds. Open areas shall be maintained free of heavy undergrowth of any description.
 - R. Each apartment complex shall be provided with one or more outdoor recreation areas, which shall be accessible to all residents. Outdoor recreation areas shall be a minimum of 200 square feet per dwelling unit in the complex, but not less than 5,000 square feet. Outdoor recreation areas shall be located so as to be free

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- S. Apartment complexes shall be laid out and graded to provide positive drainage away from buildings, and storm sewers, culverts and related installations shall be provided where necessary.
- T. A special use permit shall be required for any expansion in occupied area or number of units in and multiple dwelling, multifamily, mixed use, boardinghouse, or rooming house. **[Added 4-27-2022 by L.L. No. 1-2022]**

§ 300-2.19. Riding academies and livery stables.

- A. The minimum lot area for riding academies and livery stables shall be in accordance with the following schedule:

Number of Horses	Minimum Acreage
1 or 2	3
3 to 5	5
6 to 10	1 acre per horse
More than 10	Additional 1/2 acre per additional horse

- B. The barns, stalls, paddocks and other grounds associated with the riding academy or livery stable shall be maintained in a clean and sanitary manner so as not to create any condition or odor which would be objectionable to persons occupying neighboring properties.

§ 300-2.20. Hog, pig, poultry or fur-bearing animal farms.

- A. No structure or area used to shelter or feed hogs, pigs, poultry or fur-bearing animals shall be located within 200 feet of any property line.
- B. The barns, sheds, feedlots and other grounds associated with a hog, pig, poultry or fur-bearing animal farm shall be maintained in a clean and sanitary manner so as not to create any condition or odor which would be objectionable to persons occupying neighboring properties.

§ 300-2.21. Mobile home parks.

- A. The construction, alteration and extension of mobile home parks shall require a building permit, and shall comply with all of the requirements of this chapter.
 - (1) All applications for permits shall contain the following:
 - (a) Name and address of applicant; if the applicant is a partnership, the names and addresses of the partners; if the applicant is a corporation, the names and addresses of the officers and directors.
 - (b) Name and address of the owner of the land.
 - (c) Location and legal description of the mobile home park.
 - (d) Two sets of engineering and/or architectural plans showing the following:
 - [1] Area and dimensions of the tract of land.
 - [2] Number, location and size of all mobile home lots.
 - [3] Location and width of roadways and parkways.
 - [4] Location of service buildings and other proposed structures.

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- [5] Location of water and sewer lines and riser pipes.
- [6] Plans and specifications of the water supply and sewage disposal systems.
- [7] Plans and specifications of all buildings to be constructed, altered or extended.
- [8] Location and details of lighting and electrical systems.

(2) Upon review of the application, and subject to evidence that the mobile home park meets the minimum requirements of the New York State Department of Health, the Code Enforcement Officer shall issue a permit if satisfied that the proposed improvements meet the requirements of this chapter.

- B. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion shall be subject to unpredictable or sudden flooding or erosion.
- C. A mobile home park shall have an area of not less than five acres; and the total number of mobile home lots shall not exceed 10 per acre.
- D. All mobile homes shall be located at least 100 feet from any park property line abutting upon a public street or highway and at least 50 feet from other park property lines.
- E. Mobile homes shall be separated from each other and from other buildings and structures by at least 30 feet, provided that mobile homes placed end to end may have a clearance of 20 feet where opposing rear walls are staggered.
- F. For purposes of all separation requirements, all porches, decks and patios which are more than one foot above grade and/or have an opaque roof shall be considered a part of the mobile home if attached to or located within 10 feet of such mobile home.
- G. There shall be a minimum distance of 15 feet between an individual mobile home and an adjoining street, parking area, walk or other common area.
- H. In all parks accommodating or designed to accommodate five or more mobile homes, there shall be one or more outdoor recreation areas which shall be easily accessible to all park residents. The size of such recreation area shall be based upon a minimum of 200 square feet for each lot. No outdoor recreation area shall contain less than 5,000 square feet. Outdoor recreation areas shall be located so as to be free of traffic hazards and should, where topography permits, be centrally located.
- I. The street systems of mobile home parks shall meet the following minimum requirements, absent control by another jurisdiction:
 - (1) Roads connecting the street system to a public highway shall have a minimum road pavement width of 34 feet where parking is permitted on both sides, and a minimum road pavement width of 27 feet where parking is limited to one side. Where an entrance road is more than 100 feet long and does not provide access to abutting mobile home lots along such distance, the minimum road pavement width may be 20 feet, provided that parking is prohibited on both sides.
 - (2) Internal streets shall have a minimum road pavement width of 20 feet.
 - (3) Internal streets may have a minimum road pavement width of 18 feet if no parking is provided and either of the following conditions applies:
 - (a) The street is less than 500 feet long and serves fewer than 25 mobile homes.
 - (b) The street is one-way and provides access to abutting mobile home lots on one side only.
 - (4) Dead-end streets shall be limited in length to 1,000 feet and shall be provided at the closed end with a

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turnaround having an outside roadway diameter of at least 100 feet.

- (5) All streets shall be surfaced with a hard, smooth, dustless material, shall be durable and well-drained under normal use and weather conditions, and shall be striped to delineate parking spaces. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base.
 - (6) Within 100 feet of an intersection, streets shall be at approximately right angles. A distance of at least 150 feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two streets at one point shall be avoided.
- J. All areas of the mobile home park shall be provided with artificial light of sufficient intensity to afford safe movement of vehicles and pedestrians at night, with special consideration given to potentially hazardous locations, such as street intersections, steps and ramps.
 - K. All mobile home parks shall be provided with safe, convenient, dust-free, all-season pedestrian access between individual mobile homes, streets, parking areas, buildings and facilities provided for residents. Walkways shall be at least two feet in width and separated from the street system by at least four feet.
 - L. Trees and shrubs shall be provided along property lines, where feasible, and around recreation areas. Trees shall be planted at intervals of approximately 50 feet.
 - M. An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park. Where a public supply of water of satisfactory quantity, quality and pressure is available, connection shall be made thereto and its supply used exclusively. When a satisfactory public water supply is not available, a private water supply system may be developed and used as approved by the New York State Department of Health. If public water is available, fire hydrants shall be provided in accordance with the requirements of the Fire Department.
 - N. An adequate and safe sewage disposal system shall be provided in all mobile home parks. Where a public sewer system of satisfactory capacity is available, connection shall be made thereto. When a satisfactory public sewer system is not available, a private sewage disposal system may be developed and used as approved by the New York State Department of Health.
 - O. Each mobile home lot shall be improved with a stand of concrete or compacted gravel to provide an adequate foundation for the placement and tie-down of the mobile home. At the time of installation, the mobile home shall be securely blocked, leveled, tied down and connected to required utilities. Mobile homes shall be completely skirted to provide a finished exterior appearance and no exposed wallboard, building paper, or similar unfinished material will be permitted. No travel trailer, as defined in this chapter, shall be permitted to be placed on a temporary or permanent basis in a mobile home park.
 - P. Every mobile home park shall contain an electrical distribution system installed and maintained in accordance with applicable codes and regulations governing such systems. Power lines to each mobile home shall be installed underground.
 - Q. Every mobile home park shall be provided with facilities for the safe storage and handling of necessary fuels. Natural gas, liquefied petroleum gas and fuel oil systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
 - R. The storage, collection and disposal of refuse in the mobile home park shall be conducted so as not to create health hazards, rodent harborage, insect breeding areas, fire hazards, or noxious odors. All refuse shall be stored in watertight, insect- and rodent-proof containers which shall be located not more than 150 feet from any individual mobile home. Containers shall be provided in sufficient number and capacity to properly store all refuse. Refuse containers shall be separated from all adjoining lots or rights-of-way by a screening device not less than four feet in height, or otherwise contained within an enclosed structure, except during such times as are designated for the removal of contents. All refuse shall be collected at least weekly.

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- S. Storage areas shall be maintained so as to prevent rodent harborage. Lumber, pipes, and other building materials shall be stored at least one foot above grade. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials. The growth of brush, weeds, and grass shall be controlled to prevent the harborage of ticks, chiggers and other noxious insects. Mobile home parks shall be maintained to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds. Open areas shall be maintained free of heavy undergrowth of any description.
- T. Mobile home parks shall be laid out and graded to provide positive drainage away from buildings, and storm sewers, culverts and related installations shall be provided where necessary.
- U. Off-street parking shall be provided as required by this chapter. No off-street parking space shall be located more than 200 feet from the mobile home which it is intended to serve.

§ 300-2.22. Adult uses.

Adult uses shall be subject to the following restrictions:

- A. No adult use shall be located within 500 feet of another adult use.
- B. No adult use shall be located within 500 feet of the boundaries of any R-A or R-1 District.
- C. No adult use shall be located within 500 feet of any premises used for residential purposes, exclusively or in conjunction with another use; a school; or a place of worship.
- D. No adult use shall be located in any zoning district other than the M-1 Industrial District.
- E. Certificate of registration required.
- (1) In addition to any and all other necessary licenses and permits, no form of adult use shall be allowed to operate or be allowed to continue to operate until a certificate of registration is filed with the Code Enforcement Officer containing the following information:
- (a) The address of the premises.
- (b) The names, addresses and phone numbers of the owners of the business and property.
- (c) The name of the business or establishment.
- (d) The date of the initiation of the adult use.
- (e) The exact nature of the adult use.
- (2) If there occurs any change in the information required for the certificate of registration, the Code Enforcement Officer shall be notified of such change, and a new or amended certificate of registration shall be filed within 30 days of such change.
- (3) The processing fee for each such certificate of registration or amendment thereto shall be set from time to time by the Town Board by resolution.
- (4) The owner, manager or agent of any adult use shall cause a copy of the certificate of registration issued under the provisions of this section to be prominently displayed on the premises, building or location for which it is issued.
- F. No adult use shall be conducted in any manner that permits the observation of any sexually explicit material from any public way or from any property not registered as an adult use.

§ 300-2.23. Telecommunications facilities.

Telecommunications facilities shall be subject to the following restrictions:

- A. No telecommunications facility shall be located in any zoning district other than the R-A Residential-Agricultural District.
- B. At all times, shared use of existing facilities shall be preferred to construction of new facilities. An applicant for a special permit to construct a telecommunications facility shall be required to present an adequate report inventorying existing telecommunications facilities within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other existing structures as an alternative to new construction.
- C. In the case of new telecommunications facilities, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing facilities. Copies of written requests and responses for shared use shall be provided.
- D. The applicant must examine the feasibility of designing a proposed telecommunications facility to accommodate future demand for two additional commercial applications and shall design the facility for such shared use unless this requirement is waived by the Planning Board.
- E. All telecommunications facilities and accessory facilities or structures shall be sited to have the least practical adverse visual effect on the environment. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with natural surroundings. Any communication tower shall remain unpainted, or be painted gray or an appropriate color to harmonize with the surroundings. Towers shall not be artificially lighted or marked except as otherwise required by law.
- F. Existing on-site vegetation shall be preserved to the maximum extent practicable. Reasonable landscaping consisting of trees, shrubs and plantings shall be utilized to effectively screen the base of any tower and accessory facilities from adjacent properties.
- G. Communications towers shall comply with all existing setback requirements of the applicable zoning district, or such setbacks shall be equal to 1/2 the height of the tower, whichever is greater.
- H. Telecommunications facilities shall be located, fenced or otherwise secured in a manner which prevents unauthorized access by the general public.

§ 300-2.24. Multiwide mobile homes.

Individual multiwide mobile homes shall be permitted to be placed on a lot in the R-1 District, for use as a single-family dwelling, upon issuance of a special permit by the Zoning Board of Appeals, and provided that they comply with the following:

- A. The home shall have a minimum of 1,000 square feet of floor area, exclusive of site-built additions.
- B. The least dimension of the home shall be not less than 1/3 of its greatest dimension.
- C. The home shall have a minimum 4/12 roof pitch.
- D. Masonry skirting (with a minimum thickness of six inches) shall be installed to enclose the underside of the home and provide a finished exterior appearance.
- E. If not provided with a basement, an enclosed storage building of not less than 100 square feet shall be provided on the same lot for storage purposes.

§ 300-2.25. Large-scale cattle or dairy farms.

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- A. The minimum size of any large-scale cattle or dairy farm shall be 1 acre per head of cattle, dairy cows, and calves.
- B. The minimum size of a large-scale cattle or dairy farm may be permitted to be reduced, provided that the owner submits to the Zoning Board an Agricultural Environmental Management (AEM) Plan. As a condition for approval, the large-scale cattle or dairy farm operation shall be implemented and maintained in accordance with such developed plan. Any changes to said AEM Plan shall be submitted to the Planning Board for review and approval.

§ 300-2.26. Farm service uses.

It shall be preferable to locate farm service uses in C-1 or M-1 Districts. Any applicant for a special permit to locate a farm service use in the R-A District shall submit a report demonstrating good faith efforts to secure a suitable site for such use within the C-1 and M-1 Districts. Where a commercially or industrially zoned site is not available, it shall be permitted to locate such use in the R-A District, in conformance with all other provisions of this chapter.

§ 300-2.27. Changes or modifications to special permit uses.

- A. Any change or modification to a use requiring a special permit shall require Planning Board review, except for the following:
- (1) Removal or repair of a dangerous condition to a principal or accessory structure when determined by an enforcement agency that circumstances exist which, if not corrected, constitute a threat to life, health, or safety of the general public or such other persons for whose protection such regulations were intended.
 - (2) Routine repair, replacement, or maintenance of electrical or mechanical installations or of damaged or worn parts or surfaces, including repainting, facade repair and roof replacement of principal and accessory structures.
 - (3) Changes in ownership or management which do not change the specific use of the property.
 - (4) Repaving or painting of driveways and parking areas without altering the approved traffic pattern.
 - (5) Routine landscaping or the repair or replacement of existing screening devices, without altering the approved vehicular or pedestrian traffic patterns and consistent with applicable controls concerning height, location, and visibility.
- B. If the Planning Board determines that a proposed change or modification to a use requiring a special permit is substantial, the use shall require a new special permit to be issued by the Zoning Board of Appeals. A change or modification shall be deemed substantial if the proposal:
- (1) Significantly changes the use, design, character or nature of development of the property in question; or
 - (2) Would have a significant impact on the development or use of adjacent property; or
 - (3) Would significantly impact the orderly flow of vehicular and/or pedestrian traffic on or off site.
- C. The Zoning Board may impose other conditions incidental to the issuance of a special permit which, in its opinion, are reasonable and necessary and are in compliance with applicable provisions of the law.

ARTICLE VI
Supplementary Regulations

§ 300-2.28. Lot regulations.

- A. The area or dimension of any lot shall not be created or reduced to less than the minimum required by this chapter. If already less than the minimum required by this chapter, said area or dimension may be continued and shall not be further reduced.
- B. At all street intersections, no obstruction to vision which is a hazard to vehicular movement exceeding three feet in height above curb level shall be permitted on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines 25 feet distant from their point of intersection.

§ 300-2.29. Height exceptions.

The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads, antennas, similar features and necessary mechanical appurtenances usually carried above the roof level.

§ 300-2.30. Yard regulations.

- A. Corner lots shall provide the minimum front yard requirements for the respective district for both intersecting streets.
- B. Where a building lot has frontage upon a public street which on the traffic plan or Official Map of the Town of Lyons is contemplated for right-of-way widening, the required front yard area shall be measured from such proposed future right-of-way line.
- C. All uses permitted in the C-1 District shall provide a minimum side yard of 50 feet where such side yard abuts an R-A or R-1 District.
- D. All uses permitted in the M-1 District shall provide a minimum side yard of 100 feet where such side yard abuts an R-A or R-1 District.

§ 300-2.31. Attached accessory structures.

An accessory structure attached to the main or principal building shall comply in all respects with the requirements of this chapter applicable to the main building.

§ 300-2.32. Detached accessory structures.

Accessory structures which are not attached to a principal structure may be erected in accordance with the following restrictions:

- A. No accessory structure may be located closer than five feet to any side or rear lot lines.
- B. No accessory structure may be located closer to the street than the street wall of the principal structure, except that where the principal structure is more than 200 feet from the front lot line, an accessory building shall be no closer than 200 feet to the front lot line.
- C. No accessory structure shall be located closer to a principal structure than 10 feet.
- D. A shed not requiring a permanent foundation shall not be subject to side or rear yard requirements, provided it does not exceed 140 square feet in area and six feet in height.

§ 300-2.33. Landscaping regulations.

Any new use which is in, abuts, is adjacent to, or is less than 50 feet from any R-A or R-1 District and which is not conducted within a completely enclosed building, such as junkyards, storage yards, lumber and building materials yards, parking lots, and like uses, shall be entirely enclosed by a fence or wall, or landscaping sufficient to effectively shield such uses. This section shall not apply to nurseries, or to the display for sales purposes of new or used cars, trucks, trailers, bicycles, motorcycles, or farm equipment.

§ 300-2.34. Fences.

- A. No person shall construct any fence in any R-1 District to a height greater than 4 1/2 feet above ground level, except that a fence not exceeding 6 1/2 feet above ground level may be installed in any side or rear yard. In the front yard, fences shall have the finished side facing out. From the rear line of the front yard to the rear lot line, and along the rear lot line, either side of the fence may face out.
- B. Fences may be placed on property lines. The party constructing the fence is responsible for determining the location of the property lines. Fences placed as an encroachment shall be removed.
- C. Barbed-wire fencing. No barbed-wire fence shall be permitted to be placed in any district, except those necessary for legitimate agricultural activities, or when the barbed-wire portion is carried at least eight feet above the adjoining grade.
- D. Electrified fencing. No electrified fence shall be permitted in any district except those necessary for legitimate agricultural activities.
- E. Fencing in front yards in R-1 Districts. In R-1 Districts, fences within a front yard shall be of an open type, such as picket, chain link, wrought iron, or split rail.

§ 300-2.35. Off-street parking regulations.

In all districts, in connection with every manufacturing, business, institutional, recreational, residential or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking spaces in accordance with the requirements set forth below. The number of required off-street parking spaces shall be the number required for the entire structure.

- A. Each off-street parking space shall have an area of not less than 200 square feet, exclusive of access drives or aisles, and each parking space shall have a minimum width of 10 feet. There shall be adequate provision for ingress to and egress from all parking spaces. Access drives or driveways shall not be less than 10 feet wide.
- B. Off-street parking areas shall be designed so that all vehicular movement to and from the public right-of-way is in a forward direction, and shall permit entering and exiting without moving vehicles parked in other spaces. This provision shall not apply to one- or two-family dwellings.
- C. No driveway connecting to a Town road shall be constructed without the approval of the Town Highway Superintendent and Town Zoning Officer. All culverts, grades and slopes shall be approved by the Town Highway Superintendent.
- D. Parking schedule. The ratios listed below for each use are based upon the square footage of a structure's floor area as defined herein. In calculating the required number of spaces, all fractional results shall be rounded up to the next highest whole number.
 - (1) Dwellings, including mobile homes, but excluding professional residence-offices and home occupations [see Subsection D(11)]: at least one space and not more than four spaces for every dwelling unit.
 - (2) Church or similar place of worship: at least one space for every five seats provided, except that this number may be reduced or eliminated if there exist within 500 feet of the place of worship public or

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private parking lots containing a sufficient number of off-street parking spaces to satisfy this requirement. Any such parking must be shown to be legally available for worshippers on the day or days of greatest use.

- (3) Community buildings, country clubs, social halls, lodges, fraternal organizations and similar uses: at least one space for each 200 square feet of floor area used in connection with the operation.
- (4) Schools: at least five administrative spaces and at least two spaces for each classroom for preschools, elementary or middle/junior high schools; at least five spaces per classroom for high schools.
- (5) Motels, hotels, rooming houses, and bed-and-breakfast establishments: at least one space for each rentable unit.
- (6) Funeral home or mortuary: at least five spaces for each parlor, but not less than 10 spaces.
- (7) Hospitals, nursing and convalescent homes: at least one space for every three beds provided, plus at least one space for every two employees on maximum shift.
- (8) Motor vehicle service station or repair shop: at least 10 spaces.
- (9) Day-care facility: at least one space for each employee on maximum shift, plus at least one space for every five children.
- (10) Restaurant or other eating establishments, bars and nightclubs: at least one space for every four seats provided, or one space for every 100 square feet of customer floor area, whichever is greater.
- (11) Professional residence-offices and home occupations: at least five spaces.
- (12) Wholesale, warehouse, and storage buildings: at least one space for every employee on maximum shift or one space for every 500 square feet of floor area, whichever is greater.
- (13) Retail stores, shops, and service establishments: at least one space for each 300 square feet of floor area.
- (14) Bowling alleys: at least six spaces for each alley.
- (15) Business offices: at least one space for every 400 square feet of floor area, but not less than two spaces.
- (16) Theater or auditorium: at least one space for every three seats.
- (17) Manufacturing, industrial and other general commercial uses: at least one space for each 1,000 square feet of floor area, plus one space for each four employees on the maximum working shift.

- E. The above is to be used as a minimum standard, and in any event traffic generated must be accommodated.
- F. For structures and land uses that do not fall into the categories listed above, a reasonable and appropriate requirement for off-street parking shall be determined in each case by the Zoning Board of Appeals, which shall consider each new use based on the factors involved.

§ 300-2.36. Off-street loading regulations.

In any district, in connection with every building, or building group or part thereof hereafter erected which is to be occupied by manufacturing or commercial uses or distribution by vehicles of materials or merchandise, there shall be provided and maintained, on the same zone lot with such building, off-street loading berths in accordance with the following requirements:

- A. Each loading space shall be not less than 10 feet in width, 60 feet in length, and have a minimum clearance of 14 feet, and may occupy all or any part of any required yard.

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- B. Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use, and provided that all regulations governing the location of accessory spaces in relation to the use served are adhered to. Further, no accessory space or portion thereof shall serve as a required space for more than one use unless otherwise approved by the Zoning Board of Appeals in accordance with the purposes and procedures set forth herein.
- C. Minimum off-street loading requirements for retail and service establishments, commercial, wholesale, manufacturing, storage, and miscellaneous uses:

Floor Area (square feet)	Minimum Number of Loading Berths Required
5,000 to 25,000	1
25,001 to 40,000	2
40,001 to 60,000	3
60,001 to 100,000	4
Each additional 50,000 or fraction thereof	1 additional

§ 300-2.37. Roadside stands.

All roadside stands must be set back a minimum of 30 feet from any highway right-of-way.

§ 300-2.38. Residential conversions.

All residential conversions shall have at least 3,000 square feet of lot area and at least 600 square feet of floor area for each dwelling unit, except as provided in § 300-2.18B(1), and no converted building shall have more than a total of four dwelling units.

§ 300-2.39. Bed-and-breakfast establishments.

The following restrictions apply to bed-and-breakfast establishments:

- A. Overnight accommodations shall be for a maximum stay of seven consecutive days. The owner shall maintain a guest register and shall preserve registration records for a minimum of three years. The register and all records shall be made available to the Code Enforcement Officer upon request.
- B. The number of rooming units for transient accommodation shall not exceed five. The minimum lot size shall be the minimum lot size designated in the applicable zoning district, plus 1,000 square feet for each rooming unit provided.
- C. Any meals provided or amenities connected with the rooming units, such as a swimming pool or tennis court, shall be solely for the use of the owner, the owner's family, and the owner's registered guests. No cooking or dining facilities shall be permitted in individual rooming units.
- D. Any exterior alterations to the bed-and-breakfast establishment, and any walks, fences, and landscaping shall maintain the appearance of a single-family residence.

§ 300-2.40. Signs.

Signs may be erected and maintained only when in compliance with the following regulations:

- A. Signs in R-A and R-1 Districts. The following types of nonilluminated, nonadvertising signs are permitted in all residential districts as follows:

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- (1) Nameplate and identification signs. Signs indicating the name or address of the occupant, or a permitted home occupation, provided that they shall not be larger than four square feet in area. Only one such sign per dwelling unit shall be permitted; except in the case of corner lots, where two such signs (one facing each street) shall be permitted for each dwelling unit.
 - (2) Sale or rental signs. Signs advertising the sale or rental of the premises upon which they are located may be erected or maintained, provided that the size of any such sign is not in excess of six square feet and not more than two such signs shall be permitted; except in the case of corner lots, where two additional signs shall be permitted on each additional frontage.
 - (3) Institutional signs. Signs of schools, colleges, churches, hospitals, sanatoria, or other institutions of a similar public or semi-public nature may be erected and maintained, provided that the size of any such sign is not in excess of six square feet, and not more than one such sign shall be located on a property; except in the case of corner lots, where two such signs may be erected, one on each frontage.
 - (4) Signs accessory to parking areas. Signs designating entrances and exits to or from a parking area shall be limited to one sign for each such entrance or exit and to a maximum size of four square feet. One sign per parking area designating the conditions of use or identity of such parking area shall be permitted and limited to a maximum size of 10 square feet, provided that on corner lots two such signs shall be permitted, one on each frontage.
 - (5) Development signs. Signs advertising the sale or development of the premises upon which they are located, when erected in connection with the development of the premises, may be erected and maintained, provided that the size of any such sign is not in excess of 20 square feet, and not more than two such signs shall be located on a property; except in the case of corner lots, where two such signs may be erected on each frontage. Any such signs shall be removed by the developer within 30 days of the final sale of the property.
 - (6) Signs directing the traveling public to eating, lodging, camping or recreational areas. No such sign shall exceed 50 square feet.
 - (7) Nonresidential signs in R-A Districts.
 - (a) One sign for a roadside stand shall be permitted in each direction of approach to the stand, and one sign at the stand, provided that each such sign not exceed 24 square feet.
 - (b) Signs for bed-and-breakfast establishments shall conform to the requirements of Subsection A(1) above.
 - (c) Signs for other nonresidential uses shall conform to the applicable requirements of Subsection A(1) through (6). Signs for commercial or industrial uses in the R-A District shall be permitted if in conformance with Subsection B, and only upon approval of the Planning Board.
- B. Signs in C-1 and M-1 Districts.
- (1) No business sign shall exceed 100 square feet in any C-1 District or 150 square feet in any M-1 District; except that where only one surface of such sign is visible, the surface area may be increased by 50%.
 - (2) Flashing and revolving signs shall be prohibited. Stationary illuminated signs shall be permitted.
- C. General regulations. The following regulations shall apply to all permitted signs:
- (1) No freestanding sign shall be located nearer to any property line than 10 feet.
 - (2) No sign shall be higher than the height limit for the district where such sign is located, nor shall any sign be located upon the roof of any building.

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- (3) Signs shall be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
- (4) If the Code Enforcement Officer shall find that any sign regulated by this chapter is unsafe or not secure or is a menace to the public, he or she shall give written notice to the named owner of the sign and also the named owner of the land upon which the sign is erected, who shall remove or repair said sign within 15 days of the date of said notice. If said sign is not removed or repaired, the Code Enforcement Officer shall revoke the permit issued, if any, and shall cause the removal or repair of said sign and shall assess all costs and expenses incurred in said removal or repair against the land or building on which such sign was located. The Code Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.
- (5) Any sign which, in the determination of the Code Enforcement Officer, is abandoned or no longer advertises a bona fide business conducted or product sold on the premises shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which said sign shall be found within 10 days after written notification by the Code Enforcement Officer. Where a business activity has been discontinued for a period of 90 days, the related sign(s) shall be presumed to be abandoned unless the owner, beneficial user or other party in interest files a written certification with the Code Enforcement Officer that such sign is to be utilized within 30 days following such ninety-day period. This provision shall not apply to those signs which, in the determination of the Planning Board, are of unique artistic, cultural, architectural, or historic significance.

§ 300-2.41. Wetlands.

- A. Wetlands areas are those areas so designated on any wetlands map for the Town of Lyons and determined by data developed by the Town, by Wayne County or by the State Department of Environmental Conservation.
- B. Each landowner who intends to conduct or become involved in a land use activity in a designated wetland shall notify the Code Enforcement Officer, stating the location and approximate acreage to be affected, the intended use for such land and the methods to be employed. The Code Enforcement Officer shall be satisfied that the intended use is permitted. Any question of compliance or interpretation shall be submitted to the Zoning Board of Appeals for determination.

§ 300-2.42. Floodplains.

See Chapter 157, Flood Damage Prevention, of the Town Code.

§ 300-2.43. Nonconforming uses and structures.

- A. Except as otherwise provided in this chapter, the lawfully permitted uses of land or structures existing at the time of the adoption of this chapter or an amendment thereto may be continued, although such use or structure does not conform to the standards specified herein.
- B. No existing structure or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted or structurally altered except when changed to a conforming use, or when required to do so by law and as follows:
 - (1) Should any legally existing nonconforming use be destroyed by any means, it may be repaired or reconstructed to the original floor area which existed prior to such damage. All repairs shall be completed within two years from the time the destruction occurred, or such use shall not be rebuilt except as a conforming use. Such reconstruction may only occur on the same lot.
 - (2) A nonconforming use shall not be extended to displace a conforming use.
 - (3) A nonconforming use shall not be changed to another nonconforming use unless it is a similar or less

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nonconforming use.

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- (4) A nonconforming structure may be enlarged if all area, yard and other requirements of the district in which it is located are complied with.
 - (5) If a nonconforming use is changed to a conforming use, any future use shall conform to the provisions of this chapter.
 - (6) A nonconforming use may be changed to a conforming use.
 - (7) A building or other structure containing a nonconforming residential use may be altered to improve interior livability. No alterations shall be made which would increase the number of dwelling or rooming units.
- C. The discontinuance of a nonconforming use for a period of 12 consecutive months, or the change of use to a permitted use, shall be considered abandonment thereof and such nonconforming use shall not thereafter be revived. Partial use of a nonconforming use shall not be deemed to be an abandonment. The date that discontinuance of a nonconforming use commences shall be determined by the Code Enforcement Officer, who shall send written notice of such determination to the property owner, with a copy to the Town Clerk. Intent to resume active operations of a nonconforming use shall not affect the foregoing.
 - D. Nothing herein contained shall require any change in the plans, construction, or designated use of a building complying with existing laws, a permit for which shall have been obtained before the date of adoption of this chapter or any applicable amendment thereto, and which entire building shall have been completed according to such plans as have been filed, within one year of the adoption of this chapter or any applicable amendment thereto.
 - E. Nonconforming use rights and obligations, subject to the provisions of this chapter, remain with the land when title is transferred.

§ 300-2.44. Brush, grass and weeds.

Structures and properties within the Town shall comply with the requirements of the New York State Property Maintenance Code and the following:

- A. Accumulation prohibited. It shall be unlawful for an owner, tenant or occupant of land lying within the Town of Lyons R-1 District to allow, suffer or permit on such lands any accumulation of brush, tall grasses and/or weeds, including poison ivy and ragweed, in a manner detrimental to the public health, safety or general welfare or in such a manner as to constitute a fire hazard, or to allow the growth of such brush, tall grasses and/or weeds to a height greater than 10 inches on the average; and in all such cases, the owner, tenant or occupant shall remove or destroy the same.
- B. Duty of owner, lessee or occupant. It shall be the duty of any owner, lessee or occupant of any such lot or plot of land in the Town of Lyons R-1 District to cut and remove or cause to be cut and removed all such brush, grasses and/or weeds, or other rank, poisonous or harmful vegetation as often as necessary to comply with the provisions of Subsection A above.
- C. Notice to remove. Whenever brush, tall grasses and/or weeds, including ragweed and poison ivy, or other rank, poisonous or harmful vegetation, shall have been allowed, suffered or permitted to grow or accumulate on lands lying within the limits of the Town of Lyons R-1 District in a manner detrimental to the public health, safety or general welfare or in such manner as prohibited by Subsection A above, the Lyons Town Board or the Town of Lyons Zoning Inspector, Health Inspector, or other Town official designated for this purpose shall cause seven days' written notice to remove or destroy the same to be given to the tenant, occupant or owner of any such lands.
- D. Contents of notice. The contents of said notice shall be as described in § 300-4.11B of this chapter.

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- E. Service of notice. The service of said notice shall be as described in § 300-4.11C of this chapter.
- F. Failure to comply. In the event that any owner, tenant or occupant shall refuse or neglect to remove or destroy said accumulation within the time limited by said notice, then the Town Board or the Town of Lyons Zoning Inspector, or other Health Inspector, or other Town official serving in such capacity may authorize and direct that the same be removed or destroyed and may use Town employees or hire contractors to accomplish the same.
- G. Owner to be responsible for costs. In the event that such owner, tenant or occupant shall refuse or neglect to remove or destroy any such accumulations as hereinbefore set forth, and it shall be necessary for the Town Board to cause the same to be removed or destroyed, the officer responsible shall certify the cost thereof to the Town Board.
- H. Costs to be charged against lands. In all cases where brush, tall grasses and/or weeds, including ragweed and poison ivy, or other rank, poisonous or harmful vegetation, are destroyed or removed from any lands pursuant to this chapter by or under the direction of any official designated in Subsection F above, such official shall certify the cost thereof to the Town Board, as provided in Subsection G above, which shall examine the certification and, if found to be correct, shall cause the cost as shown thereon to be charged to become a lien upon such lands and to be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes and to be collected and enforced by the Tax Collector.
- I. Costs to be lien. Upon resolution by the Town Board charging the cost against the lands, a certified copy thereof shall be filed with the Collector of Taxes of the Town of Lyons, and the amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon said lands, the same to bear interest at the same rate as taxes and shall be collected and enforced by the same officers in the same manner as taxes.
- J. Penalties for offenses. Any person who violates any of the provisions hereof shall be liable to fine as described in § 300-4.12 of this chapter.

§ 300-2.45. Customary farm occupations in all districts.

- A. No retail or commercial activity shall take place other than a roadside stand.
- B. No odor- or dust-producing uses, including the storage of manure, shall take place within 150 feet from the nearest lot line, except that it is permissible to store and use, within the above limits, dust or spray material necessary to protect fruits, vegetables and farm crops from disease and insects.
- C. No hogs or chickens of any kind shall be kept except as an incidental part of a general farm operation.
- D. Fowl of any kind or livestock, including horses, shall only be kept on parcels of five acres or more in area or in a building, no part of which is closer to any property line than 150 feet.
- E. No garbage or refuse, other than that produced on the premises, shall be used for feed.

§ 300-2.46. Mobile homes and house trailers.

- A. Anchors and tie-downs. Mobile homes and house trailers shall be provided with suitable anchors and tie-downs at all times.
- B. Skirting. Skirting shall be required on all year-round uses.
- C. Use and configuration. Mobile homes and house trailers shall not be stacked one upon another, nor shall they be used as accessory buildings, agricultural structures, or as additions to other buildings (including other mobile homes or house trailers).

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- D. Additions. No additions shall be made to a mobile home or house trailer except: a canopy, deck or porch open on three sides; an addition made by the mobile home or house trailer manufacturer; an addition designed by a registered professional engineer or licensed architect; or an addition which is freestanding and unsupported by the mobile home's or house trailer's structure.
- E. Use for dwellings or construction purposes. Mobile homes and house trailers shall not be permitted for any use other than that of a single-family dwelling, except that it shall be permitted for contractors to use such structures as offices or tool sheds during construction projects. Such mobile homes or house trailers shall comply with all other provisions of this section.
- F. Temporary use. It shall be permitted to temporarily place a mobile home for use as a dwelling during construction of a home, for up to 180 days, provided that the mobile home be located not less than 30 feet from any highway right-of-way, nor less than 10 feet from any other lot line. Such mobile homes shall comply with all other provisions of this section, and shall be promptly removed from the lot upon completion of construction or the lapse of the above-mentioned 180 days, whichever is less.
- G. Plumbing connections. Every mobile home or house trailer which is provided with plumbing facilities shall have attachment to an approved potable water source and an approved method of sewage disposal, in accordance with New York State Department of Health regulations.
- H. Nonconforming mobile homes and house trailers. Any mobile home or house trailer which is located so as not to conform to the terms of this section shall not be replaced on its site by any other mobile home or house trailer, except as provided in § 300-2.43B(1) of this chapter.
- I. House trailers. No house trailer shall be permitted to be placed on any lot in any mobile home park or R-1 District. In addition, no house trailer shall be installed for any purpose unless it complies with the following:
- (1) The house trailer shall have at least one window in each bedroom which is at least 22 inches in the horizontal or vertical position and at least five square feet in unobstructed area. The bottom of the window opening shall be no more than 36 inches above the floor, and the locks and latches on any such window, storm windows or window screens shall be located not more than 54 inches above the finished floor. A bedroom with a door leading directly to the exterior shall be exempt from this requirement.
 - (2) The house trailer shall have at least two exterior exit doors. In single-section homes, these shall be located no less than 12 feet, center-to-center, from each other. In multi-section homes, such doors shall be not less than 20 feet, center-to-center, from each other. Such measurement shall be taken in a straight line, regardless of the length of travel between doors.
- J. Use as farm labor housing. Notwithstanding any provision to the contrary, it shall be permissible for mobile homes to be placed in any district, except R-1 and F-P, for use as farm labor housing. Such homes shall conform to all other requirements of this section.
- K. Abandoned mobile homes and house trailers. No junked, scrapped, discarded, unusable or otherwise abandoned mobile home or house trailer shall be permitted to be placed or remain on any lot in any district for a period of greater than one year, except in an approved dump or junkyard.
- L. Removal of slab or foundation. Any slab, foundation, or stand for a mobile home located in the R-1 District shall be removed or filled, upon the removal of the associated mobile home, if such home is not replaced by another mobile home on the same site within one year.
- M. Subdivision restriction. Notwithstanding any provision of this section to the contrary, no mobile home or house trailer shall be permitted to be placed, for any purpose, within any subdivision approved under Chapter 262, Subdivision of Land, of the Town Code. This restriction shall not apply to mobile homes located in approved mobile home parks, nor to construction trailers permitted under Subsection E.

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§ 300-2.47. Storage trailers.

- A. Temporary placement. Wheeled storage trailers shall be permitted to be placed on a temporary basis, in conjunction with a commercial or industrial use, provided that no such trailer shall be located within any front yard or within 50 feet of any highway right-of-way.
- B. Permanent placement. When placed for a period of time exceeding 90 days, the use of a storage trailer shall be allowed only upon issuance of a building permit, with the following conditions:
 - (1) The trailer shall be placed upon a suitable foundation, with appropriate anchors and tie-downs.
 - (2) The trailer shall be painted a neutral color, and shall not be permitted as a form of signage.
 - (3) The area around the base of the trailer shall be skirted to provide a finished exterior appearance.
 - (4) The trailer shall be considered an accessory structure, and shall be located and maintained in accordance with applicable regulations governing accessory structures.

§ 300-2.48. Apartment garages.

Apartment garages shall be permitted in accordance with the following:

- A. Not more than one apartment garage shall be permitted on any lot.
- B. No apartment garage shall extend more than two stories in height.
- C. No dwelling unit located in an apartment garage shall exceed 750 square feet of floor area on the ground floor, nor more than 900 square feet in total floor area.
- D. The parking area within an apartment garage shall not exceed a capacity of four typical passenger vehicles.
- E. Apartment garages shall comply in all other respects with other regulations governing detached accessory structures.
- F. The total number of dwelling units on the lot shall not exceed the maximum number permitted for a principal building.

§ 300-2.49. Farm animals.

All farm animals shall be appropriately confined by means of pens, fences, buildings, or by other means to prevent their unwanted escape from the property on which they are located.

§ 300-2.50. Farm-related uses.

All farm-related uses shall be subject to site plan review and approval by the Planning Board, prior to issuance of a building permit.

§ 300-2.51. Keeping of bees.

Notwithstanding any other provision to the contrary, there shall be no keeping of bees within any R-1 District, nor within 200 feet of the boundary of any R-1 District.

§ 300-2.52. Minimum floor area for residential uses.

All modular, site-built and multi-section mobile homes hereafter erected in any district shall contain at least 1,000 square feet of floor area for single-family uses, and at least 600 square feet of floor area for each dwelling unit for two-family and multifamily uses. This provision shall not apply to apartment garages, cottages or recreational

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cabins, nor to efficiency apartments permitted under § 300-2.18B(1).

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§ 300-2.53. Application of sewage and septic sludge to farmland.

It shall be permissible to apply sewage and/or septic sludge to farmland for fertilizing purposes, in conformance with the following:

- A. A permit shall first be obtained from the Code Enforcement Officer. The fee for such permit shall be set from time to time by the Town Board by resolution, and the permit shall expire after three years.
- B. At the time of application or renewal, the following information shall be submitted for review by the Code Enforcement Officer: a site plan, drawn to scale, of all farmland upon which sewage or septic sludge is to be deposited, showing also the area of application; the source of the sewage or septic sludge to be deposited; the method of application; the total anticipated quantity of sewage or septic sludge to be deposited.
- C. No sewage or septic sludge shall be applied or deposited within any R-1 or F-P District, nor within 200 feet of the boundary of any R-1 District, occupied building, pond, stream, well, wetland, or other water body.
- D. All application of sewage or septic sludge shall be in accordance with applicable New York State Department of Environmental Conservation and/or Department of Health requirements, and the Code Enforcement Officer is authorized to require, at his/her discretion, that copies be provided of any such approvals.
- E. The above provisions may be waived by the Code Enforcement Officer if the farm owner submits an Agricultural Environmental Management (AEM) Plan.

§ 300-2.54. Disposal of farm animal remains.

- A. Farm animal remains shall be properly disposed of in accordance with generally accepted good farming practices.
- B. Farm animal remains shall be permitted to be burned, buried or composted upon a farm in any R-A District, in accordance with Subsection C below.
- C. No farm animal remains shall be buried or composted within any R-1 or F-P District, nor within 200 feet of the boundary of any R-1 District, pond, stream, well, wetland or other water body.
- D. The above provisions may be waived by the Code Enforcement Officer if the farm owner submits and complies with an Agricultural Environmental Management (AEM) Plan.

§ 300-2.55. Agricultural structures.

- A. Residential use prohibited. No agricultural structure shall be attached to or provide direct access to any building used for residential purposes, nor shall residential uses be permitted within agricultural structures. Barn conversions shall be permitted, in conformance with § 300-2.56 of this chapter.
- B. Height exception. The height restrictions of this chapter shall not apply to silos, grain elevators, windmills, or similar agricultural structures not intended for human or animal occupancy.
- C. Minor agricultural structures. Minor agricultural structures shall be permitted to be placed ahead of the street wall of a principal structure, or ahead of the minimum front yard setback line, but not less than 30 feet from any highway right-of-way, provided that the structure is at least two times the distance from any principal structure as the distance it extends ahead of the street wall of such structure and not more than two stories in height. Such structures shall otherwise be located as provided in § 300-2.32 of this chapter.
- D. Major agricultural structures. Major agricultural structures shall not be placed ahead of the street wall of a principal structure, except as provided in § 300-2.32B, and shall be at least 50 feet from other major

- § 300-2.55 agricultural structures, farmhouses, and other residential structures. Major agricultural structures shall also be located at least 100 feet from any large-scale agricultural structures and 25 feet from any lot line. If no principal structure exists on the lot, the minimum front yard setback shall be 50 feet. § 300-2.55
- E. Large-scale agricultural structures. Large-scale agricultural structures shall not be placed ahead of the street wall of a principal structure, and shall be located at least 100 feet from other large-scale agricultural structures, major agricultural structures, farmhouses, and other residential structures. Large-scale agricultural structures shall also be at least 50 feet from any lot line.
 - F. Existing setbacks. If an existing building should be expanded or enlarged to become a major or large-scale agricultural structure, existing setbacks shall be permitted to remain. No such addition or enlargement, however, shall be permitted to further reduce an existing setback which is less than that required by this section.
 - G. Multiple large-scale agricultural structures. Where two or more large-scale agricultural structures are located on a farm, an on-site fire protection water supply shall be developed, in accordance with Subsection I below.
 - H. Farm floor area exceeding 60,000 square feet. Where the aggregate floor area of all farm buildings exceeds 60,000 square feet, an on-site fire protection water supply shall be developed in accordance with Subsection I below.
 - I. Fire protection water supply. An on-site fire protection water supply, as may be required by this section, shall be developed as provided below:
 - (1) A pond of sufficient size (as may be determined by the local fire department or a professional fire protection engineer) shall be constructed. In lieu of a pond, a suitable dry hydrant, cistern, or elevated water storage tank may be developed.
 - (2) The pond or other water source shall be located at least 100 feet from any major or large-scale agricultural buildings, and at least 50 feet from any interior lot line.
 - (3) The pond or other water source shall have a surrounding ground surface adequate to support fire apparatus at all times, and shall be designated and used only for fire protection purposes.
 - (4) The water source shall be not more than 20 feet lower than the expected level of fire apparatus at all times.
 - J. Setback reduction permitted. The setback requirements for major or large-scale buildings shall be permitted to be reduced by 50% for any of the following fire protection features:
 - (1) The building's structural and exterior components are entirely noncombustible.
 - (2) The building is provided throughout and on all levels with an automatic fire alarm system.
 - (3) The building is provided throughout and on all levels with a fire sprinkler system.
 - (4) The owner or his or her designee prepares a fire safety plan, to be approved by the Code Enforcement Officer, which shall include the following: a) appropriate information for the Fire Department concerning the types of uses, installed fire equipment, numbers of employees, numbers and types farm animals and their locations, locations or utilities, and floor plans; and b) appropriate information to employees, occupants and residents concerning how to report a fire or other emergency, evacuation procedures, use of provided fire equipment, and general fire safety practice. The fire safety plan shall also provide for a tour, by the local Fire Department, of the property for preplanning purposes.
 - (5) The building is suitably compartmented by fire walls, fire curtains or other means as may be designed by a professional engineer.

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- K. Additional reduction for multiple features. If more than one of the above fire protection features is provided, the minimum required setbacks for major or large-scale agricultural structures shall be permitted to be reduced by 75%.
- L. Oxygen-limiting silos. Oxygen-limiting silos shall have installed at the base of each such silo a durable sign not less than four square feet in size, which shall read "WARNING — OXYGEN-LIMITING SILO — DO NOT USE WATER TO EXTINGUISH FIRE".

§ 300-2.56. Barn conversions.

Barn conversions shall comply with all other applicable sections of this chapter, including § 300-2.38, § 300-2.55A, and § 300-2.52, and shall be sited in accordance with applicable yard and setback requirements for principal or accessory dwellings.

§ 300-2.57. Manure lagoons.

- A. No manure lagoon shall be located within any R-1 or F-P District, or within 200 feet of the boundary of any R-1 District, pond, stream, wetland, occupied building, lot line, or public right-of-way, including roadways.
- B. The above provisions may be waived by the Code Enforcement Officer if the owner submits an Agricultural Environmental Management (AEM) Plan or if the manure lagoon is lined with a suitable, impervious material.

§ 300-2.58. Unimproved building lots in R-1 District.

- A. Maintenance. All unimproved building lots in R-1 Districts shall be maintained in a clean, safe and level condition.
- B. Storage of certain vehicles. No unlicensed, unserviceable, abandoned, junked, inoperable, or unused vehicles or equipment shall be permitted to be parked or stored upon any unimproved building lot in an R-1 District, other than in a completely enclosed building.
- C. Parking of travel trailers. No travel trailer, as defined in this chapter, shall be permitted to be placed on a temporary or permanent basis on any unimproved building lot in an R-1 District.
- D. Outdoor storage. No unimproved building lot in an R-1 District shall be used for the outdoor storage of any junk or any materials exceeding an aggregate area of 100 square feet. No materials of a noxious or dangerous nature shall be permitted. Material storage within the above limits shall not exceed 20 feet in any horizontal dimension, nor more than six feet in any vertical dimension. Lumber, pipes and building materials shall be stored at least one foot above grade to prevent rodent harborage.
- E. Nonresidential use. The nonresidential use of an unimproved building lot in an R-1 District in excess of the above limits shall be permitted only upon issuance of a renewable special permit by the Zoning Board of Appeals. Such permit shall expire after two years.
- F. Amortization. All unimproved building lots not in conformance with this section shall be made to comply with this section not later than six months after the effective date of the local law enacting this section.⁴
- G. Grass, brush and weeds. All unimproved building lots shall be maintained in accordance with § 300-2.44 of this chapter in regard to tall grass, brush and weeds.

§ 300-2.59. Abandoned farm equipment.

No broken down, unused, junked, unserviceable, inoperable, or otherwise abandoned farm equipment shall be permitted to be parked or stored openly within 100 feet of any highway right-of-way.

4. Editor's Note: This section was originally enacted 8-20-2001 by L.L. No. 2-2001 (T).
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§ 300-2.60. Agricultural signs.

Agricultural signs shall be permitted in all districts, in conformance with § 300-2.40A(7).

§ 300-2.61. Recreational cabins.

- A. Recreational cabins are not required to be located on lots with street frontage.
- B. No travel trailer, house trailer or mobile home shall be permitted to be placed for use as a recreational cabin, except in an approved Type 1 camp.

§ 300-2.62. Through lots.

Through lots shall comply with applicable front yard requirements for both street frontages.

§ 300-2.63. Storage for residential structures.

Any site-built, modular or mobile home, and any house trailer not provided with a basement, shall be provided with a storage building located on the same lot which is not less than 100 square feet in area. This provision shall not apply to recreational cabins.

§ 300-2.64. Farm labor housing.

Structures used as farm labor housing shall be located as provided for in § 300-2.55.

§ 300-2.65. Boathouses.

Boathouses shall be permitted to be placed in any use district as an accessory use as follows:

- A. No boathouse containing a residential use shall be located within any C-1, M-1 or F-P District.
- B. Boathouses containing a residential use shall comply with requirements for apartment garages.⁵
- C. No setback shall be required from a water body.

5. Editor's Note: See § 300-2.48.

Part 3
Stormwater Management

ARTICLE VII
General Provisions

§ 300-3.1. Findings.

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality.
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 300-3.2. Purpose and objectives.

The purpose of this Part 3 is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 300-3.1 hereof. This Part 3 seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of Minimum Measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities, GP-02-01, or as amended or revised;
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding,

§ 300-3.2 siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels; § 300-3.5

- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 300-3.3. Statutory authority.

In accordance with § 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Lyons, Wayne County, New York has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Lyons and for the protection and enhancement of its physical environment. The Town Board of the Town of Lyons may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 300-3.4. Applicability; Stormwater Management Officer; prevention plan required.

- A. This Part 3 shall be applicable to all land development activities as defined in § 300-3.6 of this Part 3.
- B. The municipality shall designate a Stormwater Management Officer, who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:
 - (1) Review the plans;
 - (2) Upon approval by the Town Board of the Town of Lyons, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or
 - (3) Accept the certification of a licensed professional that the plans conform to the requirements of this Part 3.
- C. All land development activities subject to review and approval by the Lyons Town Board, Lyons Zoning Board of Appeals and Lyons Planning Board under the laws of the Town of Lyons and regulations issued thereunder shall be reviewed subject to the standards contained in this Part 3.
- D. All land development activities not subject to review as stated in Subsection C shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer, who shall approve the SWPPP if it complies with the requirements of this Part 3.

§ 300-3.5. Exemptions.

The following activities may be exempt from review under this Part 3:

- A. Agricultural activity as defined in this Part 3.
- B. Silvicultural activity, except that landing areas and log haul roads are subject to this Part 3.
- C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

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- D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Lyons or any agency thereof on or before the effective date of this Part 3.⁶
- F. Land development activities for which a building permit has been approved on or before the effective date of this Part 3.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure.

6. Editor's Note: See Ch. 262, Subdivision of Land.

ARTICLE VIII
Definitions

§ 300-3.6. Terms defined.

The terms used in this Part 3 or in documents prepared or reviewed under this Part 3 shall have the meanings as set forth in this section.

AGRICULTURAL ACTIVITY — The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT — A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING — Any activity that removes the vegetative surface cover.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN MANUAL — The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING — Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER — Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY — Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction, and

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which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PHASING — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES, GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS, GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER — An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPS) — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK —

- A. Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies

§ 300-3.6 of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. § 300-3.6

- B. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE — A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

ARTICLE IX
Stormwater Pollution Prevention Plans

§ 300-3.7. Requirements and contents.

- A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this Part 3.
- B. Contents of stormwater pollution prevention plans.
- (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
- (a) Background information about the scope of the project, including location, type and size of project;
 - (b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map, which is to be at a scale of no less than one inch equals 100 feet, must show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity, existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s);
 - (c) Description of the soil(s) present at the site;
 - (d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
 - (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (f) Description of construction and waste materials expected to be stored on-site, with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project close-out;
 - (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (j) Temporary practices that will be converted to permanent control measures;
 - (k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (m) Name(s) of the receiving water(s);

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- (n) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (p) Any existing data that describes the stormwater runoff at the site.
- (2) Land development activities as defined in § 300-3.6 of this Part 3 and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Subsection B(3) below as applicable:
- (a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (b) Condition B: stormwater runoff from land development activities disturbing five or more acres.
 - (c) Condition C: stormwater runoff from land development activity disturbing between one acre and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
- (3) SWPPP requirements for Conditions A, B and C:
- (a) All information in Subsection B(1) of this section.
 - (b) Description of each post-construction stormwater management practice.
 - (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
 - (d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
 - (e) Comparison of post-development stormwater runoff conditions with pre-development conditions.
 - (f) Dimensions, material specifications and installation details for each post-construction stormwater management practice.
 - (g) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
 - (h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
 - (i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 300-3.9 of this Part 3.
 - (j) For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this Part 3.
- C. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

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D. Contractor certification.

- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- (2) The certification must include the name and title of the person providing the signature; address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (3) The certification statement(s) shall become part of the SWPPP for the land development activity.

E. A copy of the SWPPP shall be retained at the site of the land development activity during construction, from the date of initiation of construction activities to the date of final stabilization.

§ 300-3.8. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards.

- (1) For the purpose of this Part 3, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this Part 3:
 - (a) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").
 - (b) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").
- (2) The New York State technical guidance documents may be ordered from the Department. An order form as well as downloadable versions of the manuals are available on the internet at: <http://www.dec.state.ny.us/website/dow/toolbox/escstandards/index.html>; <http://www.dec.state.ny.us/website/dow/toolbox/swmanual/>.

B. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Subsection A and the SWPPP shall be prepared by a licensed professional.

C. Water quality standards. No land development activity shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 300-3.9. Maintenance, inspection and repair of stormwater facilities.

A. Maintenance and inspection during construction.

- (1) The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the

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conditions of this Part 3. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

- (2) For land development activities as defined in § 300-3.6 of this Part 3 and meeting Condition A, B or C in § 300-3.7B(2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site log book.
 - (3) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Lyons to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Part 3. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Lyons, and the costs of preparation and recording shall be borne by the applicant or developer.
- C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this Part 3 shall ensure they are operated and maintained to achieve the goals of this Part 3. Proper operation and maintenance also includes, as a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this Part 3.
 - (2) Written procedures for operation and maintenance and training of new maintenance personnel.
 - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 300-3.8C.
- D. Maintenance agreements. The Town of Lyons shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this Part 3, entitled "Sample Stormwater Control Facility Maintenance Agreement."⁷ The Town of Lyons, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this Part 3 and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance, consistent with the requirements of Articles VII, VIII and IX of this Part 3 shall be required. The SWPPP shall meet the performance and design criteria and standards in Article IX of this Part 3. The approved erosion control permit shall be consistent with the provisions of this Part 3.

7. Editor's Note: Schedule B is included as an attachment to this chapter.

ARTICLE X
Administration and Enforcement

§ 300-3.10. Construction inspection.

A. Erosion and sediment control inspection.

(1) The Town of Lyons Stormwater Management Officer may require such inspections as necessary to determine compliance with this Part 3 and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this Part 3 and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Lyons enforcement official at least 48 hours before any of the following, as required by the Stormwater Management Officer:

- (a) Start of construction.
- (b) Installation of sediment and erosion control measures.
- (c) Completion of site clearing.
- (d) Completion of rough grading.
- (e) Completion of final grading.
- (f) Close of the construction season.
- (g) Completion of final landscaping.
- (h) Successful establishment of landscaping in public areas.

(2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections. The Town of Lyons Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

D. Submission of reports. The Town of Lyons Stormwater Management Officer may require monitoring and reporting from entities subject to this Part 3 as are necessary to determine compliance with this Part 3.

E. Right-of-entry for inspection. When any new stormwater management facility is installed on private property

§ 300-3.10 or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of Lyons the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C. § 300-3.12

§ 300-3.11. Performance guarantees.

- A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Lyons in its approval of the stormwater pollution prevention plan, the Town of Lyons may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Lyons as the beneficiary. The security shall be in an amount to be determined by the Town of Lyons based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Lyons, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) has (have) been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Lyons. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Lyons with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Lyons may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- C. Recordkeeping. The Town of Lyons may require entities subject to this Part 3 to maintain records demonstrating compliance with this Part 3.

§ 300-3.12. Enforcement; penalties for offenses.

- A. Notice of violation. When the Town of Lyons determines that a land development activity is not being carried out in accordance with the requirements of this Part 3, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
 - (1) The name and address of the landowner, developer or applicant;
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this Part 3 and a time schedule for the completion of such remedial action;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of the notice of violation.

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- B. Stop-work orders. The Town of Lyons may issue a stop-work order for violations of this Part 3. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Lyons confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Part 3.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this Part 3 may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Part 3 shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Part 3 shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this Part 3, the Stormwater Management Officer may prevent the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Lyons may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 300-3.13. Fees for services.

The Town of Lyons may require any person undertaking land development activities regulated by this Part 3 to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Lyons or performed by a third party for the Town of Lyons.

Part 4
Administration And Enforcement

ARTICLE XI
Administration

§ 300-4.1. Code Enforcement Officer.

There is hereby established the office of Code Enforcement Officer. He is hereby given the power, duty and authority to enforce the provisions of this chapter and any other laws or regulations as directed by the Town Board. He or she shall have the power to make inspections of buildings and premises necessary to carry out his or her duties in the enforcement of this chapter. He or she shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this chapter, record and file all applications for permits with accompanying plans and documents and make such reports as may be required.

§ 300-4.2. Building permits.

- A. Purpose. To ensure compliance with the provisions of this chapter, no person shall erect, alter, convert or demolish any structure or building, or part thereof, nor alter the use of any land subsequent to the adoption of this chapter until a building permit has been issued by the Code Enforcement Officer.
- B. Permitted uses. Unless otherwise specified herein, all applications for permitted uses shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any building and accessory buildings, sign, parking or loading area or other physical feature and such other information as may be necessary to determine and provide for enforcement of this chapter.
- C. Special permitted uses. All applications for uses requiring a special permit shall be accompanied by plans and other such information as may be required by the Zoning Board of Appeals or Planning Board in accordance with this chapter.
- D. Water supply and sewage disposal. All water supply and sewage disposal installations that are not connected to public systems shall conform with New York State Department of Health regulations. No plot plan shall be approved by the Code Enforcement Officer or Planning Board in any district unless such conformity is certified on the plan.
- E. Issuance of permits.
 - (1) It shall be the duty of the Code Enforcement Officer to issue a building permit, provided he or she is satisfied that the structure, building, sign, parking area, and the proposed use thereof, conform with all requirements of this chapter, and that all other reviews and actions, if any, called for in this chapter have been complied with and all necessary approvals secured therefor.
 - (2) All building permits shall be issued in duplicate and one copy kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations of any kind unless a building permit covering such operation has been displayed as required by this chapter, nor shall they perform building operations of any kind after notification of the revocation of said permit.
- F. Denial of permits. When the Code Enforcement Officer is not satisfied that the applicant's proposed development will meet the requirements of this chapter, he shall refuse to issue a building permit and the applicant may appeal to the Zoning Board of Appeals for a reversal of the inspector's decision.
- G. Expiration of building permit. Construction for which a permit is issued shall be commenced within six

§ 300-4.2 months of the date of issuance of the permit and completed within 15 months of date of issuance. After such time, a building permit shall expire. Upon expiration of a permit, application may be made for a new permit, which shall be issued upon payment of the established fee and shall be valid for a period of six months from the date of issuance. § 300-4.4

H. Revocation of permits. If it shall appear, at any time, to the Code Enforcement Officer that the application or accompanying plan is in any material respect false or misleading, or that work is being done upon the premises differing materially from that called for in the application filed with him under existing laws or ordinances, he may forthwith revoke the building permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the Code Enforcement Officer. After the building permit has been revoked, the Code Enforcement Officer may, in his discretion, before issuing the new building permit, require the applicant to file an indemnity bond in the favor of the Town of Lyons with sufficient surety conditioned for compliance with this chapter and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

§ 300-4.3. Certificates of occupancy and compliance.

- A. No land, building or structure hereafter used, constructed, extended or altered to an extent which would require the issuance of a building permit shall continue to be used or occupied for more than 10 days after completion of the work unless a certificate of occupancy or compliance shall have been issued by the Code Enforcement Officer, stating that the structures or use thereof complies with the provisions of this chapter.
- B. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate will be issued after the erection or alteration shall have been approved by the Code Enforcement Officer as complying with the provisions of this chapter.
- C. A certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy are in conformity with the provisions of the applicable building, housing, and zoning laws, ordinances and regulations. The certificate shall specify the use or uses and the extent thereof to which the building or structure or its parts may be put. Each certificate of occupancy shall bear a certificate number, date of issuance, zoning district, street name and number, and other pertinent information.
- D. Upon request, the Code Enforcement Officer may issue a temporary certificate of occupancy or compliance allowing occupancy of a building or structure or parts thereof before the entire work covered by the building permit has been completed, provided that such portions as have been completed may be occupied safely without endangering public safety or welfare. A temporary certificate of occupancy shall remain valid for a period not exceeding 30 days from the date of issuance; except that, for good cause, the Code Enforcement Officer may allow up to two extensions for periods not exceeding 30 days each.

§ 300-4.4. Zoning Board of Appeals.

- A. Establishment. Pursuant to the provisions of Town Law § 267 (Article 16, Chapter 62 of the Consolidated Laws of the State of New York), a Board of Appeals is hereby established in the Town of Lyons.
- B. Appointment. The Board of Appeals shall consist of five members to be appointed by the Town Board as needed from time to time. Members shall be appointed for terms of five years and shall be subject to reappointment at the annual organizational meeting.
- C. Appointment of officers; rules; meetings. The Town Board shall appoint a Chairman. The Board of Appeals shall adopt rules and regulations consistent with law or ordinance. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The presence of four members shall constitute a quorum. The Chairman, or in his or her absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- D. General grant of power. The Board of Appeals shall perform all the duties and have all the powers prescribed

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by the laws of the State of New York and as herein described.

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- E. Votes necessary for a decision. The Board of Appeals shall act by resolution. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to decide in favor of the applicant on any matter upon which it is required to pass under the terms of this chapter or to effect any variation of this chapter. However, in the event that the situation was referred to the Wayne County Planning Board as required by General Municipal Law § 239-l and § 239-m (Chapter 24, Article 12-B of the Consolidated Laws of the State of New York) and the Wayne County Planning Board disapproves the proposal or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution setting forth the reason for the contrary action.
- F. Hearings open to the public. Hearings of the Board of Appeals shall be public. The Board shall keep minutes of its proceedings, showing the action of the Board and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its inspections and other official actions, all of which shall be a public record.
- G. Powers and duties. The Board of Appeals shall have all the powers and the duties prescribed by law and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following subsections shall be deemed to limit any power of the Board of Appeals that is conferred by law. In exercising its powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as in its judgment ought to be made in accordance with the provisions of this chapter and pursuant to the Consolidated Laws of the State of New York.
- (1) To hear and decide appeals where it is alleged that error or misinterpretation in any order, requirement, decision, grant or refusal made by the Zoning Inspector or other administrative official in the carrying out or enforcing of the provisions of this chapter or any law pursuant thereto.
 - (2) To hold public hearings, as required and as may be permitted by this chapter.
 - (3) To issue special use permits for any of the uses for which this chapter requires the obtaining of such permits from the Board of Appeals.
 - (4) To issue use variances where there is unnecessary hardship created by carrying out the strict letter of this chapter as to the permitted use of a building or land. The Board of Appeals shall have the authority to vary or modify the use regulations so that the spirit of the law shall be preserved. No use variance shall be granted by the Zoning Board of Appeals, however, unless it finds that, after a public hearing, the standards for a use variance as established by New York State Town Law have been met.⁸
 - (5) To issue area variances where there are practical difficulties or special conditions which make regulations governing lot size, yard size, building height, or other regulations not specifically related to use of land or buildings unreasonable or impossible to comply with. The Board of Appeals shall have the authority to vary or modify the area regulations so that the spirit of the law shall be preserved. No area variance shall be granted by the Zoning Board of Appeals, however, unless it finds that, after a public hearing, the standards for an area variance as established by New York State Town Law have been met.⁹
 - (6) Upon appeal from a decision by the Zoning Inspector, to decide any question involving the interpretation of any provision of this chapter; and where uncertainty exists as to the boundaries of any zone district, the Board of Appeals shall, upon written application or upon its own motion, make such interpretation.

8. Editor's Note: See Town Law § 267-b, Subdivision 2.

9. Editor's Note: See Town Law § 267-b, Subdivision 3.

- § 300-4.4 (7) To refer to the Planning Board such matters as required by this chapter and any other pertinent matters for review and recommendations and defer any decision thereon for a period of not more than 30 days pending a report from the Planning Board. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal. § 300-4.7
- (8) To grant, after due notice and hearing, the temporary occupancy and use of a structure in any district for a purpose that does not conform with the district requirements, provided that such use is truly of a temporary nature, and subject to any reasonable conditions and safeguards which the Board of Appeals may impose to minimize any injurious effect upon the neighborhood or to protect contiguous property. The approval by the Board of Appeals and any permit based thereon shall not be granted for a period of more than 12 months and shall not be renewable more than once and then for a period of not more than 12 months.
- H. The Zoning Board of Appeals may adopt rules and regulations in respect to procedures before it and in respect to any subject matter over which it has jurisdiction under this chapter or any statute after public hearing by such Board and subject to the approval of the Town Board.

§ 300-4.5. Planning Board.

- A. The Board of Appeals shall refer to the Planning Board all applications for special uses, and any other applications or appeals, which in its opinion require review by the Planning Board.
- B. The Planning Board shall review such applications in accordance with § 300-4.7 of this chapter.
- C. The Planning Board may approve, disapprove, or approve subject to conditions or modifications and shall report its findings to the Board of Appeals within 30 days of receipt thereof; such report shall state all recommended conditions and modifications and reasons for such approval or disapproval.

§ 300-4.6. Notification of adjoining municipalities.

Where a public hearing is held to consider the issuance of a proposed special use permit or the granting of a use variance on property that is within 500 feet of an adjacent municipality, site plan review and approval on property that is within 500 feet of an adjacent municipality, or a subdivision review and approval on property that is within 500 feet of an adjacent municipality, the Planning Board shall give notice of the public hearing to any adjacent municipality within 500 feet of the proposed development in accordance with § 239-nn of the General Municipal Law. The adjacent municipality may appear and be heard.

§ 300-4.7. Appeals to Zoning Board of Appeals.

- A. Procedure for appellant.
- (1) An appeal to the Board of Appeals from any ruling of any administrative officer administering any portion of this chapter may be taken by any person aggrieved, or by an officer, board or bureau of the Town affected thereby, within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official. Such appeal shall be taken by filing with the Code Enforcement Officer and the Board of Appeals a notice of appeal specifying the grounds therefor.
- (2) All applications and appeals made to the Board of Appeals shall be in writing on forms prescribed by the Code Enforcement Officer. Every application or appeal shall refer to the specific provision of this chapter, and shall exactly set forth the interpretation that is claimed, the plans for a special use or the details of the variance that is applied for, in addition to the following information:
- (a) The name and address of the applicant or appellant.
- (b) The name and address of the owner of the property to be affected by such proposed change or

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appeal.

- (c) A brief description and location of the property to be affected by such proposed change or appeal.
- (d) A statement of the present zoning classification of the property in question, the improvements thereon and the present use thereof.
- (e) A reasonably accurate description of the present improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be a plot plan of the real property to be affected, indicating the location and size of the lot and size of improvements thereon and proposed to be erected thereon.

B. Procedure for Code Enforcement Officer.

- (1) In any case where a permit has been granted or denied by the Code Enforcement Officer, the notice of appeal shall be filed within such time as shall be prescribed by the Board of Appeals under general rule after notice of such action granting or denying the permit has been mailed to the applicant. The Code Enforcement Officer shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken, or in lieu thereof certified copies of said papers.
- (2) The Code Enforcement Officer may recommend to the Board of Appeals a modification or reversal of his action in cases where he or she believes substantial justice requires the same but where he has not himself sufficient authority to grant the relief sought.

C. Procedure for the Board of Appeals. The Board of Appeals shall decide each appeal within a reasonable time. At the hearing, any party may appear in person or be represented by an agent or attorney. The Board of Appeals' decision shall be immediately filed in its office and be a public record. In the exercise of its functions upon such appeals or exceptions, the Board of Appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from or may make such order, requirement, decision or determination in accordance with the provisions thereof.

D. Expiration of appeal decision. Unless otherwise specified by the Board of Appeals, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary building permit or comply with the conditions of said authorized permit within six months from the date of authorization thereof.

E. Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer certifies to the Board of Appeals, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate the stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Appeals or by a court of competent jurisdiction.

F. Appeal from decision of Board of Appeals. All decisions of the Board of Appeals are subject to court review in accordance with applicable laws of the State of New York.

G. Public hearings and notice. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official paper of the Town of Lyons of a notice of such hearing at least five days prior to the date thereof and shall, at least five days before such hearing, mail notices thereof to the following officials, persons and owners of properties involved in accordance with the requirements of Town Law § 267 (Article 16 of the Consolidated Laws of the State of New York):

- (1) In the case of an appeal alleging error or misinterpretation in any order or other action by the Code Enforcement Officer, the following persons shall be notified: the inspector, the appellant and the person or persons, if any, who benefit from the order, requirement, decision or determination.

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(2) In the case of an appeal for a variance or in the case of an application for a special use permit, as provided for in this chapter, the following persons shall be notified: all owners of property within a radius of 300 feet of the nearest line of the area for which the variance or special use is sought.

- H. Referral to Wayne County Planning Board. Before final action is taken on any variance or special permit affecting real property within 500 feet of the boundary of the Town of Lyons or from the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way, thruway, expressway, road or highway or from the existing or proposed right-of-way of any stream, or drainage channel owned by the county for which the county has established channel lines, or from the existing or proposed boundary of any state-owned land on which a public building or institution is situated, or from the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law (except this shall not apply to the granting of area variances), such matter shall be referred to the Wayne County Planning Board for report and recommendation. If the County Planning Board fails to make such report within 30 days after receipt of a full statement of such referred material, the Board of Appeals may act without such report. If the Wayne County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution setting forth the reason for the contrary action.
- I. Adjournment of hearing. Upon the day for hearing any application or appeal, the Board of Appeals may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.
- J. Required interval for hearings on applications and appeals after denial. Whenever the Board of Appeals, after hearing all the evidence presented upon an application or appeal, under the provisions of this chapter, denies the same, the Board of Appeals shall refuse to hold further hearings on the application or appeal or a substantially similar application or appeal by the same applicant, his successor, or assign for a period of one year, except and unless the Board of Appeals shall find and determine from the information supplied by the request for rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare, and that a reconsideration is justified. Such rehearing would be allowable only upon a motion initiated by a member of the Board of Appeals and adopted by the unanimous vote of the members present, but not less than a majority of all members.

§ 300-4.8. Fees.

- A. Fees for the following, in amounts set from time to time by the Town Board by resolution, shall be paid at the office of the Code Enforcement Officer upon the filing of an application for a building permit:
- (1) Occupancy permit, demolition permit.
 - (2) Appeal for variance and special permit.
 - (3) Rehearings on applications and appeals.
 - (4) Reclassification or amendment to zoning law.
 - (5) New residential construction.
 - (6) Added decks, patios, porches, garages, breezeways, fences and other miscellaneous accessory structures and residential additions.
 - (7) Alterations.
 - (8) Commercial and industrial buildings and additions.
 - (9) Agricultural buildings and additions.

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(10) Swimming pools.

(11) New installation and replacement mobile homes (single-wide and double-wide).

(12) Double-wide mobile home replacement, from single-wide.

(13) Home occupation permits.

(14) Sign permits.

(15) Installation of solid-fuel-burning appliance/chimney.

(16) New or replacement septic system.

(17) Any permit renewal.

(18) Review of subdivision preliminary plans.

B. In any situation where a fee is to be paid, and it is paid after the due date, or is paid after construction has commenced, there shall also be imposed a surcharge equal to 100% of the fee, or \$25, whichever amount is greater. The surcharge fee cannot be waived by the Zoning Officer.

ARTICLE XII
Enforcement

§ 300-4.9. Unlawful practices.

It shall be unlawful for any person, firm or corporation to construct, alter, repair, remove, move, demolish, equip, use, occupy or maintain any building, structure, land or portion thereof in violation of any provision of this chapter or fail in any manner to comply with any notice, directive or order of the Code Enforcement Officer or to construct, alter or use and occupy any building, structure, land or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

§ 300-4.10. Discovery of violations.

The Code Enforcement Officer shall determine the existence of violations of the provisions of this chapter through such investigations as he or she shall conduct pursuant to the issuance of building permits and certificates of occupancy and through the prompt investigation of such written complaints as are filed with him or her by persons having reason to believe that such violations exist. The Code Enforcement Officer may also determine the existence of such violations by means of investigations conducted at his or her own initiative.

§ 300-4.11. Abatement of violations.

- A. Whenever it is found that there has been a violation of this chapter or any rule or regulation adopted pursuant to this chapter, a violation notice and/or appearance ticket may be issued to the person, individual, partnership or corporation owning, operating or maintaining the premises in which such violation has been noted.
- B. Violation notices shall be in writing, shall identify the property or premises, shall specify the violation or remedial action to be taken and shall provide that said violation must be corrected within 10 days from receipt of said violation notice unless said ten-day period shall be modified in the discretion of the enforcement officer issuing such violation notice, or unless a shorter or longer period of time has been prescribed in this chapter.
- C. Violation notices and other orders or notices referred to in this chapter shall be served on the person committing or permitting such violation or on the owner, or one of the owner's executors, legal representatives, agents, lessees, any tenant or other person occupying the premises, or other person having a vested or contingent interest in the premises, either personally or by certified mail, addressed to the last known address, if any, of such owner, tenant, or occupant, as shown by the last preceding completed record of the Receiver of Taxes or in the office of the County Clerk.
- D. The Code Enforcement Officer shall have the authority, pursuant to the Criminal Procedure Law, to issue an appearance ticket subscribed by him, directing a designated person to appear in court at a designated time in connection with the commission of a violation of this chapter or any order made thereunder.

§ 300-4.12. Penalties for offenses.

- A. Any person, firm or corporation who or which fails to comply with or violates any provision of this chapter shall be guilty of an offense punishable as follows:
 - (1) For the first offense, a fine of not less than \$50 nor more than \$350 or imprisonment for up to six months, or both.
 - (2) For the second offense within five years, a fine of \$350 to \$700 or imprisonment for up to six months, or both.
 - (3) For the third or subsequent offense within five years, a fine of \$700 to \$1,000 or imprisonment for up to six months, or both.

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B. Each week such violation continues shall constitute a separate violation, and the imposition of such penalty shall not be held to prohibit the enforced removal of prohibited conditions by any appropriate remedy, including immediate application for an injunction.

ARTICLE XIII
Amendments

§ 300-4.13. Town Board authority.

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, or repeal the regulations and provisions of this chapter, after public notice and hearing.

§ 300-4.14. Review by Planning Board.

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report prior to scheduling the public hearing hereinafter provided for. If the Planning Board shall fail to file such report within a reasonable time, it shall be conclusively presumed that the Planning Board has approved the proposed amendment, supplement, or change.

§ 300-4.15. Referral to Wayne County Planning Board.

All amendments to this chapter which would change the district classification or the regulations applying to real property lying within a distance of 500 feet from the boundary of the Town of Lyons or the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the right-of-way of any existing or proposed stream or drainage channel owned by the county for which the county has established channel lines, or from the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated, or from the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law (except this shall not apply to the granting of area variances) shall be referred to the Wayne County Planning Board. If the Wayne County Planning Board fails to report within 30 days after receipt of a full statement of such referred matter, the Town Board may act without such report. If the Wayne County Planning Board disapproves of the proposed amendment, supplement, change or modification, or recommends modification of the proposal of the Town of Lyons, the Town Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary act.

§ 300-4.16. Public notice and hearing.

The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

- A. Public notice. By publishing a notice at least 10 days in advance of such hearing in the official newspaper of the Town of Lyons; such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.
- B. Opportunity to be heard at hearing. At the public hearing, full opportunity to be heard shall be given to any citizen and all parties in interest.
- C. Written notice. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any village, town or county shall be given to the clerk of such municipality and to the Clerk of the Board of Supervisors at least 10 days before such hearing.
- D. Personal notice.
 - (1) A copy of such notice shall be mailed to every association of residents of the Town which has registered its name for this purpose with the Town Clerk.
 - (2) A written notice of any proposed change or amendment affecting property within 500 feet of the

§ 300-4.16 boundary of any state park shall be given to the regional State Park Commission having jurisdiction over such state facility at least 10 days prior to the date of such public hearing. § 300-4.17

§ 300-4.17. Adoption after protest.

In case of an adverse recommendation against any proposed amendment by the Planning Board or in the case of a protest signed by the owners of 20% or more of the area of: 1) the land included in such proposed change; 2) the land immediately adjacent extending 100 feet therefrom; or 3) the land directly opposite thereto extending 100 feet from the street, road or highway frontage of such opposite land, such amendment shall not become effective except by favorable vote of at least four members of the Town Board.

Part 5
Town Center District

ARTICLE XIV
Applicability

§ 300-5.1. Scope; conflict with other laws.

Notwithstanding any provision to the contrary, the provisions of this Part 5 shall apply to buildings, structures, uses and activities in the Town Center District as herein defined. In case of conflict between the provisions of this Part 5 and any other provision of this Chapter 300, the requirements of this Part 5 shall govern.

ARTICLE XV
District Regulations

§ 300-5.2. Establishment of district; divisions; map.

- A. Those portions of the Town of Lyons located within any former boundary of a Village shall be designated Town Center (T-C) District. Such Town Center District shall be further classified into one of the following divisions:
- (1) Division 1, comprising the areas containing scattered dwellings, farm buildings, and small businesses and industrial occupancies, wherein the fire hazard is low.
 - (2) Division 2, comprising the areas containing residential, business, and/or commercial occupancies, or in which such uses are developing, wherein the fire hazard is moderate.
 - (3) Division 3, comprising the areas containing highly congested business, commercial and/or industrial occupancies, wherein the fire hazard is severe.
- B. The location and boundaries of the Town Center District are hereby established as shown on the Town Center Zoning Map.¹⁰

§ 300-5.3. Use and area regulations.

In order to classify, regulate and restrict the locations of uses and locations of buildings designated for specific areas and to regulate and determine the areas of yards, courts and other open spaces within or surrounding such buildings, the use, height, bulk, and area regulations of the Town Center District are hereby prescribed as follows.¹¹

- A. Schedule of Use Regulations. Within the Town Center District, principal permitted uses, permitted accessory uses, special permitted uses, and prohibited uses shall conform to Table 300-5.3A, Schedule of Use Regulations: Town Center District.
- B. Schedule of Area Regulations. All dimensional requirements shall conform to Table 300-5.3B, Schedule of Area Regulations: Town Center District. Where an occupancy, use or activity falls into two or more categories of use, the most restrictive use shall govern.

10. Editor's Note: The Town Center Zoning Map is included as an attachment to this chapter.

11. Editor's Note: The Schedules of Use Regulations and Area Regulations for the Town Center District are included as attachments to this chapter.

ARTICLE XVI
Supplementary Regulations

§ 300-5.4. General lot and structure requirements.

Lot and structure requirements for principal and accessory structures shall be as provided in Article VI of this chapter, except as provided herein. Decks, patios and terraces more than one foot above grade shall be considered part of a building when determining required yards.

- A. Front yard exception. In the Town Center District, the minimum required front yard for a principal building may be reduced to the average setback of existing principal buildings within 200 feet of the proposed structure, measured in each direction at both side lot lines on the same side of the street.
- B. Accessory structures.
- (1) In the Town Center District, all accessory structures shall require a building permit, regardless of size.
 - (2) In the Town Center District, individual accessory structures located on residential lots shall be limited to 3,000 square feet of floor area; larger structures shall be deemed principal structures. Exception: agricultural buildings.
 - (3) In the Town Center District, setbacks for accessory structures shall comply with the Uniform Code.
- C. Fences.
- (1) In the Town Center District, all fences shall require a building permit.
 - (2) In the Town Center District, fences shall be installed and maintained as required for R-1 Districts (see § 300-2.34), except as otherwise provided herein.
 - (3) In the Town Center District, there shall be no required setback for fences.
- D. Brush, grass and weeds. In the Town Center District, lots shall be maintained free of excessive accumulation of brush, grass and weeds as required for R-1 Districts (see § 300-2.44).
- E. Unimproved building lots. Unimproved building lots in the Town Center District shall comply with the requirements of § 300-2.58 applicable to the R-1 District.
- F. Transition requirements.
- (1) All Group A, Group B, Group E, Group I, and Class B or Class C mercantile occupancies shall provide a minimum side yard of 50 feet where such side yard abuts a residential (Group R) use.
 - (a) Exception 1: occupancies less than 4,000 square feet in floor area.
 - (b) Exception 2: mixed-occupancy buildings with upper-story dwelling units.
 - (2) All Group F, Group H, Group S, and Class A mercantile occupancies shall provide a minimum side yard of 100 feet where such side yard abuts a residential (Group R) use.
 - (3) Landscaping requirements.
 - (a) Any nonresidential use which is in, abuts, is adjacent to or is less than 50 feet from any residential use, and which is not conducted within a completely enclosed building, such as storage yards, lumber and building materials yards, parking lots and like uses, shall be entirely enclosed by a fence or landscaping sufficient to effectively shield such uses. This subsection shall not apply to nurseries and the display for sales purposes of new or used cars, trucks, trailers, bicycles, motorcycles, or farm equipment.

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- (b) Landscaping is required for all new buildings and additions over 500 square feet in floor area. Said landscaping shall be completed within one year from the date of occupancy of the building.
- (c) All required yards and open spaces abutting public streets shall be completely landscaped, except for those areas occupied by utilities, access driveways, parking areas, paved walkways, playgrounds, walls, structures or other required facilities.
- (d) All required live landscaping shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.

§ 300-5.5. Signs and sign structures.

Signs shall comply with the general requirements of § 300-2.40, except as modified below:

- A. Placement. No sign or sign structure shall be placed upon or attached to any public or private utility pole, lamppost, fire hydrant, bus shelter, sidewalk, bridge, tree or similar installation or improvement, whether situated upon public or private property.
- B. Signs allowed without permit. The following signs are permitted in any use district without a sign permit and shall be limited to one such sign per property:
 - (1) A nameplate and/or address sign attached to a building, not exceeding one square foot in area.
 - (2) One attached nameplate or address sign denoting the name and occupation of the resident maintaining a professional office as a home occupation, not exceeding four square feet in area.
 - (3) One nonilluminated ground or wall sign advertising the sale, lease or rental of the premises upon which the sign is located, not to exceed four square feet in area on residential property or eight square feet on commercial property. Such sign shall be removed within five days after the sale of the premises has been consummated.
 - (4) One nonilluminated sign announcing a real estate open house or a garage or estate sale, to be erected or placed on the property where such event will take place, not to exceed four square feet in area. Such sign shall be removed within one day after the event has been held and in no event may be maintained on the property for a period exceeding one week.
 - (5) One nonilluminated wall or ground sign denoting the architect, engineer or contractor, placed on premises where construction, repair or renovation is in progress, but expressly excluding products, services or other forms of advertising, not exceeding four square feet in area on residential property or 32 square feet in area on commercial property. Such sign shall be removed within 10 days after completion of the project.
 - (6) Signs which are designed exclusively to inform the general public of a fund-raising campaign, political campaign, social event, civic undertaking, annual festivity or related enterprise of a temporary nature sponsored by a nonprofit organization or governmental unit. Such signs shall be removed the day after the event and may not be placed on public property except by written permission of the Town Board.
 - (7) Portable signs shall be allowed in the Town Center District, without a permit, provided such signs comply with the following:
 - (a) Only one such sign shall be permitted to be placed on or in front of a lot or building, except that two such signs shall be permitted on a corner lot, one facing each street.
 - (b) Such signs shall have not more than two faces, each not exceeding 12 square feet.
 - (c) Such signs shall not obstruct or in any way interfere with the use of any public street or sidewalk.

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- (d) Such signs shall be removed when the business is not open for customers; when the National Weather Service issues a high wind warning, tornado or severe thunderstorm warning; during an accumulating snowfall event (3" +).
- C. The provisions of this section shall not apply to signs established pursuant to governmental authority or used for the identification of public buildings, facilities and activities sponsored by a governmental authority or of an official character, such as traffic regulation devices authorized by the Vehicle and Traffic Law of the State of New York, civil defense warning signs, railroad crossing designations, bus stop signs and any other sign authorized and required under local, state or federal law or which contains information required and designed for the protection and safety of the general public, such as danger areas, work areas, utility warnings, safety warning devices and similar notices.
- D. All signs should be consistent with the architectural design of the building on which they are to be located.
- E. The following signs are permitted for business uses in the Town Center District:
- (1) Buildings containing one business establishment: one wall sign, either nonilluminated or illuminated, which shall be no more than one square foot for each one foot of linear frontage of the building along the street, up to a maximum of 150 square feet, with a sign height that shall not exceed 20% of the height of the first story; or one double-faced projecting sign, either nonilluminated or illuminated by indirect light only, which shall be no more than 12 square feet in area per side and project no more than five feet from the face of the building at an angle of 90° therefrom, with a minimum clearance above ground level of eight feet. Without awnings, any sign permitted herein may not extend above the first story of the building to which it is attached and shall not exceed a height of more than 12 feet above ground level measured to the top of the sign. With an awning, any permitted double-faced sign meeting the area size requirements will be allowed to be placed up to three feet above the first story so that the sign will be above the awning and its path of movement for storage. If the sign is illuminated, the lights shall be positioned and shielded so that there is no direct light into the second-story windows. In addition, the lights shall be on only during the operating hours of the business.
 - (2) Buildings containing more than one business establishment: one wall sign for each ground-floor business establishment, which shall be no more than one square foot for each linear foot of building frontage occupied by the business, provided that the total sign area of such signs does not exceed the maximum limitations for a single attached sign as provided above.
 - (3) Building located on a corner lot: in addition to signs permitted in Subsection E(1) and (2) above, one additional attached sign facing the secondary street, consistent with the criteria stated above.
 - (4) In addition to the signs permitted above, one permanent window sign shall be permitted, per window, with a maximum of two window signs per ground-floor business establishment. The area of such sign shall not exceed 25% of the area of the window pane or four square feet, whichever is less. Window signs above the first story of a building are limited to lettering directly on the window, which shall be a maximum height of eight inches per line, with a maximum of two lines, and shall only be located on the primary street frontage of the building. A neon sign is allowable as a window sign if consistent with historic building and district requirements.
 - (5) Awnings and canopies and sign information located thereon shall be permitted, subject to the following limitations:
 - (a) Awnings and canopies may project over a public sidewalk, provided that such awnings shall be attached to the building only, shall provide eight feet of clearance over the sidewalk and may not project over the sidewalk a distance of greater than 1/2 the width of the sidewalk or eight feet, whichever is less.
 - (b) Awning sign information, consisting of lettering or graphic display, shall not exceed a combined

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total area of 10 square feet per business establishment and shall not be permitted above the first floor.

- (c) No sign shall project from an awning.
- (6) In no instance may the combined area of signs permitted herein for a single building exceed 200% of the maximum area permitted for a single sign.
- (7) For multistory buildings with more than four business establishments: one sign directory, either a wall sign adjacent to the principal entrance and not exceeding 1/3 the size of the principal entrance opening or one ground sign located in the front yard four feet from any lot line and not exceeding two square feet in area per business identified, up to a total of 20 square feet. A ground sign directory shall not identify ground-floor business establishments with signs permitted by this section.
- (8) Signs on the side or rear walls of a building, exclusive of corner lot buildings: one wall sign not exceeding 15 square feet and a maximum height of 12 feet as measured to the top of the sign. Such sign shall be permitted only in cases where the orientation of the building limits the effectiveness of otherwise permitted signs.
- (9) Signs at automotive motor fuel dispensing facilities and drive-through facilities:
- (a) No more than three business signs, the combined maximum area of which shall not exceed the maximum area for a single sign, or no more than four signs if located on a corner lot. Such sign(s) may include a freestanding sign, or a wall sign affixed to the principal building and/or a pump island canopy.
- (b) Price and/or type-of-service signs located on a pump island shall be limited to six square feet and one sign per island. Signs required to be posted by governmental regulatory agencies shall not be factored into the size and number provisions of this subsection.
- (c) On-site directional signage required to facilitate internal circulation shall not be factored into the size and number provisions of this subsection.
- (10) Murals shall be permitted, subject to the following provisions:
- (a) Murals shall be allowed only upon issuance of a special permit from the Planning Board. All applications for murals shall be accompanied by a sketch or digitized picture, drawn to scale, showing the proposed location, size, height, artwork and color(s) of the mural, as well as the building facade upon which it is to be located. Applications for murals shall also include a written plan for ongoing maintenance of the mural once completed, including the person, agency or organization that will fund maintenance activities and probable costs associated with maintenance.
- (b) Mural content shall not be obscene or offensive.
- (c) Murals shall not negatively impact historic resources within the Town of Lyons, or cause such resources to lose their local, state and national register eligibility.
- (d) A mural shall be maintained and shall not be allowed to fade or lose its integrity. The Town of Lyons is not responsible for maintaining a mural. If the mural is not maintained, the Town of Lyons can require that the mural be removed or covered.
- (e) If proposed mural materials are not compatible with the mounting surface, the mural shall be placed on its own substrate, set off from the mounting surface and properly anchored to resist wind and other forces in accordance with the Uniform Code. The use of combustible materials shall not be used where prohibited by fire safety codes.
- (f) Sand or high-pressure water blasting that would damage an historic building's facade is prohibited.

- § 300-5.5 (g) If a mural becomes marked with graffiti, the property owner, or other designated party, is responsible for the prompt removal of the graffiti. § 300-5.7
- (h) The maximum allowed size of a mural shall be determined by the Planning Board on a case-by-case basis.

§ 300-5.6. Clutter, junk and debris prohibited.

- A. The deposit, accumulation or maintenance of clutter, junk or debris, regardless of quantity, is hereby prohibited anywhere within sight of any public right-of-way or neighboring property.
- B. For the purpose of enforcement of this section, "clutter, junk and debris" shall be defined as any old, discarded, scrapped or dismantled household or commercial materials, such as glass, metal, paper, rags, barrels, cartons, boxes, crates, furniture, rugs and carpets, clothing, mattresses, blankets, tires and other automotive parts, tools, ladders, lumber, brick, stone, shingles, siding, gutters and other building materials, vehicles, appliances, toys, lawn mowers, machinery and equipment no longer intended or in condition for ordinary and customary use, or stored in such a manner as to be offensive to a person of ordinary and reasonable sensibilities.
- C. Any items or material not manufactured and intended for outdoor use, such as upholstered or other non-lawn furniture, toys, appliances, etc., stored outside of an enclosed structure shall be deemed to be clutter, junk and debris under this section.

§ 300-5.7. Parking and loading.

Uses and occupancies in the Town Center District shall comply with the parking and loading requirements of § 300-2.35 and § 300-2.36, except as modified herein.

- A. For nonresidential uses in the Town Center District, Division 3, up to 50% of the required parking may be located in on-street parking spaces, provided that such spaces are:
- (1) Within 200 feet of the front property line or within the same block of the site, whichever is closer. For purposes of interpretation in determining the extent of the perimeter, a walking distance (likely pedestrian path) measurement and not direct-line measurement should be utilized. The same-block determination may extend along intersecting sides. Within this established area, parking may be located on both sides of a street, unless prohibited for access considerations by the Planning Board, which then may extend the parking perimeter up to an additional 100 feet in directions that do not require pedestrian street crossings.
 - (2) Demonstrated to be part of a sufficient supply of available on-street parking spaces within the area established in Subsection A(1) above, and that the number of parking spaces needed to supplement the required parking will not cause the undue displacement of vehicles associated with other uses.
 - (3) Located with respect to the principal use so that a safe and convenient means of pedestrian access is available, including but not limited to the provision of sidewalks and street crossings.
 - (4) Located with respect to the travel lanes of the road such that any increase in activity of on-street parking spaces associated with the use will not interfere with the safe and efficient flow of traffic.
- B. The number of required off-street parking spaces for a place of religious worship may be reduced or eliminated if there exist within 500 feet public or private parking lots containing a sufficient number of off-street parking spaces to satisfy any deficiency in parking.
- C. Excluding the area needed for access drives, no more than 50% of any required front yard may be used for off-street parking. The remainder of such front yard space shall be improved by lawn, trees, shrubs or other forms of landscaping.

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- D. No front yard shall be used for open storage or parking of boats, vehicles, travel trailers, snowmobile trailers, and campers or other recreational vehicles, except for parking on clearly defined and recognizable driveways. If adequate driveway space is not available, only one such vehicle may be parked in the front yard temporarily from Memorial Day through Labor Day.
- E. No person shall place, park or leave standing any vehicle, trailer or boat on any street in the Town Center District between the curb and the sidewalk except under the following conditions:
- (1) Adequate parking and standing space is neither available nor attainable within the property lines of the parcel adjoining the sidewalk.
 - (2) Adequate distance shall be available between the curb and sidewalk to allow parking at right angles to curb and sidewalk, with no intrusion nor obstruction to clear passage on either highway or sidewalk.
 - (3) Space between curb and sidewalk, used for parking or standing, shall be installed and maintained by the owner of the parcel adjoining the sidewalk, and the surface shall be of the type required herein. Any public utility component, sign or other infrastructure required to be removed or relocated shall be done at the adjacent property owner's expense.
 - (4) Parking between the sidewalk and curb shall be allowed only by permission of the Town Board, and the above conditions shall pertain to all new parking spaces between the curb and sidewalk.
- F. A commercial vehicle may be parked on a residential lot in the Town Center District, as an accessory use; within the Town Center District, Division 2 and Division 3, such vehicle shall not exceed 26,000 pounds' gross vehicle weight.
- G. Restriction on use. Except as otherwise permitted by this chapter, no vehicle shall be used as sleeping, cooking or living space while parked on residential property. Commercial vehicles and related equipment shall not be used as permanent or temporary storage buildings, or for housing, nor for any purpose for which the vehicle was not designed, nor as a form of signage, except as expressly permitted elsewhere in this chapter.
- H. Prohibition of certain cargoes. Except for customary delivery purposes, the following types of cargoes shall be prohibited to be stored on any residential property: flammable or combustible liquids, gases or other materials; explosives; poisons, compressed gases; materials posing an inhalation hazard; radioactive materials; cryogenic materials; hot or burning materials; garbage; combustible waste and refuse; uncovered, noncombustible scrap and junk; medical waste, manure, septic sludge, live animals, hay, or other cargoes with dangerous or objectionable characteristics. Such cargoes may be further restricted in accordance with applicable provisions of the Uniform Code.
- I. Surfacing.
- (1) In the Town Center District, all off-street parking areas and driveways shall be surfaced with an all-weather, dustless material and be striped to delineate parking spaces. Wheel stops shall be provided where necessary to protect landscaping, light or utility poles, signs and other installations.
 - (2) Exception. Parking spaces at detached one- and two-family dwellings shall not be required to be striped.
- J. Snow storage. Each parking lot or area shall provide for a system of snow removal and have sufficient on-site snow storage. Landscaped areas may be used to store snow; however, snow may not be deposited in the front yard or in public right-of-way to a point that impairs visibility. The Planning Board may require the provision of additional snow storage areas.
- K. Loading space exception for small buildings. For buildings with less than 2,500 square feet of floor area, the required loading may be in the required off-street parking area.

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L. On-street loading. The Planning Board may allow a loading space to be established within the public right-of-way, provided that it is found that the provision of an on-site loading space is not practical and interferes with the optimal development of the site or parking area; and, further, the use of the on-street loading space is limited to hours of low parking demand or is located in space identified by the Town of Lyons as a designated loading zone.

§ 300-5.8. Outdoor illumination.

No illumination shall cause direct light rays to cross any property line. All outdoor floodlight sources, such as used for but not limited to athletic fields, courts, swimming pools, parking lots, security and building floodlighting, shall be steady, stationary shielded sources directed so as to avoid causing a hazard to motorists, pedestrians or causing direct light rays on neighboring properties.

§ 300-5.9. Storage and disposal of trash.

- A. Generally. No person shall dump, store or collect or permit the dumping, storing or collecting of any trash, refuse or rubbish upon any property except that which accumulates from the normal use of said property, and then only when stored in a tightly closed metal or plastic container as hereinafter provided.
- B. The storage of garbage, rubbish, waste materials and all types of refuse containers shall be separated from all adjoining lots or rights-of-way by a screening device not less than four feet in height, or otherwise contained within an enclosed structure, except during such times as are designated for the removal of contents. Exception: lots improved with detached one-family or two-family dwellings.
- C. Separation of refuse. Garbage and rubbish shall be stored and placed for pickup separately from recyclable materials.
 - (1) Sufficient trash receptacles and/or dumpsters shall be provided at all occupied premises in compliance with applicable provisions of the Uniform Code. Regular pickup of trash and garbage shall be as often as necessary to maintain sanitary conditions on the premises, but in no case less than once each two weeks.
 - (2) Refuse containers may be placed at curbside for pickup for a period of time not exceeding 24 hours. When not placed at curbside for pickup, refuse containers shall be kept in a side yard or rear yard only.
- D. Dumpsters and roll-off containers.
 - (1) Roll-off containers and dumpsters shall be maintained at all times free of surrounding debris, overflow, and any other nuisance.
 - (2) Roll-off containers and dumpsters shall not be placed or maintained in a manner that obstructs pedestrian or vehicular traffic.
 - (3) Roll-off containers and dumpsters placed on the street or public sidewalk shall be marked or barricaded as required by the authority having jurisdiction, and shall only be placed with the approval of said authority.
 - (4) The contents of roll-off containers and dumpsters shall be emptied and disposed of:
 - (a) Upon reaching the container's water or fill line; or
 - (b) After a maximum of two weeks if containing garbage; or
 - (c) After a maximum of 30 days if containing rubbish only.
- E. Composting. Composting is permitted under the following standards:

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- (1) In the Town Center District, Division 2 and Division 3, no compost pile or total composting area may exceed 100 square feet in size.
- (2) Commercial and agricultural composting facilities shall comply with NYSDEC regulations governing such facilities, if any.
- (3) The following materials shall not be composted in the Town Center District: meat, poultry, fish, bones, and fatty foods such as cheese and oils; dairy products; cat litter or dog feces.
- (4) Composting areas and structures shall be maintained in a manner that protects adjacent properties from nuisance odors and the attraction of rodents or other pests.
- (5) Composting bins and areas shall not be in contact with wooden structures susceptible to rot.
- (6) All compost bins and compost heaps may be placed only in the rear yard of a lot and must be at least 10 feet from a property line and at least 20 feet from any inhabited building.

§ 300-5.10. Animals.

- A. No animals other than household pets as defined in this chapter shall be maintained, housed or harbored in the Town Center District. No chickens, ducks, geese fowl or bees shall be maintained, housed or harbored in the Town Center District. **[Amended 4-27-2022 by L.L. No. 1-2022]**
- B. The keeping of more than four dogs or four cats in any residential or other unit shall be deemed a kennel, and shall only be permitted as provided for in this chapter. Exception: The owner of a female dog or cat may keep upon his or her premises the litter of such dog or cat for a period not exceeding four months.
- C. Slaughtering prohibited. There shall be no slaughtering of any animals within the Town Center District, except as an incidental activity for a customary farm occupation.

§ 300-5.11. Encroachments into public right-of-way.

Any construction occurring in the public right-of-way, whether temporary or permanent, shall comply with relevant provisions of the Uniform Code and as otherwise provided for in this chapter. Such construction may include but is not limited to marquees, awnings, canopies, pedestrian walkways and tunnels. Pre-approval from the authority having jurisdiction shall be required.

§ 300-5.12. Recreational vehicles and camping tentage.

- A. A recreational vehicle and/or camping tentage shall be permitted to be placed and occupied for a period of up to two weeks in a driveway or rear yard, or non-address side yard on a corner lot. Parking is further restricted as set forth in § 300-5.7D.
- B. Recreational vehicles and camping tentage placed and occupied for longer than 14 days shall require a permit, the fee for which shall be set from time to time by the Town Board by resolution, and which shall be valid for 90 days or until September 15, whichever comes first.
- C. Recreational vehicles occupied for over 14 days shall be inspected and approved for occupancy by the Code Enforcement Officer. Recreational vehicles shall be maintained in general compliance with NFPA 1192 (Standard on Recreational Vehicles), including provisions for smoke and carbon monoxide alarms, portable fire extinguishers, etc.
- D. No electrical cords or water hoses for supplying temporary utilities shall be permitted to be placed across any public sidewalk or other public place. Recreational vehicles shall be properly connected to a public or private sewage disposal system, or proper sanitary facilities shall be continuously available for use of the occupant(s) within a path of travel not to exceed 500 feet from the recreational vehicle.

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§ 300-5.13. Change of occupancy.

- A. The change of occupancy of any existing building or portion thereof shall comply with all applicable provisions of the Uniform Code, including but not limited to the following:
- (1) Installation of proper fire-rated construction between occupancies and/or tenant spaces.
 - (2) Installation of fire protection systems such as fire sprinklers and/or kitchen hood extinguishing systems.
 - (3) Separation of utilities, with separate metering.
 - (4) Provision for adequate means of egress such as fire exits, fire escapes, or rescue windows.
 - (5) Provision for handicapped accessibility.
 - (6) Compliance with energy conservation construction requirements.
 - (7) Dwelling unit size and arrangement, and proper clearances for fixtures and appliances.
- B. In addition to the above, all changes of occupancy shall provide for a sufficient number of parking and loading spaces, and in the case of residential conversions, shall further comply with the applicable provisions of § 300-2.18, § 300-2.38 and/or § 300-2.48 of this chapter. Changes of occupancy shall be limited to lawful principal or special permitted uses, and all required approvals shall be obtained prior to occupancy.

§ 300-5.14. Large-scale developments.

Large-scale development in the Town Center District, including but not limited to regional commercial centers and industrial or research parks, shall comply with National Fire Protection Association (NFPA) Standard 1141 (Standard for Fire Protection Infrastructure for Land Development in Wildland, Rural and Suburban Areas). Compliance shall include general requirements, means of access, building access, and water supply. Requirements for automatic fire protection, manual fire protection, automatic fire warning systems, and fire protection during construction shall be in compliance with the Uniform Code.

§ 300-5.15. Shopping carts.

- A. Removal of carts restricted. It shall be unlawful for any person to remove a shopping cart, or suffer or permit such removal of a shopping cart from the property of any establishment or business, except to convey the same to an adjoining private parking lot or a sidewalk area immediately in front of or contiguous to such establishment or business, and except that the owners of such establishments or businesses may move shopping carts, in bulk, from one store to another or to another location.
- B. It shall be unlawful for any person, his/her agent or employee to leave or suffer or permit to be left upon any public place any shopping cart either owned by him/her or in his/her possession, custody or control.

§ 300-5.16. Outdoor fires.

- A. Approved containers. Recreational fires shall be within approved containers such as: fire rings, outdoor fireplaces, commercially manufactured units for open-flame-type burning, fire pits at least 18 inches deep with stones or fire brick lining the perimeter, or metal containers with a wire mesh screen. Where open burning is not within an approved container, all combustible vegetation and materials shall be removed from an area three feet around the burn pile.
- B. Portable outdoor fireplaces and similar outdoor solid-fuel-burning devices shall not be operated or stored on a balcony or deck of any structure or within 15 feet of combustible construction or a residential occupancy. Open burning outside of approved containers shall be located at least 50 feet from structures or as otherwise required by the Uniform Code.

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C. Exception. An outdoor fireplace may be attached to a structure, if providing a minimum three-foot clearance above the roofline and two feet above all structures within 10 feet of the fireplace chimney, and complying with all zoning setback requirements of the main structure.

§ 300-5.17. Hazardous materials storage.

Restrictions on hazardous materials, as provided in the Uniform Code, shall apply in the Town Center District as follows:

- A. The storage of LP shall be restricted in Division 2 and Division 3, in accordance with the Uniform Code.
- B. Flammable cryogenic fluids in stationary containers shall be prohibited in Division 2 and Division 3.
- C. Class I and Class II liquids in above-ground tanks outside of buildings shall be prohibited in Division 2.
- D. Class I and Class II liquids in above-ground tanks shall be prohibited in Division 3.
- E. The storage of combustible fibers shall be restricted in Division 3.
- F. The storage of any hazardous material in an amount required to be reported pursuant to § 209-u of the General Municipal Law shall be deemed to require an operating permit.

§ 300-5.18. Manufactured and mobile homes.

Manufactured homes and mobile homes, where permitted in the Town Center District, shall comply with the following:

- A. Masonry skirting (with a minimum thickness of six inches) shall be installed to enclose the underside of the home and provide a finished exterior appearance.
- B. Any trailer hitch shall be removed and stored beneath the home, or in an enclosed building.

ARTICLE XVII
Site Development

§ 300-5.19. Site plan review.

All special permitted uses and any principal permitted use or accessory use over 4,000 square feet in floor area and/or which disturbs over one acre of land shall require site plan review and approval by the Town Planning Board prior to issuance of a building permit by the Code Enforcement Officer.

§ 300-5.20. Site development standards.

- A. Preservation of natural resources. Where flood hazard areas, surface water bodies or wetlands, or conservation areas are located on or adjacent to a lot, the development of the lot as a building site shall comply with all applicable requirements (i.e., flood damage prevention or wetland).
- B. Surface water protection. Buildings and building site improvements shall not be located over lakes, ponds, streams and other bodies of water that support or could support fish, recreation or industrial use. Exception: buildings and associated site improvements specifically related to the use of the water, including, but not limited to, bridges, dry hydrants, piers, bulkheads, marinas, boatyards, boathouses, fish hatcheries, and habitat restoration.
- C. Stormwater management.¹² Development shall conform to applicable New York State Department of Environmental Conservation regulations as they pertain to stormwater management and erosion control. Stormwater management and erosion control measures shall not redirect or concentrate off-site discharge that would cause increased erosion or other drainage-related damage to adjoining lots or public property.
- D. Building site waste management.
 - (1) All slash from vegetation modification and construction debris shall be removed prior to or immediately upon completion of construction.
 - (2) Land-clearing debris, including rock, trees, stumps and associated vegetation, shall not be sent to sites that are agricultural land, flood hazard areas, wetlands, or conservation areas except where approved by the Code Enforcement Officer.
 - (3) Combustible debris shall not be accumulated within buildings. Combustible debris, rubbish and waste material shall be removed from buildings at the end of each shift of work. Combustible debris, rubbish and waste material shall not be disposed of by burning on site unless approved.
- E. Transportation impact.
 - (1) Walkways and bicycle paths. Not less than one independent, paved walkway or bicycle path suitable for bicycles, strollers, pedestrians, and other forms of nonmotorized locomotion connecting a street or other path to a building entrance should be provided. Walkways and bicycle paths shall connect to existing paths or sidewalks, and shall be designed to connect to any planned future paths.
 - (2) Bicycle parking and storage. Bicycle parking should be designated on the site plan. The number of spaces should be not less than four for assembly occupancies and not less than two for all other occupancies.
 - (3) Bicycle parking areas. Where provided, bicycle parking shall comply with the following:
 - (a) It shall be provided with illumination of not less than one footcandle (11 lux) at the parking surface.

12. Editor's Note: See also Part 3, Stormwater Management, of this chapter.

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- (b) It shall be at the same grade as the sidewalk or at a location reachable by ramp or accessible route.
 - (c) It shall have an area of not less than 18 inches by 60 inches for each bicycle.
 - (d) It shall be provided with a rack or other facility for locking or securing each bicycle.
 - (e) It shall be located within 100 feet of, and visible from, the main entrance.
- (4) Hitching posts.
- (a) At least one hitching post should be installed in each of the following locations:
 - [1] Customer parking lots for mercantile and business occupancies.
 - [2] Customer parking lots for public transportation facilities, parks and government buildings.
 - (b) Where off-street hitching posts are installed, they should be located in such a way as to avoid primary traffic circulation routes.
- F. Site lighting. Uplight, light trespass and glare shall be limited for all exterior lighting equipment as described below. Exceptions: specialized signal, directional and marker lighting associated with transportation; advertising signage or directional signage; lighting integral to equipment or instrumentation and installed by its manufacturer; theatrical purposes, including performance, stage, film production and video production; athletic playing areas where lighting is equipped with hoods or louvers for glare control; temporary lighting; lighting for industrial production, material handling, transportation sites, and associated storage areas where lighting is equipped with hoods or louvers for glare control; theme elements in theme and amusement parks; roadway lighting required by governmental authorities; lighting used to highlight features of public monuments and registered landmark structures; lighting classified for and used in hazardous areas; lighting for aquatic vessels and water features; light poles not exceeding seven feet in height on the premises of one- and two-family dwellings, which are listed for residential use; required emergency and/or security lighting.
- (1) Town Center, Division 1.
- (a) Uplight. Directionally shielded lighting fixtures are required for all outdoor walkway, parking lot, canopy and building-/wall-mounted lighting.
 - (b) Light trespass and glare. On lots which abut property that is residentially developed, vacant or open space, all outdoor lighting fixtures shall be set back from the nearest residential lot line a distance equal to 1/2 the height of the lighting fixture, or "house-side shielding" shall be used on the residential property side of the lighting fixture. All outdoor lighting fixtures must be aimed, located and maintained to prevent glare that causes reduced visibility.
 - (c) Light pole heights. The maximum height of light poles shall be 40 feet.
- (2) Town Center, Division 2 and 3.
- (a) Uplight. Full-cut-off lighting fixtures are required for all outdoor walkway, parking lot, canopy and building-/wall-mounted lighting.
 - (b) Light trespass and glare. All outdoor lighting fixtures must be aimed, located and maintained to prevent glare that causes reduced visibility.
 - (c) Light pole heights. The maximum height of light poles shall be 20 feet.