

Chapter 207

ZONING

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[HISTORY: Adopted by the Board of the Town of Massena 4-8-1987. Amendments noted where applicable.]

General References

Building and Fire Prevention—See Ch. 109.

Flood Damage Prevention—See Ch. 131.

Subdivision of Land—See Ch. 191.

ARTICLE I General Provisions

§ 207-1. Purpose and intent; statutory authority.

These interim changes are intended to provide limited adjustments to this chapter of the Massena Town Code until such time as the Town can complete a thorough review and revision of its zoning regulations. This interim code is adopted as authorized by Article 16, §§ 261 and 281, of New York State Town Law and Article 2, § 10, of New York State General Municipal Law to protect and promote the public health, safety and welfare, in particular:

- A. The facilitation of the efficient and adequate provision of public facilities and services.
- B. The assurance of adequate sites for residence, industry and commerce.
- C. The provision of privacy for families.
- D. The prevention and reduction of traffic congestion, so as to promote efficient and safe circulation of vehicles and pedestrians.
- E. The maximum protection of agricultural and residential areas.
- F. The gradual elimination of nonconforming uses.
- G. The enhancement of the appearance of the Town of Massena as a whole.
- H. The encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.

ARTICLE II
Zoning Districts

§ 207-2. Classes of districts.

The Town of Massena is hereby divided into the classes of districts listed below:

- R-1 One-Family Residence District
- R-A Residential-Agricultural District
- N-C Neighborhood Commercial District
- H-C Highway Commercial District
- I General Industrial District

§ 207-3. Zoning Map. *(A copy of the Zoning Map is included in a pocket at the end of this volume)*

The boundaries of said districts are hereby established as shown on the Zoning Map, Town of Massena, as amended, which accompanies this chapter and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date in the offices of the Building Inspector for the use and benefit of the public.

§ 207-4. Determination of district boundaries.

In determining the boundaries of districts shown on the map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of the streets, highways, waterways or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be set back from the rights-of-way of the distance indicated on the Zoning Map.
- D. In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter for the less restricted district shall apply to such portion of the more restricted portion of said lot as lies within 30 feet of such district boundary. For purposes of this section, the more restricted district shall be deemed that district subject to regulations

which prohibit the use intended to be made of said lot of which require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.

E. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.

F. In all other cases where dimensions are not shown on the map, the location of boundaries shown shall be determined by the use of the scale appearing thereon.

§ 207-5. Effect of establishment of districts.

Following the effective date of this chapter:

A. No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.

B. No yard or open space required in connection with any buildings or use shall be considered as providing a required open space for any other building on the same or any other lot.

C. No lot shall be divided so as to create a nonconforming lot. No building permit shall be issued for the erection of a building nor any use permit issued for any new lot unless such building, use or lot complies with all the provisions of this chapter.

D. Nothing contained in this chapter shall require any change in the plans, construction or the designated use of a building complying with local laws in force prior to this chapter if the following is found to exist:

(1) A building permit shall have been duly issued prior to the date of first publication of notice of the public hearing on this chapter.

(2) The entire building shall have been completed in accordance with such plans as have been filed in the town within the period of time in effect at the time the permit was granted.

ARTICLE III **R-1 One-Family Residence District**

§ 207-6. Purposes; permitted uses.

The R-1 One-Family Residence District is intended to recognize and protect the integrity and property values of areas suitable for single-family houses of conventional construction or appearance. Mobile homes are prohibited but not other forms of manufactured housing. In R-1 Districts, no building or premises shall be used except the following:

A. Permitted Uses.

(1) Uses requiring a standard permit (permitted by right):

- (a) One-family dwellings.
- (b) Accessory uses on the same lot and not intended for gain, such as private garages, sheds and barns, swimming pools and satellite dishes.

(2) Uses requiring site plan approval:

- (a) Places of worship, private schools or similar uses.
- (b) Nursing and rest homes.
- (c) Membership clubs, including golf clubs, fraternal and veterans' organizations and the like.
- (d) Cemeteries.
- (e) Home occupations.
- (f) Permanent signs of any type.

§ 207-7. Minimum lot area and dimensions.

The minimum lot area and dimensions shall be as follows:

A. Area: 30,000 square feet unless otherwise provided for specific uses or by the Planning Board during site plan review. The minimum area is not intended to be the result of multiplying the minimum width times the minimum depth.

B. Width: 150 feet.

C. Depth: 150 feet.

D. Yards (distance from any lot line to any building):

- (1) Front: 50 feet away from the right-of-way or 83 feet from the center of the road, whichever is greater.
- (2) Side: 20 feet on each side, but 50 feet on the street side on corner lots.
- (3) Rear: 30 feet.

E. Lot coverage: 25% of the total lot area may be covered by buildings.

§ 207-8. Building limitations.

The building limitations shall be as follows:

A. Maximum height: 35 feet or 2 ½ stories, whichever is less.

B. Minimum total living space per dwelling unit: 850 square feet.

ARTICLE IV

R-A Residential-Agricultural District

§ 207-9. Purposes; permitted uses.

The R-A Residential-Agricultural District is intended to recognize and protect the integrity and property values of areas of the town which are suitable for a variety of residential types and rural livelihoods. In R-A Districts, no buildings or premises shall be used except for the following:

A. Permitted uses.

(1) Uses required a standard permit (permitted by right):

- (a) R-1 Districts permitted uses.
- (b) Two-family dwellings.

(2) Uses requiring site plan approval:

- (a) R-1 District uses requiring site plan approval.
- (b) Mobile homes and mobile home parks.
- (c) Multiple dwellings and conversion of existing dwelling to multiple dwelling.
- (d) Farms, nurseries and commercial greenhouses.
- (e) Nonagricultural keeping of livestock, fowl or fur-bearing animals.
- (f) Commercial kennels, veterinary clinics and animal hospitals.
- (g) Railroads, airports and utilities and radio and television stations and their related transmission antennas, towers and other facilities.
- (h) Campgrounds and other recreation facilities.
- (i) Motels.
- (j) Restaurants.
- (k) Boarding or rooming houses.

§ 207-10. Minimum lot area and dimensions.

The minimum lot area and dimensions shall be as follows:

- A. Area: 30,000 square feet unless otherwise provided for specific uses or by the Planning Board during site plan review. The minimum width times the minimum depth.
- B. Width: 150 feet.
- C. Depth: 200 feet.
- D. Yards (distance from any lot line to any building):
 - (1) Front: 50 feet away from the right-of-way or 83 feet from the center of the road, whichever is greater.
 - (2) Side: 20 feet on each side, but 50 feet on the street side on corner lots.
 - (3) Rear: 30 feet.
- E. Lot coverage: 25% of the total lot area may be covered by buildings.

§ 207-11. Building limitations.

The building limitations shall be as follows:

- A. Maximum height: none.
- B. Minimum total living space per dwelling unit: 750 feet.

ARTICLE V
N-C Neighborhood Commercial District

§ 207-12. Purposes; permitted uses.

The N-C Neighborhood Commercial District is intended to provide a limited form of hamlet development in areas of the town located some distance from the Village of Massena. Hamlet development encompasses both residential and related commercial uses. In N-C Districts, no buildings or premises shall be used but the following:

- A. Permitted uses.
 - (1) Uses requiring a standard permit (permitted by right):

- (a) R-A District uses requiring a standard permit.
- (2) Uses requiring a site plan approval:
 - (a) R-1 District uses requiring site plan approval.
 - (b) Multiple dwellings and the conversion of existing dwellings to multiple dwellings.
 - (c) Motels, restaurants and bars.
 - (d) Retail stores, business offices and services of any type, but no larger than 1,000 square feet of retail sales area or 500 square feet of customer service area.
 - (e) Automobile sales, rental, repair and service, including retail gasoline sales and body shop.
 - (f) Recreation and entertainment facilities, but no larger than 1,000 square feet of public area.
 - (g) Billboards. (See § 207-23.)

§ 207-13. Minimum lot area and dimensions.

The minimum lot area and dimensions shall be as follows:

- A. Area: 30,000 square feet without central water and/or sewerage; 20,000 square feet with either central water or sewerage unless otherwise provided for specific uses. The minimum area is not intended to be the result of multiplying the minimum width times the minimum depth.
- B. Width: 150 feet.
- C. Depth: 150 feet.
- D. Yards (distance from any lot line to any building):
 - (1) Front: 50 feet away from the right-of-way or 83 feet from the center of the road, whichever is greater.
 - (2) Side: 10 feet on each side, but 50 feet on the street side on corner lots.
 - (3) Rear: 30 feet.
- E. Lot coverage: 25% of the total lot area may be covered by buildings.

§ 207-14. Building limitations.

The building limitations shall be as follows:

- A. Maximum height: 35 feet or 2 ½ stories, whichever is less.
- B. Minimum total living space per dwelling unit: 750 square feet.

ARTICLE VI
H-C Highway Commercial District

§ 207-15. Purposes; permitted uses.

The H-C Highway Commercial District is intended to provide for a controlled commercial development of areas which have access to State Highway 37 via existing roads. Land uses in the H-C District are especially those oriented to the highway and not to the Neighborhood Commercial Districts and of the commercial core of the Village of Massena. In H-C Districts, no buildings or premises may be used except for the following.

A. Permitted uses.

(1) Uses requiring a standard permit (permitted by right): no uses are permitted by right.

(2) Uses requiring site plan approval:

- (a) Automobile, truck, farm implement and recreational vehicle sales and service, including body and paint work, gasoline sales and dismantlers.
- (b) Light industry (manufacturing or assembly).
- (c) Motels and hotels.
- (d) Nursing homes.
- (e) Recreation and entertainment facilities larger than 1,000 square feet.
- (f) Restaurants and bars.
- (g) Retail stores, office buildings, and services larger than 1,000 square feet of customer service area.
- (h) Veterinary clinics and kennels.
- (i) Billboards. (See § 207-23.)
- (j) Churches.
- (k) Private clubs.
- (l) Nurseries.
- (m) Commercial greenhouses.
- (n) Storage and warehousing.
- (o) Research and development.

§ 207-16. Minimum lot area and dimensions. [Amended 10-13-1993 by L.L. No.2-1993]

The minimum lot area and dimensions shall be as follows:

A. Area: 60,000 square feet unless otherwise provided for specific uses or by the Planning Board during site plan review. The minimum area is not intended to be the result of multiplying the minimum width times the minimum depth.

B. Width: 200 feet.

C. Depth: 300 feet from the center line of the highway fronting the property or the nearest municipal boundary, whichever is less.

D. Yards (distance from any lot line to any building):

(1) Front: 75 feet away from the right-of-way or 108 feet from the center of the road, whichever is greater.

(2) Side: 40 feet

(3) Rear: 40 feet.

E. Lot coverage: 30% of the total lot area may be covered by buildings.

§ 207-17. Building limitations.

The building limitations shall be as follows:

A. Maximum height: none.

**ARTICLE VII
I General Industrial District**

§ 207-18. Purposes; permitted uses.

The I General Industrial District is intended to provide for areas in the town which industrial, manufacturing or other materials handling, processing and/or storage activities may take place with maximum economic and environmental feasibility and with minimum negative impact on residential, agricultural and commercial development. In an I General Industrial District, no building or premises shall be used except for the following.

A. Permitted Uses.

- (1) Uses requiring a standard permit (permitted by right): no uses are permitted by right.
- (2) Uses requiring site plan approval:
 - (a) Manufacturing, assembling, converting, altering, finishing, cleaning, recycling or any other processing and incidental storage of products and materials.
 - (b) Wholesaling, storage and warehousing.
 - (c) Junkyards and dismantlers.
 - (d) Research laboratories.
 - (e) Truck and rail terminals and port facilities, including docking, fueling, loading and unloading.
 - (f) Signs.
 - (g) Waste storage and/or treatment facilities.

§ 207-19. Minimum lot area and dimensions.

The minimum lot area and dimensions shall be as follows:

- A. Area: 80,000 square feet unless otherwise provided for specific uses or by the Planning Board during site plan review. The minimum area is not intended to be the result of multiplying the minimum width times the minimum depth.
- B. Width: 200 feet.
- C. Depth: 200 feet
- D. Yards (distance from any lot line to any building):
 - (1) Front: 75 feet away from the right-of-way or 108 feet from the center of the road, whichever is greater.
 - (2) Side: 50 feet
 - (3) Rear: 50 feet.
- E. Lot coverage: 35% of the total lot area may be covered by buildings.

§ 207-20. Building limitations.

The building limitations shall be as follows:

- A. Maximum height: none.

ARTICLE VIII
Supplementary Regulations

§ 207-21. Regulations applicable to residential uses.

A. Accessory buildings. All accessory buildings other than those used for agricultural purposes shall conform to the following provisions:

(1) An accessory building may be located in any required side or rear yard, provided that:

- (a) Such building shall not exceed 25 feet in height.
- (b) In an R-1 District, such buildings shall be set back five feet from the rear lot line, 10 feet from the side lot line, and 25 feet from the front or street line. In an R-A District, such buildings shall be set back 10 feet from the rear lot line, seven feet from the side lot line, and 30 feet from the front or street line.
- (c) All such buildings in the aggregate shall occupy not more than 30% of the area of the required rear or side yard.

(2) An accessory building on that portion of a lot not included in any required yard shall conform to the height regulations for principal buildings.

B. Corner lots.

(1) Obstruction to vision at street intersections. At all street intersections in all residence districts, no obstructions to vision exceeding 30 inches in height above curb level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 30 feet distant from their point of intersection.

(2) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yards shall be deemed a rear yard and the other or others, side yards.

C. Exceptions to lot depth requirements. The required lot depth at any point may be decreased by 25% if the average lot depth conforms to the minimum requirement.

D. Exceptions to yard requirements.

(1) Permitted obstructions. Cornices or cantilevered roofs may project no more than three feet into a required yard. Belt courses, windowsills and other ornamental features may project no more than six inches into a required yard. Fences or walls not more than 6 ½ feet in height may be erected anywhere on the lot, except as set forth in

Subsection B(1). Fences or walls with a height in excess of 6 ½ feet shall conform to the requirement set forth herein for buildings. Paved areas, other than such are needed for access to the buildings on the lot, shall not project within 15 feet of a street line or four feet of a lot line.

(2) Entries and porticoes. A roofed-over, but unenclosed projection in the nature of an entry or portico, not more than eight feet wide and extending not more than six feet out from the front wall of the building, shall be exempt from front yard requirements when the building otherwise complies with all other yard restrictions of this chapter.

(3) Existing setback. No proposed one- or two-family dwelling need have a setback greater than the average setback of the two existing dwellings with the greatest setbacks within 200 feet on each side of said proposed dwelling, on the same side of the street, within the same block and the same district.

E. Fences in residential districts (R-1, R-A, N-C).

(1) Solid fences. Except where otherwise required for visibility at street intersections solid fences are required in side or rear yards in all districts in which residences are allowed. A permit is required. Standards for solid fences are:

- (a) The height shall not exceed six feet.
- (b) Solid fencing shall not be located on or within two feet of any lot line.
- (c) A finished side must face the adjacent lot if the fence is within the yard required in the district.

(2) Open fences. Open lattice, picket, rail or wire fences are allowed, provided that the following standards are met and maintained:

- (a) The height shall not exceed four feet without a permit.
- (b) No fence shall exceed six feet in height.
- (c) Open fencing shall contain no openings of less than one inch in the least dimension and no solid members greater than three inches, exclusive of structural posts and rails.
- (d) Open fences may be erected in any required yard as long as there is provision for maintenance from the owner's lot.
- (e) Barbed wire and/or electric fences are prohibited, except on operating farms or on lots five acres across in size or larger.

F. Swimming pools. A swimming pool shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements:

(1) Outdoor swimming pools shall not be located within a front yard in any district.

(2) The entire portion of the premises upon which such pool is located shall be enclosed in a good quality fence of not less than four feet in height.

(3) Every gate or other opening in the fence enclosing such pool shall be kept securely closed and shall be locked at all times when said pool is not in use.

(4) No pool wall or related equipment shall be located within eight feet of any adjoining property.

(5) No lighting or spotlighting shall be permitted which will project light rays beyond the lot lines of the lot on which said pool is located.

(6) Where the proposed pool is of such height or design that protective fencing is not required or is impractical, the Building Inspector may, at his discretion, issue a permit for the erection of such pool without such fencing. The Building Inspector shall, however, first make a finding to the effect that, in his opinion, the pool has equal protection from entry as would be afforded by the erection of a fence as required above.

§ 207-22. Regulations applicable to nonresidential uses.

A. Height regulations.

(1) Where a lot has frontage on two or more streets or other public rights-of-way, the height limitations shall apply only as measured from the curb level along the street or way with a higher elevation above sea level.

(2) Structures, such as chimneys, flues, towers and spires, shall be exempt from height limitations, provided that they occupy not more than 20% of the roof area.

B. Waiver of yards. No side yard or rear yard shall be required where such yard abuts an operating railroad right-of -way.

C. Courts. The minimum dimension of an inner court shall not be less than twice the height of all surrounding walls. However, in no case shall an inner court have a dimension of less than 30 feet. The height of walls surrounding an inner court shall be measured from finished grade at the base thereof to the top of such a wall, except that, in the case of roofs with a slope exceeding five inches vertical to 12 inches horizontal, the height shall be measured to the mean point between the top of said wall and the highest point of the roof. The minimum dimensions of an outer court shall be 20 feet, and its depth shall not exceed the width.

§ 207-23. Sign Regulations.

A. No sign, billboard, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except as expressly permitted in this chapter.

B. Billboards shall be authorized only in N-C and H-C Districts after site plan approval, to be granted by the Planning Board and renewable annually.

(1) In considering an application for a billboard permit, the Planning Board shall consider the matters of safety (sight distance, distraction) and aesthetics.

(2) No billboard shall be higher than 30 feet nor larger than 200 square feet.

(3) All billboards shall be subject to the prohibitions in Subsection C.

(4) All billboards shall be removed by the owner within 30 days following expiration.

(5) All billboards shall be a minimum of 300 feet from the nearest billboard.

C. Signs in residential districts (R-1 and R-A).

(1) Signs for home occupations shall not be larger than four square feet nor more than eight feet above the ground at maximum height, nor more than one in number.

(2) Signs for other uses shall not be larger than 32 square feet nor more than eight feet above the ground at maximum height nor more than two in number.

(3) Freestanding signs may be located within required front yards, but no closer than 25 feet from the pavement.

D. Signs in commercial district (N-C). **[Amended 3-14-1990 by L.L. No. 1-1990]**

(1) Signs for home occupations shall meet residential district standards listed in Subsection C above.

(2) Signs for other uses shall not be larger than a total of 64 square feet in area, nor more than 16 feet above the ground nor more than two in number, exclusive of directional signs.

(3) Freestanding signs may be located within required front yards, but no closer than 25 feet from the pavement.

E. Signs in commercial district (H-C). Business signs erected in an H-C District shall not project into a public street or right-of-way and shall not be closer than 25 feet to any lot line. No sign, attached or unattached, shall be higher than the principal building to which it is an accessory, and no sign shall be erected upon the roof of any building. The gross surface area of a business sign in the H-C District shall not exceed two square feet

per linear foot of building frontage and shall not exceed 450 square feet. All signs shall have sufficient clearance so as to provide clear and unobstructed visibility for vehicles entering and leaving the highway. Only two signs are permitted on a building, unless approved by the Planning Board when site plan is approved. Pylon signs shall not exceed 25 feet in height nor more than 600 square feet with a limit of two signs. All signs must be 25 feet from any dedicated road or right-of-way by town, county or state. Billboards must conform to already existing regulations. [Added 3-14-1990 by L.L. No. 1-1990]

F. Signs in industrial districts (I). Signs in industrial districts shall not exceed standards in Subsection B, for billboards, with the following exceptions.

(1) Billboards per se are prohibited. Billboard standards are applied to other signs.

(2) Expiration provisions are not applicable.

G. The following types of signs or artificial lighting are prohibited:

(1) Flashing signs, including any sign or device on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

(2) Signs which compete for attention with or may be mistaken for a traffic signal.

(3) Artificial lighting which directly illuminates an abutting residential property.

H. All districts. All temporary signs erected for a special event or property sale, rental or repair shall be removed by the property owner or his agent after 30 days. [Added 3-14-1990 by L.L. No. 1-1990]

§ 207-24. Parking and storing of vehicles.

A. Off-street parking requirement. Off-street parking spaces, open or enclosed, shall be provided as follows:

(1) Schedule of parking requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for any use as specified below. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these parking regulations.

(2) Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space, other than on corner lots as provided in § 207-21B(2).

(3) Size of spaces. One hundred seventy-one square feet shall be considered one parking space. Entrance and exit lanes shall not be computed as parking space, except for driveways for one-family and two-family residences. The minimum parking stall width shall be nine feet, and the minimum length shall be 19 feet. [Amended 3-14-1990 by L.L. No. 1-1990]

PARKING SCHEDULE

Use	Minimum Required Parking Spaces
Dwelling unit	1
Dwelling used as doctor's or dentist's office	4 for each doctor or dentist, plus 1 for each 2 employees, plus one for the dwelling unit
Dwelling used as a professional office other than by a doctor or dentist or in which there is conducted a home occupation	3 or as determined by the Planning Board, based on the activity involved
Sanatoriums, nursing homes, philanthropic or eleemosynary institutions	1 for every 3 beds, plus 1 per employee on the largest shift
Place of worship	1 for every 4 seats in the principal meeting room
Membership clubs and fraternal lodges	1 for each 2 employees, plus 1 for each 300 square feet of floor area
Theater	1 for every 4 seats
Bowling alley	6 per alley
Retail business	1 for each 300 square feet of sales area
Service business	1 for each 300 square feet of floor area
Restaurant	1 for each 3 seats, plus 1 for each 2 employees on the largest shift
Professional office other than for a doctor or a dentist	1 for each 300 square feet of floor area or 1 per employee, whichever is greater
Office of a doctor or a dentist	4 for each doctor or dentist, plus 1 for each employee
Funeral home	1 for each 60 square feet of floor area available for public use
Manufacturing, wholesaling and warehousing	1 for each 600 square feet of floor area or one per employee, whichever is greater
Uses not listed	As determined by the Planning Board to be needed to prevent frequent parking on the streets by persons visiting or connected with such use

B. Regulations for parking spaces adjacent to lots in any residential districts.

(1) Wherever a parking area of over five spaces abuts or is within 15 feet of the side or rear lot line of a lot in any residence district, said parking lot shall be screened from such adjoining lot by a substantial wall, fence or thick hedge approved by the Planning Board. Generally, such screen shall not be less than three feet nor more than eight feet in height.

(2) Whenever a parking area of over five spaces is located across the street from other land in any other residence district, it shall be screened from the view of such and by a thick hedge, wall or fence approved by the Planning Board, located along a line drawn parallel to the street and a distance of 20 feet there from, such screening to be interrupted only at points of ingress and egress. Generally, no such screening shall be less than three nor more than eight feet in height. The open area between such screening and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. Two identification and directional signs located on the street side of such screening shall be permitted; however, they shall not exceed an area of three square feet each.

C. Parking of commercial use vehicles in R-1 Districts.

(1) One commercial use vehicle not exceeding 35 feet in length may be parked on an occupied lot but not within the required yards of such lot and in no case between the street line and the principal building.

(2) One commercial use vehicle not exceeding 35 feet in length may be parked within a private garage.

(3) Farm vehicles are permitted as accessories to a farm use in any residence district, provided that they are not kept within the required yards of such lot, and in no case between the street line and any principal building.

D. Storing and parking of recreational vehicles.

(1) Permitted uses. Any recreational vehicle, as defined in § 207-46, may be stored or parked in any residential zone, only as follows:

- (a) On any lot or parcel of property within a residential zone, in the rear of and not closer than three feet to any building or structure or any lot or parcel line.
- (b) In a side or front driveway of a lot or parcel of property in a residential zone, but not closer than three feet to any building or structure or any lot or parcel line and not so as to block the view of traffic moving along the street nearby to the property on which the recreational vehicle is stored and, additionally, not closer than 15 feet to the closest public sidewalk or street line, whichever is nearest to the stored or parked recreational vehicle.
- (c) An unmounted pickup (slide-in) camper, truck cap, boat or snowmobile may be stored or parked on any lot or parcel within a residential zone but not closer than three feet to any building or structure and so as not to block the view of passerby and of cars being driven out of driveways and the view of traffic moving along the street nearby to the property on which the recreational vehicle is stored and

not closer than 15 feet to any public sidewalk or street line and not closer than three feet to any parcel or property line.

- (d) Where a building permit has been issued for the construction or alteration of a building, the Building Inspector may issue a temporary permit for one mobile home for a period not to exceed six months. Said temporary permit may be extended for one additional period of six months if the Building Inspector finds that construction has been diligently pursued and that justifiable circumstances require such an extension. The mobile home may be occupied during the term of the temporary permit and shall be situated upon the lot for which the building permit has been issued. Prior to the issuance of such a temporary permit by the Building Inspector, the location of the mobile home on the lot shall be approved by the Town Planning Board, which may attach to its approval whatever conditions it deems necessary to carry out the intent of this chapter.
- (e) One boat may be stored on an occupied lot in any residence district, provided that it is not stored in the required front yard of such lot.

(2) Prohibited uses of recreational vehicles.

- (a) No stored or parked recreational vehicle, as defined herein, shall be occupied or used for human habitation, including but not limited to sleeping, eating or resting between the hours of 10:00 p.m. and 6:00 a.m., local time, for periods longer than one week.
- (b) No recreational vehicle, as defined herein, or unmounted boat or snowmobile which is in a state of externally visible disrepair or partial construction shall be stored or parked in any side or front driveway in a residential zone. It may, however, be stored or parked in the rear of such lot or parcel of property in the residential zone but in no event closer than three feet to any building or structure or to any lot or parcel or property line.

E. Unregistered vehicles. Open storage of more than one unregistered motor vehicle is prohibited on any lot in a residential district.

§ 207-25. Uses prohibited in all districts.

The following uses are prohibited in all districts:

A. Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution; or by reason of the deposit, discharge or dispersal of liquid or solid waste in any form in such manner or amount as to cause permanent damage to the soil and streams or to adversely affect the surrounding area; or by reason of creation of noise, vibration, electromagnetic or other disturbance; or

by reason of illumination by artificial light or light reflection emanation; or which involves any dangerous fire, explosive, radioactive or other hazard; or which causes injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants; and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or general welfare. This subsection shall not be interpreted in any manner that would prohibit normal agricultural activities.

B. Artificial lighting facilities of any kind with light sources visible beyond the lot lines which create a glare beyond such lines.

C. Amusement parks and circuses and related activities except for a temporary period on special permit from the Town Board.

D. Landfill or dump, except a dump established as an official town dump or duly licensed as a dump by the Town Board.

§ 207-26. Cluster developments.

The Planning Board may approve cluster developments in all residence districts according to the procedures and requirements specified below. The purpose of such development is to provide flexibility in the design and development of land in such a way as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open space.

A. The maximum number of single-family lots that may be approved in a cluster development shall be computed by subtracting from the total net area a fixed percentage of 35% of said area and dividing the remaining 65% of the area in a manner which will result in a gross density that is no higher than would occur under conventional development in the particular zoning district. In computing the maximum number of lots that may be created, any lands which are subject to flooding or which are occupied by public utility easements in such a manner as to prevent their use and development shall not be considered part of the total net area.

B. The minimum area of a cluster development shall be 25 acres, and such development shall be in single ownership or under unified control.

C. Prior to the issuance of a building permit in a cluster development, a site plan shall be submitted to and approved by the Planning Board in accordance with Article XII and the following conditions:

(1) Said site plan shall include areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed (if any) parking spaces and streets, driveways and any other physical features relevant to the proposed plan.

(2) Said site plan shall include a statement setting forth the nature of all proposed modifications of existing zoning provisions.

(3) Said site plan shall be subject to review and public hearing by the Planning Board in the manner prescribed in the Town Law § 276 (subdivision regulations).

D. A cluster development shall be organized as one of the following: a homes association approved by the Federal Housing Administration for mortgage insurance as a planned unit development and by the Town Board, or a homes association approved by the Town Attorney and Town Board, or any other arrangement approved by the Town Attorney and Town Board as satisfying the intent of this chapter. Whenever a homes association is proposed, the Town Board shall retain the right to review and approve the articles of incorporation and the character of said homes association and to require whatever conditions deemed necessary to ensure that the intent and purpose of this chapter are carried out.

ARTICLE IX Nonconforming Uses

§ 207-27. Nonconforming uses and lots.

A. A nonconforming use of record is any use, whether of a building or tract of land, or both, legally existing on the effective date of this chapter (or any building planned or under construction under the terms of § 207-5D of this chapter), which does not conform to the use regulations of the district in which it is located. A nonconforming lot of record is any parcel of land legally existing on the effective date of this chapter which does not conform to the dimensional and/or area regulations of the district in which it is located.

B. The following provisions shall apply to all nonagricultural buildings and uses legally existing on the effective date of this chapter which do not conform to the requirements set forth in this chapter and to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter.

C. Any legally nonconforming use of buildings or open land, except those uses specified in § 207-29 below, may be continued indefinitely, but shall not be:

(1) Enlarged, extended, reconstructed or restored, except as provided in Subsection C(5), or placed on a different portion of the lot of parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.

(2) Moved to another location where such use would be nonconforming.

(3) Changed to another nonconforming use without approval by the Board of Appeals, and then only to a use which, in the opinion of the Board of Appeals, is of the same or of a more restricted nature.

(4) Reestablished if such use has been discontinued for any reason for a period of two years or more or has been changed or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

(5) Restored for other than a conforming use after damage from any cause unless the nonconforming use is reinstated within two years of such damage; if the restoration of such building is not completed within said two-year period, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.

D. [Added 5-10-1989 by L.L. No. 1-1986] General exception to minimum lot area requirements. Any lot on record as of the date this chapter was passed, which does not meet the minimum lot area and/or lot width requirements of this chapter for the zoning district in which such lot is situated, shall be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:

(1) Such lot has an area of at least 30,000 square feet, with a minimum width of at least 150 feet and minimum depth of 150 feet.

(2) Yards (distance from lot line to any building):

- (a) Front: 50 feet from the right-of-way or 83 feet from the center of the road, whichever is greater.
- (b) Side: 10 feet on each side, but 50 feet street side on corner lots.
- (c) Rear: 30 feet.

(3) This provision is not intended to apply to any new lots, sub lots or subdivisions created after April 1, 1987. All such lots, sub lots or subdivisions must comply with the requirements of this chapter.

§ 207-28. Maintenance and repair of non complying buildings.

Nothing in this article shall be deemed to prevent normal maintenance and repair, structural alteration, moving, reconstruction or enlargement of a non complying building, provided that such action does not increase the degree of or create any new nonconformity with regard to the regulations pertaining to such building.

§ 207-29. Termination of nonconforming uses.

Each of the nonconforming uses specified below is deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located as to

depreciate the value of other property and uses permitted in the district and to blight the proper and orderly development and general welfare of such district and the community to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter, which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use:

- A. In any residence district, any nonconforming use of open land, including such uses as a parking lot, junkyard and open storage yard for materials or equipment may be continued for three years after the effective date of this chapter, provided that, after the expiration of that period, such nonconforming use shall be terminated.
- B. In any residence district, any sign not of a type permitted or of a permitted type but greater than the maximum permitted size may be continued for one year following the effective date of this chapter, provided that, after the expiration of that period, such nonconforming use shall be terminated.

§ 207-30. Repairs and maintenance.

Notwithstanding of any of the above regulations, nothing in this article shall be deemed to prevent normal maintenance and repair of any use or building or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a building permit, the Building Inspector shall state the precise reason why such alterations are deemed necessary.

ARTICLE X Enforcement

§ 207-31. Removal of buildings; state environmental quality review.

- A. Any building or structure erected or use commenced after the effective date of this chapter must comply with its provisions. Such new buildings, structures or uses which do not conform to the provisions of this chapter may be removed or halted after issuance of an injunction by the Town Board. Any building made unusable through deterioration, fire or other cause may be removed after issuance of an injunction by order of the Town Board after one month from the notice to the landowners that Town intends to remove the structure. The cost of removal may be recovered directly from the owner or may be billed concurrently with the Town tax on the property. The cost of removal will be borne by the owner.
- B. State environmental quality review (SEQR).

(1) The State Environmental Quality Review Act* requires that local governments examine the environmental impact of all actions they permit, fund or construct. Article 8 of the Environmental Conservation Law and Part 617 of Title 6 of

the New York Codes, Rules and Regulations are hereby adopted by reference. (*See § 8-0101 et seq. of the Environmental Conservation Law).

(2) All Type I actions (6 NYCRR 617) shall require the submission and review of an environmental assessment form.

(3) For zoning actions reviewed by the town, the following bodies shall be SEQR lead agency, unless otherwise delegated by the Town Board:

- (a) Local law for text amendments: the Town Board.
- (b) Local law for map amendments: the Town Board.
- (c) Site plan approvals: the Planning Board.
- (d) Variances: the Board of Appeals.

(4) If, in the opinion of the SEQR local lead agency, after review of the environmental assessment form, there appears the potential for a significant environmental impact, the lead agency may cause the applicant to prepare a draft environmental impact statement. Review, notice and action on the environmental impact statement shall be conducted using 6 NYCRR 617.

§ 207-32. Building permit fees; certificates of occupancy; application of provisions.
 [Added 7-8-1987; amended 5-10-1989 by L.L. No. 1-1989]

A. Upon the filing of an application for a building permit, the applicant shall pay the appropriate fee. Building fees are as follows:

Total Valuation of Construction or Other Activity to be Undertaken	Fee
\$0-\$9,999	\$10.00
\$10,000-\$19,999	\$20.00
\$20,000-\$29,999	\$30.00
\$30,000-\$39,999	\$40.00
\$40,000-\$49,999	\$50.00
\$50,000-\$59,999	\$60.00
\$60,000-\$69,999	\$70.00
\$70,000-\$79,999	\$80.00
\$80,000-\$89,999	\$90.00
\$90,000-\$99,999	\$100.00
\$100,000-\$149,999	\$150.00
\$150,000 and up	\$150.00 plus \$.50 per 1,000
Demolition	\$10.00
Certificate of Occupancy	\$10.00
Fire/Safety Inspection	\$15.00

B. These fees will remain in effect until a new local law is passed by the Massena Town Board to change such fees.

C. Certificates of Occupancy. **[Added 5-15-2002 by L.L. No. 1-2002]**

(1) Certificate required.

- (a) It shall be unlawful for an owner to use or permit the use of a building or premises or part thereof hereafter created, erected, changed, converted, restored, enlarged or moved, wholly or partly, in its use or structure, until a certificate of occupancy shall have been issued by the Code Enforcement Officer. Such certificate shall show that such building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. It shall be the duty of the Code Enforcement Officer to issue a certificate of occupancy, provided that the building and the proposed use thereof conform the all the requirements herein set forth.
- (b) No use or occupancy of a building or structure may be commenced until a certificate of occupancy has been issued for that building or structure. A temporary certificate of occupancy may be issued by the Code Enforcement Officer if the building or structure or a designated portion of a building or structure is sufficiently complete so that it may be put to the se for which it is intended. A temporary certificate of occupancy shall expire in six months, but it may be renewed once.
- (c) A certificate of occupancy shall be deemed to authorize and be required for both initial occupancy and the continued occupancy and the use of the building or land to which it applies.

(2) Application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made, on forms furnished by the Code Enforcement Officer, after erection of such building or part thereof has been completed. In the case of a new building, such application shall be accompanied by a survey prepared by a licensed land surveyor or engineer showing the location of all buildings as built.

(3) If the proposed use is in conformity with the provisions of this chapter and all other applicable codes, laws and ordinances, a certificate of occupancy for the use of vacant land or for a change of use shall be issued by the Code Enforcement Officer within 10 days after receipt of a properly completed application. If a certificate of occupancy us denied, the Code Enforcement Officer shall state the reasons, in writing, to the applicant.

(4) A record of all permits and certificates of occupancy shall be kept in the office of the Code Enforcement Officer.

D. Construction commencing prior to enactment of this chapter. All permits for buildings and structures issued prior to the enactment of this chapter which are contrary to the provisions of this chapter shall be null and void unless the construction of said building has been substantially commenced prior to the enactment of this chapter. If building operations are discontinued for a period of 12 months, any further construction shall be in conformity with the provisions of this chapter. [**Added 5-15-2002 by L.L. No. 1-2002**]

§ 207-33. Penalties for Offenses.

A. Violation of any provision or requirement of this chapter or violation of any statement, plan, application, permit or certificate of occupancy under the provisions of this chapter shall be considered an offense punishable by a fine of not more than \$250 and/or imprisonment for not more than six months for each offense.

B. The owner, general agent or contractor of a building, premises or part thereof where such violation has been committed or does exist shall be guilty of such offense.

C. Any agent, contractor, architect, builder, corporation or other person who commits, takes part or assists in such violation shall also be guilty of such offense.

D. Each and every week that any such violation continues after notification that such violation exists shall constitute a separate offense. Such notice shall be written by the Building Inspector and shall be served by mail or by personal service.

E. The imposition of penalties herein prescribed shall not preclude the Town or any person from initiating appropriate legal action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.

ARTICLE XI
Board of Appeals

§ 207-34. Creation; membership.

There shall be a Board of Appeals of five members pursuant to the provisions of § 267 of the Town Law.

§ 207-35. Procedures. [Added 5-10-1995 by L.L. No. 3-1995] (*Also called for the repeal of former §85-34, Powers and duties*).

The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows, provided that none of the

following provisions shall be deemed to limit any power of the Board that is conferred by law:

A. Meetings, minutes, records. Meetings of the Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

B. Filing requirements. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five business days and shall be a public record.

C. Assistance to Board of Appeals. The Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

D. Hearing appeals. Unless otherwise provided by local law or ordinance, the jurisdiction of the Board of Appeals shall be by appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of any ordinance or local law adopted pursuant to this chapter. The concurring vote of the majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the town.

E. Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of such ordinance or local law by filing with such administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

F. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

G. Hearing on appeal. 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 of such hearing by publication in a paper of general circulation in the town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal or a reasonable fee relating thereto shall be borne by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person or by agent or attorney.

H. Time of decision. The Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

I. Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof shall be mailed to the applicant.

J. Notice to park commission or planning agency. At least five days before such hearing, the Board of Appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal; and to the county, metropolitan or regional planning agency, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in Subdivision 1 of § 239-m of the General Municipal Law.

K. Compliance with State Environmental Quality Review Act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Codes, Rules and Regulations.

L. Rehearing. A motion for the Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such a rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

M. Referral to the Town Planning Board. Prior to the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Secretary of the Town Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the rendering of a decision by the Board of Appeals.

§ 207-36. Permitted action by Board. [Added 5-10-1995 by L.L. No. 3-1995] (*Also called for the repeal of former §85-35, Procedures*).

A. Orders, requirements, decisions, interpretations, determinations. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and, to that end, shall have all the powers of the administrative official from whose order, requirement or decision the appeal is taken.

B. Use variances.

(1) The Board of Appeals, on an appeal from the decision or determination of the administrative official charged with enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

(2) No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for that particular district where the property is located:

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
- (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood.
- (d) The alleged hardship has not been self-created.

(3) The Board of Appeals, in the granting of a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Area variances.

(1) The Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such ordinance or local law or by direct request of the applicant pursuant to Town Law § 274-a, Subdivision 3; § 274-b, Subdivision 3; and 277, Subdivision 6, to grant area variances as defined herein.

(2) In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such a grant. In making such determination, the Board shall also consider:

- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting or the area variance.
- (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
- (c) Whether the area variance is substantial.
- (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

(3) The Board of Appeals, in granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restriction as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 207-37. Appeal to Supreme Court under Town Law. [Added 5-10-1995 by L.L. No. 3-1995]

A. Application to Supreme Court by aggrieved persons. Pursuant to Town Law § 267-c, any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the town, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision of the Board of Appeals in the office of the Town Clerk.

B. Costs of appeal. Costs shall not be allowed against the Board of Appeals unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

C. Preference of appeal to Court. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

D. Power of Court. If upon hearing at the Supreme Court, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review, determining all questions which may be presented for determination.

ARTICLE XII Site Plan Approval

§ 207-38. Authority granted to Planning Board.

In all cases where this chapter requires approval of site development plans by the Planning Board, no building permit shall be issued by the Building Inspector except upon authorization of and in conformity with the plans approved by the Planning Board.

§ 207-39. Objectives.

In considering and acting upon site development plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

A. Traffic access: that all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.

B. Circulation and parking: that adequate off-street parking and loading spaces are provided to prevent the parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.

C. Landscaping and screening: that all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter as measured three feet above the base of the trunk shall be retained to the maximum extent possible.

§ 207-40. Effect.

A. [Amended 12-13-1995 by L.L. No. 4-1995] No building permit shall be issued until an approved site development plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.

(1) In all districts, site plan approval by the Planning Board shall be required for:

- (a) The erection or enlargement of all buildings in all districts other than one- or two-family dwellings or uses accessory thereto.
- (b) All uses of vacant land other than uses customarily accessory to one- or two-family dwellings.
- (c) Any change in use or intensity of use which will affect the characteristics of the site in terms of the plan elements listed in § 207-42; location of buildings, parking, loading, outdoor lighting and public address, sign location and plans, access and egress, drainage, landscaping and screening, utilities or public improvements or services.

(2) A use may be exempted from site plan approval where the Code Enforcement Officer finds that the proposed use would be conducted with no change in a site plan previously approved for a use within the same category. This ability to exempt uses within the same category applies only where an approved site plan is on file.

B. No certificate of occupancy will be issued for any structure or use of land covered by this article unless the structure is completed or the land is developed or used in accordance with an approved site development plan or approved amendment of any such plan.

§ 207-41. Procedure.

A. Presubmission conference. Prior to the submission of a site development plan, the applicant shall meet in person with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site development plan elements listed in §207-42 shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter. The presubmission conference may be waived at the discretion of the Chairman of the Planning Board. In the event that the presubmission conference is waived, the Chairman shall indicate to the applicant which plan elements are required for final approval.

B. Within six months following the presubmission conference, the site development plan and any related information shall be submitted to the Building Inspector in triplicate at least 15 days prior to the Planning Board meeting at which approval is requested. If not submitted within this six-month period, another presubmission conference shall be required.

C. The Building Inspector shall certify on each site development plan or amendment whether or not the plan meets the requirements of all zoning provisions other than those of this article regarding site development plan approval.

D. The Building Inspector shall retain one copy and transmit two copies of the certified site development plan to the Secretary of the Planning Board at least seven days prior to the Planning Board meeting at which approval is requested.

E. The Planning Board shall act to approve or disapprove any such site development plan within 62 days after the meeting at which approval is requested. Failure to act within 62 days shall be deemed approval. Planning Board disapproval shall include written findings upon any site development plan element found contrary to the provisions or intent of this chapter. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants as are qualified to advise as to whether or not the use applied for will be operated in conformance with the performance standards and, if not, what modification in design or operation would be necessary for conformance. A copy of the report of such consultant shall be furnished to the Planning Board, the Building Inspector and the applicant.

F. Amendments to a site development plan shall be acted upon in the same manner as the approval of the original plan.

G. The Planning Board may require that site development plan approval be periodically renewed.

H. Referral to the County Planning Board. Should any site plan be for a project located within 500 feet of the following, the Planning Board shall, before final action, refer the site plan to the St. Lawrence County Planning Board in accordance with § 239-m of Article 12-B of the New York State General Municipal Law. If County Planning Board has not acted on a referral within 30 days, the Planning Board may proceed as if the County Planning Board had approved the referral.

- (1) The boundary of any village or town.
- (2) The boundary of any state park or other recreation area.
- (3) The right-of-way of any county or state parkway, throughway, expressway or other controlled access highway.
- (4) The right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.

- (5) The boundary of any county or state owned land on which a public building or institution is located.

I. All site plan review decisions shall be filed in with the Town Clerk within five days from the date of the decision. [Added 5-10-1995 by L.L. No. 3-1995]

§ 207-42. Plan elements.

The applicant shall cause a site development plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person unless this requirement is waived by vote of the Planning Board. Site development plan elements shall include those listed below which are appropriate to the proposed development or use as indicated by the Planning Board in the presubmission conference:

A. Legal data.

- (1) The lot, block and section number of the property, taken from the latest tax records.
- (2) The name and address of the owner of record.
- (3) The name and address of the person, firm or organization preparing the map.
- (4) The date, North point and written and graphic scale.
- (5) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
- (6) The locations, names and existing widths of adjacent streets and curb lines.
- (7) The locations and owners of all adjoining lands as shown on the latest tax record.
- (8) The location, width and purpose of all existing and proposed easements, setback, reservations and areas dedicated to public use within or adjoining the property.
- (9) A complete outline of existing deed restrictions or covenants applying to the property.
- (10) Existing zoning.

B. Natural features.

- (1) Existing contours at intervals of five feet or less, referred to a datum satisfactory to the Board.
- (2) Approximate boundaries of any areas subject to flooding or storm water overflows.
- (3) The location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more, as measured three feet above the base of the trunk, and other significant existing features.

C. Existing structures and utilities.

- (1) The location of uses and outlines of structures, drawn to scale, on the site and within 100 feet of the lot line.
- (2) Paved areas, sidewalks and vehicular access between the site and public streets.
- (3) Locations, dimensions, grades and flow direction of existing sewers, culverts, waterlines as well as other underground and aboveground utilities within and adjacent to the property.
- (4) Other existing development, including fences, landscaping and screening.

D. Proposed development.

- (1) The location of proposed building or structural improvements.
- (2) The location and design of all uses not requiring structures, such as off street parking and loading areas.
- (3) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
- (4) The location and plans for any outdoor signs.
- (5) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas; profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and the location and size of water and sewer lines.
- (6) Any proposed grading, screening and other landscaping, including types and locations of proposed street trees.
- (7) The location of all proposed waterlines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment.
- (8) An outline of any proposed deed restrictions or covenants.
- (9) Any contemplated public improvements on or adjoining the property.
- (10) If the site development plan only indicated a first stage, a supplementary plan shall indicate ultimate development.

E. Any other information deemed by the Planning Board necessary to determine conformity of the site plan with the intent and regulations of this chapter.

§ 207-43. Specific standards for uses requiring site plan approval.

Uses which require site plan approval must meet the following standards in addition to dimension, sign and parking standards. The Massena Town Planning Board may, as part of the site plan review process, require enlarged area and/or lot dimensions as necessary to accommodate the proposed development and may further condition its approval of the site plan, but it may not require less than the specific standards appearing in this chapter.

A. Automobile sales, rental, repair, service, body shop and dismantlers.

- (1) The minimum lot area shall be one acre.

- (2) Lot frontage on any street shall be at least 200 feet.
- (3) Such use shall not be located within 200 feet of any lot occupied by a residence, school, hospital or religious institution at the time of application for site plan approval. Measurement shall be made between the nearest respective lot lines.
- (4) Bulk fuel shall be stored at least 50 feet from any property line and be underground.
- (5) Disabled vehicles shall be screened from the view of the street in any residence district.
- (6) No exterior storage of dismantled vehicles, vehicle parts or salvage materials shall be permitted for a period of more than seven days.
- (7) No exterior storage of disabled vehicles shall be permitted for more than 30 days.

B. Campgrounds and recreational facilities.

- (1) For campgrounds, 5,000 additional square feet per campsite is required beyond the district minimum.
- (2) On-site food and retail sales require a separate review.

C. Home occupation/profession.

- (1) The home shall continue to appear as a residence.
- (2) Not more than two employees other than the inhabitants of the dwelling unit shall be engaged in such home occupation/profession.
- (3) The home occupation/profession shall not cause significant increase in traffic in the vicinity.
- (4) No offensive noise, vibration, glare, fumes, odor or electrical interference shall be produced.

D. Junkyards.

- (1) All junkyards must be brought into compliance with this chapter within one year from notification of noncompliance by the Code Enforcement Officer.
- (2) Junkyards must meet all applicable, current standards of the state.
- (3) Minimum lot size shall be 10 acres.
- (4) Such uses shall not be located within 100 feet of any road right-of-way and 200 feet from any property line, lake, river or stream.
- (5) All junkyard operations shall be fenced and screened from public view and other adjacent properties.

E. Kennels, veterinary clinics and animal hospitals.

- (1) Minimum lot size shall be three acres.

- (2) All structures shall be located at least 200 feet from any adjacent property which would permit a residential use, whether developed for that purpose or not.

F. Mobile home. Mobile homes may be located on individual lots or parcels of land where permitted, subject to the specific requirements of this subsection. It is the intent of this chapter to recognize the modern mobile home as an alternative source of affordable housing. However, because mobile homes may present special housing problems which are uncharacteristic of conventional housing, the location and maintenance requirements of this subsection are designed to ensure that mobile homes are safe and compatible with surrounding uses.

- (1) A mobile home may be located on individual sites in all districts if it meets all of the following standards:

- (a) The mobile home shall be occupied only as a single-family residence.
- (b) Prior to installation on a lot in the town, a mobile home must bear a certifying seal that that unit meets standards in effect at the time of manufacture. Installation of units not bearing such a seal is prohibited. Non-certified units located within the town prior to the effective date of this chapter may not be relocated. Relocation of a preexisting unit to a new lot is considered equivalent to relocation from outside the town.
- (c) The mobile home shall have an adequate supply of potable water and a sewage disposal system.
- (d) The mobile home shall be located in conformance with all the area requirements for the district.
- (e) The mobile home must be either permanently attached to either a masonry foundation on piers extending to below the frost line or must be mounted on a concrete pad at least four inches in thickness poured over a drained sub base of gravel or crushed stone.
- (f) Tie-downs are required for all units.
- (g) Skirting is required for all units.

- (2) A mobile home may be located on an individual lot as an accessory dwelling unit for an aged or infirm family member, subject to the following restrictions:

- (a) The mobile home shall be located in conformance with the yard and parking requirements of the zoning district.

G. Mobile home park. Mobile home parks are subject to the specific requirements of this subsection.

- (1) A mobile home park shall have a minimum lot size of five acres.
- (2) Within the mobile home park, minimum site area for individual mobile homes shall be as follows:

Yard	Requirement (feet)
Front	20
Side (each)	15
Rear	15

- (3) Sanitary facilities. An adequate water supply and sewage disposal system shall be provided for all mobile home lots within the park and shall be approved by the New York State Department of Health and the New York State Department of Environmental Conservation, as required by state law.
- (4) Utility installations. All wiring, fixtures and appurtenances shall be installed and maintained in accordance with the specifications and regulations of the New York State Board of Fire Underwriters and the local utility company. Whenever possible, electrical transmission and other utility lines should be placed below the ground.
- (5) Fuel tanks, where used, shall be placed at the rear of the mobile home and at a distance of at least five feet from any exits and shall have a safety shutoff at the tank. Underground tanks or a centralized fuel supply are to be encouraged wherever possible.
- (6) Roadways. No individual mobile home within a mobile home park shall have access to an existing street. Internal roadways within a mobile home shall have a minimum right-of-way of 50 feet. There shall be no dead-end streets in any park. A cul-de-sac turnaround shall be provided if needed. Roadways within the park must be hard-surfaced and constructed so as to eliminate heaving from frost. Roadways must be drained so as to avoid standing water.
- (7) Off-street parking. One off-street parking space shall be provided for each mobile home lot in the mobile home park outside the fifty-foot right-of-way.
- (8) Recreation area. Open space of up to 10% of the land area suitable for recreation and play purposes shall be designated on the site plan and shall be an integral part of any proposed mobile home park.
- (9) Improvements. The bottom portion of any mobile home shall be enclosed with a metal, wood or other suitable skirt, properly ventilated, within 60 days after location in the mobile home court. Notification of such requirement shall be the responsibility of the mobile home park operator, for owner occupied units. The mobile home must be either permanently attached to a masonry foundation or piers extending to below the frost line or must be mounted on a concrete pad at least four inches in thickness poured over a drained sub base of gravel or crushed stone. Tie-downs are necessary for all units.
- (10) Sidewalks, lighting and landscaping shall be in keeping with surrounding development, the unique features of the site and the health and safety of all occupants of the mobile home park as determined by the Planning Board. Attractive site development and landscaping shall be a consideration in determining the adequacy of the proposed mobile home park.
- (11) Each mobile home shall be occupied only as a single-family residence.

- (12) Prior to installation in a mobile home park, mobile homes must bear a certifying seal that the unit meets standards in effect at the time of manufacture. Installation of units not bearing such a seal is prohibited.

H. Waste storage and/or treatment facility. These facilities are allowed only in industrial zones and only after site plan review. This section applies to all new facilities, whether as an addition to an existing and/or treatment facility, a new facility related to an existing use or as a separate new use altogether.

- (1) All applicable federal and state permits for any applicable type of waste, except nuclear waste must be obtained prior to the start of construction.
- (2) Storage and/or treatment of nuclear waste is prohibited.
- (3) Minimum lot size shall be 10 acres. The Planning Board may require a larger minimum lot area if necessary to safely accommodate the nature and scale of the proposed use.
- (4) All structures shall be located at least 1,000 feet from any adjacent residential use or property which would permit a residential use. The Planning Board may require screening from adjacent properties, as needed.
- (5) All treatment activities shall be conducted within an enclosed building, and there shall be no exterior storage of materials.
- (6) There shall be no on-premises disposal of wastes.

ARTICLE XIII Amendments

§ 207-44. Procedure.

A. This chapter or any part thereof may be amended, supplemented or repealed from time to time by the Town Board on its own motion, or upon recommendation by the Planning Board. Prior to public hearing, every such proposed amendment shall be referred by the Town Board to the Planning Board for a report. The Town Board shall not take action on any such amendment without such report from the Planning Board unless the Planning Board fails for any reason to render such report within 45 days after its next regularly scheduled meeting following the date of such referral.

B. Report of the Planning Board. In making such report on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

- (1) Concerning a proposed amendment to or change in text of this chapter:
 - (a) Whether such change is consistent with the aims and principles embodied in the chapter as to the particular districts concerned.

- (b) Which areas, land uses, buildings and establishments in the town will be directly affected by such change and in what way they will be affected.
- (c) The indirect implications of such change in its effect on other regulations.
- (d) Whether such proposed amendment is consistent with the aims of the Comprehensive Development Plan of the town.

(2) Concerning a proposed amendment involving a change in the Zoning Map:

- (a) Whether the uses permitted by the proposed change would be appropriate in the area concerned.
- (b) Whether adequate public school facilities and other public services exist or can be created to serve needs of any additional residences likely to be constructed as a result of such a change.
- (c) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.
- (d) The effect of the proposed amendment upon the growth of the town as envisaged by the Comprehensive Development Plan.
- (e) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the town and the probable effect thereof.

C. Each petition for a zoning amendment shall be accompanied by a fee of \$20, payable to the Town Clerk upon the filing thereof. No fee shall be required for petitions filed in favor of or against a pending application.

D. Amendments. The Town Board may, on its own motion, on petition or on recommendation of the Town Planning Board, amend these regulations pursuant to the applicable requirements of law. **[Added 5-10-1995 by L.L. No. 3-1995]** *(This local law also provided for the repeal of former Subsection D, dealing with a fixed time and place for a public hearing.)*

E. Publication of meeting notice. At least 10 days prior to a public hearing to consider zoning amendments, a notice of the time and place of such hearing shall be published in a paper of general circulation in the town. **[Added 5-10-1995 by L.L. No. 3-1995]** *(This local law also provided for the repeal of former Subsection E, Notice of hearing.)*

F. **[Added 5-10-1995 by L.L. No. 3-1995]** *(This local law called for the repeal of former Subsection F, dealing with the conditions of proposed amendments.)* Service of written notice. At least 10 days prior to the date of the public hearing, written notice of any proposed regulations, restrictions or boundaries of such districts, including any amendments thereto, affecting property within 500 feet of the following shall be served personally or by mail by the town upon each person or persons listed below.

- (1) The property of the housing authority erecting or owning a housing project authorized under the Public Housing Law: upon the executive director of

such housing authority and the chief executive officer of the municipality providing financial assistance thereto.

- (2) The boundary of a city, village or town: upon the Clerk thereof.
- (3) The boundary of a county: upon the Clerk of the Board of Supervisors or other person performing like duties.
- (4) The boundary of a state park or parkway: upon the regional state park commission having jurisdiction over such state park or parkway.

G. Additional requirements. The procedural requirements set forth herein shall be in addition to the requirements of the provisions of §§239-1 and 239-m of the General Municipal Law relating to review by a county, metropolitan or regional planning board; the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations, which are codified in Title 6, Part 617, of the New York Codes, Rules and Regulations; and any other general laws relating to land use and any amendments thereto. **[Added 5-10-1995 by L.L. No. 3-1995]** *(This local law also provided for the repeal of former Subsection G, dealing with protests against amendment.)*

H. Public hearing. The public, including those served notice pursuant to Subsection F of this section, shall have an opportunity to be heard at the public hearing. Those parties set forth in Subsection F (1) through (4) of this section, however, shall not have the right of review by a court as hereinafter provided. **[Added 5-10-1995 by L.L. No. 3-1995]**

I. Filing and effective date. Upon adoption or approval of a modification to this chapter, the Town Board must file a copy with the Town Clerk and must publish the ordinance or amendment or a summary or abstract thereof in a newspaper designated by the Town Board as having general circulation in the town. The Town Board shall also file the law or amendment thereof with the Office of the Secretary of State. The law or amendment shall take effect upon filing with the Office of the Secretary of State or 10 days after publication of the amendment, whichever occurs later. **[Added 5-10-1995 by L.L. No. 3-1995]**

ARTICLE XIV Definitions

§ 207-45. Word Usage.

For the purpose of this chapter, words used in the present tense include the future; the singular number includes the plural, and the plural, the singular; the word “person” includes a corporation as well as an individual; the word “lot” includes the word “plot.” The term “occupied or used” as applied to any building shall be construed as though followed by the words “or intended, arranged or designed to be occupied or used.”

§ 207-46. Terms defined.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

ACCESSORY- A building or use clearly incidental or subordinate to and customary in connection with the principal building or use on the same lot.

BASEMENT- A story in a building, the structural ceiling level of which is four feet or more above the average level of finished grade of the exterior wall of such building and the floor level of which is below finished grade at any point on the periphery of the building.

BILLBOARD- A sign, including the type commonly known as a “billboard,” which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidentally upon such lot.

BUILDING- Any combination of materials forming any construction, except where entirely underground so as to permit the use of the ground above the same as if no building was present. The term “building” shall include the term “structure” as well as the following:

- A. Signs
- B. Fences.
- C. Walls, other than retaining walls projecting above the ground more than three feet at the higher ground level and not more than 6 ½ feet at the lower ground level.
- D. Radio and television receiving and transmitting towers and antennas, except for such antennas installed on the roof of a building and extending not more than 20 feet above the highest level of the roof of such building.
- E. Porches, outdoor bins and other similar structures.

CELLAR- Any space in a building, the structural ceiling level of which is less than four feet above the average finished grade of the exterior wall of such building. A cellar shall not be considered in determining the permissible number of stories.

COURT, INNER- An open space enclosed on all sides by exterior walls of a building.

COURT, OUTER- An open rectangular space enclosed on three sides by exterior walls of a building.

DWELLING, MULTIPLE- A building or portion thereof containing three or more dwelling units.

DWELLING, ONE-FAMILY- A detached building containing one dwelling unit only.

DWELLING, ROW OR ATTACHED- A one-family dwelling with common or party walls separating it from adjacent units.

DWELLING, TWO-FAMILY- A detached building containing two dwelling units only.

DWELLING UNIT- A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallway or porches) or cooking or sanitary facilities in common with any other dwelling unit. A boarding- or rooming-house, convalescent home, fraternity or sorority house, hotel, inn or lodging, nursing or other similar home or other similar structure shall not be deemed to constitute a dwelling unit.

FACTORY MANUFACTURED HOME- Incorporates structures or components designed for residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a building site. Factory manufactured homes which are not mobile homes, as defined in this section, are considered in all respects the same as site-built homes for purposes of location in residential districts where mobile homes are not allowed. Factory manufactured homes must bear a seal authorized by the United States Department of Housing and Urban Development.

FAMILY- One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage or adoption shall not be considered to constitute a family.

HEIGHT- The vertical distance measured from the average elevation of the finished grade at the front of a building to the highest point of the roof, for flat and mansard roofs, and to the mean height between the eaves and the ridge, for all other types of roofs.

HOME OCCUPATION- A customary personal service occupation, such as dressmaking, millinery and home cooking, provided that such occupation shall be conducted solely by members of the resident family and in the main building only, that not more than the equivalent of 1/3 the total floor area shall be used for such purposes, that no display of advertising other than a small nameplate and no display of products shall be made visible from the street, that no stock-in-trade shall be kept and that no mechanical or electrical equipment is used except

customary household equipment. Beauty parlors, barbershops, and hairdressing and manicuring establishments shall not be deemed to be home occupations.

LOT- Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its necessary buildings, if any, or by a group of buildings accessory thereto, if any, together with the required open spaces appurtenant to such building or group of buildings.

LOT, CORNER- A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

LOT DEPTH- The minimum distance from the street line of a lot to the rear lot line of such lot.

LOT LINE- Any boundary of a lot.

LOT LINE, REAR- The lot line generally opposite to the street line; if the rear lot line is less than 10 feet in length or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT WIDTH- The average distance between side lot lines taken at the front yard or setback line and measured at right angles to the side lot lines or along a line parallel to the street.

MANUFACTURING- Any process whereby the nature, size or shape of articles or raw materials is changed or where articles are assembled or packaged.

MOBILE HOME- A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet in area 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 which includes the plumbing, heating, air-conditioning and electrical systems contained therein.

MOBILE HOME PARK- An area of land under single ownership upon which is located two or more mobile homes for nontransient dwelling purposes.

PRINCIPAL BUILDING- A building in which is conducted the main or principal use of the lot on which said building is located.

PUBLIC WATER; PUBLIC SEWER- Sewage disposal and water supply systems approved by the Town Board for municipal operation.

RECREATIONAL VEHICLES- A transportation structure, self-propelled or capable of being towed by a passenger car, station wagon or small pickup truck, or such size and weight as not to require any special highway movement permits and primarily designed to provide temporary movable living quarters for recreational, camping or travel use or to carry such equipment, but not for profit nor for commercial use. Included as recreational vehicles, but not to the exclusion of any other types not mentioned in this definition, are trailers; trailer coaches; camping trailers; motor homes; pickup (slide-in) campers; chassis mounts; converted vans; chopped vans; mini motor homes; fifth-wheel trailers of recreational vehicle construction, design and intent (as opposed to commercial fifth-wheel trailers); boat trailers, with or without boats mounted thereon; snowmobile trailers, with or without snowmobiles mounted thereon; and truck caps.

A. TRAILERS, TRAILER COACHES and FIFTH-WHEEL TRAILERS- Recreational vehicles constructed with integral wheels to make them mobile and intended to be towed by passenger cars, station wagons and/or light pickup or panel trucks and similar motor vehicles, but not including truck tractors of any type.

B. CAMPING TRAILER- A type of trailer or trailer coach, the walls of which are so constructed as to be collapsible and made out of either canvas or similar cloth or some form of rigid material, such as fiberglass or plastic or metal. The walls are collapsed while the recreational vehicle is being towed and are raised or unfolded when the vehicle becomes temporary living quarters and is not being moved.

C. PICKUP (SLIDE-IN) CAMPERS and TRUCK CAPS- Recreational structures designed to be mounted temporarily or permanently in the beds of light trucks, with the trucks having either single or double rear wheels and with or without an assisting extra tag axle and wheels mounted either on the camper chassis or the truck chassis behind the truck's rear wheels. These campers can be readily demounted from the truck beds. When removed from their respective truck beds, pickup (slide-in) campers and truck caps are called "unmounted campers."

D. CHASSIS MOUNTS, MOTOR HOMES and MINI MOTOR HOMES- Recreational structures constructed integrally with a truck or motor-van chassis and incapable of being separated there from. The truck or motor-van chassis may have single or double rear wheels.

E. CONVERTED AND CHOPPED VANS- Recreational structures which are created by altering or changing an existing auto van to make it

into a recreational vehicle meeting the requirements of Subsection C above.

F. BOAT OR SNOWMOBILE TRAILER- A vehicle on which a boat or snowmobile may be transported and which is towable by a passenger car, station wagon, pickup truck or mobile recreational vehicle as defined above. When removed from the trailer, a boat or snowmobile, for the purposes of this chapter, is termed an “unmounted boat or snowmobile.”

SHOPPING CENTER- Two or more stores under single ownership or control, containing a total floor area of at least 20,000 square feet.

SIGN- Any structure or part thereof or any device attached to a building or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag or representation which is in the nature of or which is used as an announcement, direction or advertisement for commercial purposes or otherwise. A sign includes a billboard and a neon tube, string of lights or similar device outlining or hung upon any part of a building or lot but does not include the flag or insignia of any nation or group of nations or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. Excluded from this definition are signs which are solely devoted to prohibiting trespassing, hunting or fishing.

SIGN AREA- Includes all faces of a sign measured as follows:

A. When such a sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.

B. When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the matter of which such sign consists may be described.

STORY- The part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STORY, HALF- Any space partially within the roof framing, where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is seven feet six inches or more.

STREET- A street, improved to the satisfaction of the Planning Board, which is one of the following: an existing town, county or state highway or street; a street

shown on an approved subdivision final plat; a street shown on a map filed with the County Clerk (in accordance with § 280-a of the Town Law) prior to Planning Board authorization to review subdivisions; or a street shown on the Town Official Map.

STREET LINE- Edge of the street right-of-way; front lot line.

STRUCTURAL CHANGE- Any change in supporting members of a building, such as beams, columns or girders.

USABLE OPEN SPACE- An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the minimum dimension of which is 40 feet and which is available and accessible to all occupants of the building or buildings on said lot for purposes of active or passive outdoor recreation.

USE, ACCESSORY- A use customarily incidental and subordinate to the main use on a lot, whether such accessory use is conducted in a principal or accessory building.

VARIANCE [Added 5-10-1995 by L.L. No. 3-1995]:

A. **AREA-** The authorization of the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or topographical requirements of this chapter.

B. **USE-** The authorization of the Zoning Board of Appeals for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by this chapter.

YARD, FRONT- An unoccupied ground area fully open to the sky between the street line or between the street line established by the Official Map of the town or an approved subdivision plat and a line drawn parallel thereto.

YARD, REAR- An unoccupied ground area fully open to the sky, extending across the full width of that portion of the lot situated between the rear line of the lot and the rear line of the building.

YARD, SIDE- An unoccupied ground area fully open to the sky between any property line other than a street or rear lot line and a line drawn parallel thereto between the front and rear yards.

ARTICLE XV
Interpretation

§ 207-47. Interpretation of provisions.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit or by any easement or agreement, the provisions of this chapter shall control.