

## **Chapter 79**

### **SITE PLAN REVIEW AND APPROVAL**

**§ 79-1. Title.**

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**§ 79-3. Definitions.**

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**§ 79-9. Amendments.**

**[HISTORY: Adopted by the Town Board of the Town of Waterloo 12-19-2000 by L.L. No. 4-2000; amended in its entirety 3-15-2011 by L.L. No. 6-2011. Subsequent amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Planning Board — See Ch. 27.**

**Uniform fire prevention and building code — See Ch. 74.**

**Flood damage prevention — See Ch. 78.**

**Mining and excavation — See Ch. 80.**

**Zoning — See Ch. 135.**

**Subdivision of land — See Ch. 136.**

**§ 79-1. Title.**

This chapter shall be known and may be cited as the "Site Plan Review and Approval Law" of the Town of Waterloo.

**§ 79-2. Intent.**

The intent of this chapter is to provide for Planning Board review and approval of site plans for certain uses in the Town of Waterloo for one or more of the following purposes:

- A. Mitigating potentially negative impacts resulting from development of environmentally sensitive areas, including wetlands, special flood hazard areas, waterfront sites and other areas and land uses, including commercial, industrial and residential development as may be designated from time to time by the Town Board.
- B. Achieving an acceptable level of compatibility between new development and existing uses of adjacent land.
- C. Identifying and minimizing adverse effects of development on drainage, traffic, public utilities, surface and ground water quality, wildlife habitat and other natural resources and community services.
- D. Preserving and enhancing visual quality and property values as development occurs.

**§ 79-3. Definitions.**

The following terms shall have the meanings indicated:

**BUFFER, BUFFER STRIP** — A strip of land, generally adjacent to a property line, on which a screen of plantings and/or other landscaping that will be dense enough and high enough to be a visual buffer between properties is installed and maintained by the landowner. (See also "landscaping.")

**BUILDING** — Any structure where space is covered or enclosed. (See also "structure.")

**DWELLING, MULTIFAMILY** — A building or portion thereof, including townhouses, cooperatives and condominiums, that contains three or more dwelling units and is intended to be the place of residence of families or households living independently of each other.

**FOOTPRINT** — The land area covered by all principal and accessory buildings on a lot.

**LANDSCAPING, LANDSCAPED** — The use of lawns, trees, plants or other natural or decorative features, including wood, stone or masonry fencing.

**LOT** — Any parcel, plot, site or tract of land separated from other parcels, plots, sites or tracts by description or by metes and bounds.

**RESIDENCE, RESIDENTIAL USE** — Any building that is intended to be used primarily as a dwelling, including a one-family dwelling, two-family dwelling, multifamily dwelling, apartment, townhouse and mobile home.

**SPECIAL FLOOD HAZARD AREA** — Areas identified by the Federal Emergency Management Agency in a report entitled the "Flood Insurance Study for the Town of Waterloo, New York, Seneca County," dated March 16, 1981.

**STRUCTURE** — A combination of materials assembled, constructed or erected at a fixed location for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

**§ 79-4. Applicability.**

The following land uses and activities are subject to the provisions of this chapter:

- A. Any project or action that will produce a multifamily dwelling on a single lot, whether in a new or a converted existing building.
- B. Any project or action that will result in the construction or establishment of a new building or land use activity that will not be used for residential purposes of any type. (See definition of "building" in § 79-3.)
- C. Any modification of an existing nonresidential building or land use activity when one or more of the following conditions apply:
  - (1) The existing footprint of the building is to be enlarged by 1,000 square feet or more.
  - (2) An existing parking lot, or driveway thereto, is to be modified in any way.

- (3) The estimated value of any new construction which would result in a change of lot layout, or the exterior appearance of the building, is greater than \$50,000.
- D. Any project or action located within the boundary of the Local Waterfront Revitalization Program or Economic Development Zone as established in the Town.
- E. Construction of any permanent or habitable building or structure, or any portion thereof, within a distance of 100 feet from the edge of the Seneca-Cayuga Canal.
- F. Any project or action that will require removing from or depositing on a site more than 1,000 cubic yards of material of any sort unless such action is regulated by the New York State Mined Land Reclamation Law.
- G. Construction or installation of any cell tower, public utility transmission line or substation.
- H. Construction of any new private road giving access to three or more existing tax parcels.

#### § 79-5. Standards for site plan review.

In reviewing an application for approval of a site plan, the Planning Board will be guided by the existing characteristics and conditions of the site and its surroundings, by any particular design objectives of the applicant and by the quality and distinctiveness of the proposal. Each site plan shall conform to all general standards listed in this § 79-5, as applicable, and to other specific concerns related to a particular site, as may be identified in writing by the Planning Board. On request, the Board may, by resolution, modify or waive any standard that is deemed to be not appropriate for the specific development under consideration.

- A. Applicable requirements for special condition or special permit approvals, as may be set forth in a Town zoning law, if any, shall be complied with.
- B. Special attention shall be given to proper site drainage so that run off of stormwater will not adversely affect neighboring properties or produce downstream flooding.
- C. Development on erodible soils, or on slopes of greater than 10%, shall be designed to minimize erosion during construction and after construction has been completed.
- D. In general, the total area of constructed impermeable surfaces (roofs, pavement, parking lots, walkways, etc.) should be limited to not more than 40% (75% for nonresidential projects) of any tax parcel included in the site plan review application.
- E. Unless other requirements to the contrary are set forth in any Town zoning ordinance, all new buildings that are subject to site plan review and approval shall be located on a lot that has a minimum area of 30,000 square feet, with a minimum frontage of 150 feet, except that a minimum area of 40,000 square feet shall be provided for any lot located in any areas where there is no public water or sewer service available.
- F. A minimum building setback of at least 50 feet from the right-of-way line, or 75 feet from the center line of any road, whichever is greater, shall be provided, and no building shall be located less than 15 feet from all other property lines.

- G. No commercial or industrial building or land use shall be located less than 50 feet from the lot line of a residence existing at the time of adoption of this chapter. A landscaped buffer strip (see § 79-3) planted along such lot line may be required by the Planning Board.
- H. To preserve visibility at road intersections that are not controlled by a traffic light, nothing higher than three feet shall be located or planted less than 30 feet from the intersection of the road right-of-way lines.
- I. An adequate amount of off-street parking shall be provided for the proposed use. No off-street parking space shall be less than nine feet by 18 feet or located less than 10 feet from any front property line.
- J. All loading and unloading areas and outside storage areas, including used equipment storage and areas for the storage of trash, which face or are visible from a public road or an adjacent property shall be screened from public view by a vertical screen at least six feet in height. A landscaped buffer strip or a combination of landscaping and fencing may be used to provide the required screening. (See § 79-3.)
- K. Multiple or extra-wide driveway cuts to provide access to any site shall be avoided in the site design whenever possible. On corner lots, the location of driveway cuts shall not be approved by the Planning Board until after review and comment, as appropriate, by the Town Highway Superintendent, the County Highway Superintendent (for county roads) and the State Department of Transportation (for state roads).
- L. Access and circulation plans for vehicular traffic, including roadway and intersection design, traffic controls, signage and lighting shall be adequate to handle expected traffic volumes generated by the proposed development.
- M. Exterior lighting, if any, shall be designed and located so that it does not produce glare on adjacent properties and does not impede the vision of traffic on adjacent roads.
- N. The type and design of any connection to a public water supply shall be approved by the appropriate official.
- O. Approval of the type and design of any water supply or sewage disposal system shall be obtained from the Seneca County Health Department.
- P. No offensive noise, traffic, odor, smoke, dust, heat, glare or electrical disturbance shall be produced that cannot be mitigated or contained on the site.
- Q. Sites located in any area of special flood hazard shall comply with the provisions of Chapter 78 of the Town of Waterloo Code.
- R. All other applicable federal, state, county and local laws and regulations shall be complied with.

**§ 79-6. Site plan review procedure.**

- A. Application. Application for site plan review and approval shall be made on forms provided by the Zoning Officer.



**B. Site plan requirements.**

- (1) Each application for site plan review shall be accompanied by a site plan of the proposed land use activity, drawn to a scale that clearly shows the proposal. Minimum sheet size shall be the equivalent of a Size D drawing (24 inches by 36 inches) unless otherwise determined by the Planning Board. Such application and site plan shall contain the following information, as applicable:
  - (a) Name and address of the landowner of record and the applicant, if not the same; scale of the drawing(s), North arrow and date.
  - (b) An identification map showing the location and orientation of the proposed development relative to the local road system. (A tax map or USGS map is adequate for this purpose.)
  - (c) Location of the site in relation to abutting properties and roads; show existing property lines, rights-of-way, easements and the names of current owners of adjacent property and property on the opposite side of any road serving the site. (Tax records can be used for this information.)
  - (d) Gross acreage of the land to be developed.
  - (e) Existing buildings and land uses on the site and on adjacent properties; show dimensions from property lines for existing buildings on the site.
  - (f) Proposed buildings and land uses, including the approximate location and design of off-street parking areas, access and egress drives, buffer strips or screening and any new roads to be built.
  - (g) The general location of any special flood hazard areas affecting the site.
  - (h) The location of any areas designated as a wetland by the Department of Environmental Conservation or indicated as being wet on the Soil Survey of Seneca County, New York, prepared by the United States Soil Conservation Service.
  - (i) Indication of existing and proposed topography and drainage systems for the site when this is a consideration (such as hillside property or areas of poor soils). The Planning Board may require that pre- and post-development stormwater runoff calculations be provided.
  - (j) Proposed erosion control measures during and after construction, when required by the Planning Board.
  - (k) Proposed water source and sewage disposal system. The Planning Board may require percolation tests, deep holes or Health Department approval of any proposed septic systems.
  - (l) The location and type of any proposed site lighting.
  - (m) The location, size and design of any proposed sign.

- (n) The location and type of any proposed site landscaping, including buffer strips and screening as might be required by the Planning Board.
  - (o) Brief statement describing the project, including the proposed use of any building and type of building material to be used.
  - (p) Compliance with SEQRA.
- (2) Except for Subsection B(1)(p), any of the above site plan requirements may be waived by the Planning Board if circumstances warrant. The Planning Board may request additional information when this is necessary to make an informed judgment about the proposal. Such additional information shall be requested, in writing, after discussion with the applicant.

C. Plan approval.

- (1) Hearing. Before a decision is made on an application for site plan approval, the Planning Board shall hold a public hearing on such application. Such hearing shall be held within 62 days from the date the application is submitted to the Planning Board and shall be duly advertised in the official Town newspaper.
- (2) Other notification. At least 10 days prior to the public hearing, notice thereof shall be mailed to the owners of record of all properties within 200 feet of the applicant property, including those on the opposite side of the road.
- (3) Decision. Within 62 days from the date of the hearing, a decision to approve, with or without modification, or disapprove the application shall be made by the Planning Board. Such sixty-two-day period may be extended by mutual consent of the applicant and the Planning Board. (See Subsection F.)
- (4) Referral. Before taking final action on certain site plan review applications, such application shall be referred to the Seneca County Planning Board for review and report in accordance with the provisions of §§ 239-l and 239-m of the General Municipal Law.

D. Environmental determination. In reviewing an application for approval of a site plan, the Planning Board shall make a determination on the environmental impact of the proposal in accordance with the provisions of Part 617 NYCRR of the New York State Environmental Conservation Law (SEQR).

E. Zoning and use permit.

- (1) When an application for approval of a site plan has been approved, with or without modification, a zoning and use permit shall be issued by the Code Enforcement Officer when there is also compliance with all other federal, state, county and local laws.
- (2) A zoning and use permit shall expire 18 months from the date of issuance if the proposed activity has not been substantially implemented as determined by the Planning Board. One twelve-month extension may be granted by the Planning Board.

F. Performance guaranty. The Planning Board may require the applicant to provide a bond or other security to assure that the proposed project or improvement will be completed in accordance with the provisions and conditions of the approved site plan. The form and amount of such security shall be determined by the Town Board upon request by the Planning Board.

G. Fees and expenses.

- (1) Fee and expense schedule. The Town Board shall establish by resolution and may periodically amend by resolution a schedule of fees and expenses to be paid by each applicant or appellant seeking a special permit, interpretation, variance, appeal or other response, decision, approval or other action of the Town or any of its boards, commissions or agencies pursuant to this chapter.
- (2) Expenses may be calculated to include reasonable expenses incurred by the boards in reviewing and acting upon such applications for administrative, consulting and/or expert assistance.
- (3) Expert assistance. Upon any application for a site plan approval, a special permit, or other action pursuant to this chapter, the applicant shall be obligated to pay the reasonable costs for all consulting or expert technical assistance, including but not limited to scientific, engineering, or appraisal services, required by the reviewing board to properly analyze, review and act upon such application. Said obligation must be met before a zoning permit is issued.

#### **§ 79-7. Penalties for offenses.**

- A. Any person who violates this chapter shall be guilty of a violation punishable by a fine of not less than \$100 nor more than \$250 and a civil penalty in an amount equal to \$500 minimum. Each day a violation of this chapter exists shall be a separate and distinct violation of this chapter.
- B. Any person who violates this chapter may be enjoined from a continuing violation hereof in an action in any court of competent jurisdiction and in the event an injunction is granted enjoining said violation, the party seeking said injunction shall be entitled to recover the costs, disbursements and reasonable attorney fees incurred in connection with bringing and prosecuting said action.

#### **§ 79-8. Appeal.**

Any person aggrieved by any decision of the Planning Board may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be commenced within 30 days after the filing of a decision in the office of the Town Clerk.

**§ 79-9. Amendments.**

- A. On its own motion, or by petition or on recommendation of the Planning Board, the Town Board may, after public notice and hearing, amend this chapter pursuant to all applicable requirements of law.
- B. All proposed amendments originating by petition or on motion of the Town Board shall be referred to the Planning Board for report and recommendation thereon. The Planning Board shall submit its report within 60 days after receiving such referral. Failure of the Planning Board to report within the required sixty-day time period shall be deemed to constitute a recommendation for approval of the proposed amendment.

## Chapter 93

### NOISE

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|---|---|
| § 93-1. Title.                            | § 93-8. Vehicle repairs.                            |
| § 93-2. Purpose.                          | § 93-9. Noise near schools, hospitals and churches. |
| § 93-3. Definitions.                      | § 93-10. Interference with broadcast reception.     |
| § 93-4. Noise-producing devices.          | § 93-11. Violations.                                |
| § 93-5. Instruments.                      | § 93-12. Penalties for offenses.                    |
| § 93-6. Machinery and mechanical devices. | § 93-13. Enforcement.                               |
| § 93-7. Construction.                     |   |

[HISTORY: Adopted by the Town Board of the Town of Waterloo 9-8-1980; amended in its entirety 3-15-2011 by L.L. No. 8-2011. Subsequent amendments noted where applicable.]

#### GENERAL REFERENCES

Animals — See Ch. 50.

Mining and excavation — See Ch. 80.

#### § 93-1. Title.

This chapter shall be known and may be cited as the "Town of Waterloo Noise Ordinance."

#### § 93-2. Purpose.

The purpose of this chapter is to preserve the public health, peace, welfare and good order by suppressing the making, creation or maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use and which are detrimental to the environment.

#### § 93-3. Definitions.

Unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined as follows:

**DAYTIME HOURS** — The hours between 7:00 a.m. and 10:00 p.m. local time on Sunday through Thursday, and between 7:00 a.m. and 12:00 midnight on Friday and Saturday.

**DECIBEL** — A unit for expressing the ratio of two amounts of electric or acoustic power equal to 10 times the common logarithm of the power ratio. It is abbreviated "db/A."

**EMERGENCY WORK** — Work made necessary to restore property to a safe condition following a public calamity, or work necessary to protect persons or property from an imminent exposure to danger.

**MOTOR VEHICLE** — Includes but is not limited to automobiles, trucks, buses, mopeds, minibikes and any other vehicle as defined by the Vehicle and Traffic Law of the State of New York, as it may be amended from time to time.

**NIGHTTIME HOURS** — The hours between 10:00 p.m. on Sunday through Thursday and 7:00 a.m. of the following day, and between 12:00 midnight on Friday and Saturday and 7:00 a.m. of the following day.

**RESIDENTIAL AREA** — Any area of the Town occupied in whole or in part by residences, including mobile homes, where the distance between occupied buildings, residential or otherwise, does not exceed 100 feet.

**SOUND-AMPLIFYING EQUIPMENT** — Any machine or device for the amplification of the human voice, instrumental music or any other sound. "Sound-amplifying equipment" shall not include standard automobile radios or tape recorders when used and heard only by the occupants of the vehicle in which such automobile radio or tape recorder is installed. As used in this chapter, "sound-amplifying equipment" shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

#### **§ 93-4. Noise-producing devices.**

It shall be unlawful for any person to use or operate any radio receiving set, musical instrument, phonograph, television set or other machine or device for the producing or reproducing of sound during the nighttime hours as defined in this chapter so that the sound emitted shall be greater than 75 decibels as measured at the property line of the emitting source. During the daytime hours, it shall be unlawful for any person to operate or use any radio receiving set, musical instrument, phonograph, television set or other machine or device for the producing or reproducing of sound at a level greater than 85 decibels as measured at the property line of the emitting source.

#### **§ 93-5. Instruments.**

It shall be unlawful for any person to use any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the Town. This section shall not apply to a participant in a school band or duly authorized parade or to anyone who has been otherwise duly authorized to engage in such conduct.

#### **§ 93-6. Machinery and mechanical devices.**

Except by a variance from the Town of Waterloo Zoning Board of Appeals, it shall be unlawful for any person to operate any machinery, equipment, pump, fan, air-conditioning apparatus or similar mechanical device in any manner so as to exceed the noise levels

permitted in any residential area where the noise created during either the nighttime or daytime hours exceeds the limits in the appendix.<sup>1</sup>

#### **§ 93-7. Construction.**

During the nighttime hours it shall be unlawful for any person within a radius of 500 feet of a residence to operate equipment or perform any outside construction or repair work except that of an emergency nature on buildings, structures or projects, or to operate any pile driver, pneumatic hammer, derrick, electric hoist or other construction equipment except to perform emergency work.

#### **§ 93-8. Vehicle repairs.**

It shall be unlawful for any person within any residential area of the Town to repair, rebuild or test any motor vehicle so as to create noise during the nighttime hours as defined in § 93-3.

#### **§ 93-9. Noise near schools, hospitals and churches.**

It shall be unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use; or adjacent to any hospital or health-related facility, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital or health-related facility, provided that conspicuous signs are displayed in such street, sidewalk or public place indicating the presence of a school, church, hospital or health-related facility.

#### **§ 93-10. Interference with broadcast reception.**

It shall be unlawful for any person to operate within the Town any electrical amplifying device, machine or equipment which causes interference with radio or television reception when such interference can reasonably be eliminated by shielding, altering, adjusting or otherwise taking corrective measures to eliminate the fault.

#### **§ 93-11. Violations.**

- A. Any sound originating from a stationary property location which is measured at the property line from which the sound is emanating and found to be in excess of the levels permitted as specified in this chapter shall be a violation of this chapter.
- B. Any sound originating from a transient noise source and measured on a standard meter at a distance of 50 feet from the emitting source which is found to be in excess of the noise levels specified in this chapter shall be a violation of this chapter.

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1. Editor's Note: The appendix of this local law is included as § 93-3.

**§ 93-12. Penalties for offenses.**

Any person who violates this chapter shall be guilty of a violation punishable by a fine of not less than \$100 nor more than \$250 and a civil penalty in an amount equal to \$500 minimum. Each day a violation of this chapter exists shall be a separate and distinct violation of this chapter.

**§ 93-13. Enforcement.**

The Town of Waterloo Zoning and Code Enforcement Officer or any other law enforcement officer is hereby authorized to issue and serve appearance tickets with respect to violations of this chapter.



RECEIVED 5-14-18  
Ser

**TOWN OF WATERLOO  
66 VIRGINIA STREET  
WATERLOO, NEW YORK 13165**

**FREEDOM OF INFORMATION REQUEST FORM**

Sandra L. Ridley, Records Access Officer  
Town of Waterloo  
66 Virginia Street  
Waterloo, New York 13165

Dear Records Access Officer:

Under the provisions of the New York Freedom of Information Law, Article 6 of the Public Officers Law, I hereby request records or portions thereof pertaining to:

Chapter 135: Zoning Ordinance (Town)

Identify above the records you are interested in as clearly as possible.

**I understand that there is A FEE OF .25 CENTS PER PAGE OF COPIED RECORDS.**

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide me the name and address of the person or body to whom an appeal should be directed.

Signature: Ali Flake

Printed Name: Ali Flake

Address: 1200 Scottsville Rd, Bldg C.

City/Town/State/Zip: Rochester, NY 14624

Telephone/Cell Number: (508) 294-1006

Date: 5/14/18

**FOR AGENCY USE ONLY**

APPROVED:

DATE:

TIME:

CHARGE:

**DENIED: (FOR THE REASONS CHECKED BELOW:**

- ☐ EXEMPT BY STATUE OTHER THAN FREEDOM OF INFORMATION
- ☐ UNWARRANTED INVSION OF PERSONAL PRIVACY
- ☐ WOULD IMPAIR CONTRACT AWARD OR COLLECTIVE BARGAINING
- ☐ WOULD ENDANGER THE LEFE OR SAFETY OF ANY PERSON
- ☐ INTER-AGENCY OR INTRA-AGENCY MATERIALS
- ☐ RECORD IS NOT MAINTAINED BY THIS AGENCY
- ☐ OTHER

### **INFORMATION AND INSTRUCTIONS**

The full text of the Freedom of Information Law may be found in Article 6 of the Public Officers Law (chapters 578, 579 and 580 of the Laws of 1974, State of New York).

The law requires that the New York State Committee on Public Access to Records (Tower Building, Empire State Plaza, Albany, NY 12223) advise agencies and municipalities by means of guidelines, advisory opinions and regulations.

The law also requires that each agency and municipality adopt conforming rules and regulations. Before the written notice required by 88(1)g of the law is submitted, the applicable rules and regulations should be consulted.

In the event the written notice is disapproved by the agency concerned, a duplicate copy should be prepared and retained by the applicant. The law contains provision for appeals in the case access to public records are denied.

## Chapter 135

### ZONING

§ 135-1. Title.	§ 135-11. Enforcement; zoning permit; certificate of compliance.
§ 135-2. Purpose.	§ 135-12. Zoning Board of Appeals.
§ 135-3. Definitions.	§ 135-13. Penalties for offenses.
§ 135-4. Land use control areas.	§ 135-14. Interpretation; severability.
§ 135-5. District regulations and land use schedules.	Schedule I: Land Uses or Activities
§ 135-6. General provisions.	Schedule II: Area, Frontage, Yard, Height and Coverage Requirements
§ 135-7. Supplementary regulations.	Schedule III: Minimum Off-Street Parking Requirements
§ 135-8. Special conditions and special use permits.	
§ 135-9. Parking and loading.	
§ 135-10. Nonconforming uses.	

[HISTORY: Adopted by the Town Board of the Town of Waterloo 12-19-2000 by L.L. No. 3-2000; amended in its entirety 3-15-2011 by L.L. No. 10-2011. Subsequent amendments noted where applicable.]

#### GENERAL REFERENCES

Planning Board — See Ch. 27.	Mining and excavation — See Ch. 80.
Uniform fire prevention and building code — See Ch. 74.	Sexually oriented businesses — See Ch. 85.
Flood damage prevention — See Ch. 78.	Mobile homes — See Ch. 89.
Site plan review and approval — See Ch. 79.	Subdivision of land — See Ch. 136.
	Road specifications — See Ch. 137.

#### § 135-1. Title.

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

#### § 135-2. Purpose.

This chapter is adopted pursuant to the laws of the State of New York for the following purposes:

- A. To promote the health, safety and general welfare of the community.
- B. To reduce congestion on streets and highways and prevent overcrowding of land.
- C. To avoid undue concentration of population.

- D. To facilitate the adequate provision of transportation, water, sewage disposal, schools, parks and other public services.
- E. To consider and conserve the value of property.
- F. To establish zones wherein regulations concerning the use of land and structures, the density of development, the amount of open space that must be maintained, the minimum size of yards, the provision of parking, the control of signs and other provisions will be set forth to encourage the most appropriate development of the Town in accordance with the policies set forth in the Town's Comprehensive Plan.

### § 135-3. Definitions.

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

**ADULT RESIDENTIAL-CARE FACILITY** — Residential facilities for adults where minimal medical care and personal hygiene are provided to residents on a twenty-four-hour basis for persons who, by reason of limitations associated with age or physical-disability, are unable to live independently.

**AGRICULTURE** — The production or raising of agricultural products, such as, but not limited to, crops, plants, vines, trees, livestock or poultry, and accessory uses customarily incidental to such activity. (See also "farm.")

**ALTERNATE MEMBER** — An individual appointed by the Town Board, to serve on the Town Planning Board or the Town Zoning Board of Appeals when a regular member is unable to participate on an application or matter before the respective board, as provided herein.

**APPEAL** — A formal request to the Zoning Board of Appeals for a review of the Code Enforcement Officer's interpretation of any provision of this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING** — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as ZONE A, AE, AH, AO, A1, 99, V, VO, VE OR V1-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** — That portion of a building which is partly or completely below grade.

**BED-AND-BREAKFAST** — An owner-occupied one-family dwelling within which overnight accommodations are provided for transient guests in compliance with the New York



State Uniform Building Code and including the serving of breakfast but no other meals as a routine service.

**BILLBOARD** — See "sign, outdoor advertising billboard."

**BREAKAWAY WALL** — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**BUFFER, BUFFER STRIP** — A strip of land, generally adjacent to a property line, on which a screen of plantings and/or other landscaping that will be dense enough and high enough to be a visual buffer between properties is installed and maintained by the landowner. (See also "landscaping.")

**BUILDING** — Any structure where space is covered or enclosed.

**BUILDING, ACCESSORY** — A building subordinate to the principal building on the same lot and used for purposes that are clearly related but incidental to those of the principal building.

**BUILDING, ALTERATION OF** — Any exterior change, addition to or rearrangement of a building, or any change in use from one activity to another, or moving of a building from one location to another.

**BUILDING COVERAGE** — The total area, as measured on a horizontal plane at the main grade level, of the principal building and all accessory buildings, but excluding uncovered porches, terraces, steps and paved areas.

**BUILDING HEIGHT** — The vertical distance measured from finished grade to the highest point of a flat roof, the deck line of a Mansard roof, and to the highest midpoint of a pitched roof. On a hillside lot finished grade should be considered as the average finished grade on the uphill side of the structure. (See also "grade.")

**BUILDING LINES** — The imaginary lines on a lot that delineate the area within which a structure may be legally erected.

**BUILDING, NONCONFORMING** — A structure or building the size, dimension or location of which was lawful prior to adoption of this chapter, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district in which said building is located. (See also "use, nonconforming.")

**BUILDING, PRINCIPAL** — A building, including covered porches, within which is conducted the principal use of the lot on which the building is situated. In a residence district, for example, any dwelling shall be deemed the principal building for the lot on which it is situated.

**BURNING** — Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere.

**BURNING BARREL** — A burning barrel shall have vent holes and be covered with screen, shall be emptied monthly and shall not be allowed to smolder.

**CELLAR** — The same meaning as "basement."

**CHIMNEY** — Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a wood-fired outdoor heating device, especially that part of such structure extending above a roof.

**CHURCH or OTHER PLACE OF PUBLIC WORSHIP** — A building or space for public worship and used by an organization that is registered by the State of New York.

**CLUB** — Any organization, premises or building catering exclusively to members and their guests and containing no merchandising or commercial activities except as required for the membership and purposes of such club.

**CLUSTER DEVELOPMENT** — The subdivision of an area into lots that are smaller than would normally be permitted in the district where such lots are located, but where the density of development is no greater than would be permitted in the district by conventional development, and where the residual land produced by the smaller lot size is preserved and used for common open or recreation space.

**COASTAL HIGH-HAZARD AREA** — The area subject to high velocity waters, including but not limited to hurricane wave wash. The area is designated on a firm as ZONE V1-30, VE, VO or V.

**COMMERCIAL RECREATION** — A recreation facility operated as a business and open to the public for a fee; includes both indoor and outdoor facilities as listed in Schedule I of this chapter.<sup>1</sup>

**COMMERCIAL USE** — Any building or lot that is, has been or will be used for any purpose that is not residential, agricultural or public in nature.

**COMMUNICATION TOWER** — Any tower, pole or other structure designed to be used for the commercial transmission or reception of television, radio and cellular telephone signals, microwave or similar electronic impulses. For purposes of this chapter, communication tower does not include amateur radio (HAMS) installations.

**COMMUNITY RESIDENCE, STATE REQUIRED** — Any residential facility operated by the state or which is operated by a state-certified or licensed provider of services and which is designed to assist mentally disabled individuals in the transition from institutional to independent living in the community, to provide a long-term supervised residence for individuals whose mental disability is such that independent living is improbable, to provide temporary shelter for short periods of time in order to offer an alternative for admission to an institution, to provide a brief-stay substitute home to mentally disabled individuals, or to allow respite or vacation to such individual's families or legal guardians. A community residence shall include, but not be limited to, halfway houses and hostels.

**COMPREHENSIVE PLAN** — A document showing proposed future land use and a circulation system, among other things, titled "Town of Waterloo Comprehensive Plan," adopted by the Town Board, and as may subsequently be amended.

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1. Editor's Note: Schedule I is included at the end of this chapter.

**CONGREGATE HOUSING** — Living arrangements designed to integrate the shelter and service needs of older persons and in which residents have their own apartments and are served meals in a central dining room. Continuous supervision of residents is not provided. However, services that help residents maintain their independence may be provided by on-site staff or by community providers. (See "retirement community.")

**CONSERVATION** — The continuation of land in its natural state or for any use that will maintain the land in essentially its natural state.

**CONVENIENCE (MINI) MART** — A small commercial activity that may offer for sale convenience goods, beverages and sundries, including motor fuel.

**CUSTOMARY HOUSEHOLD PET** — A domesticated or tame animal that is customarily domiciled and cared for in a dwelling or accessory building, or is confined in an outdoor space on the same lot as a dwelling, which care or confinement shall not be provided for monetary gain or as a business.

**DAY-CARE FACILITY** — As used in the New York Social Services Law, "day care" shall mean the care provided for three or more children or adults away from their own homes for less than 24 hours per day in a family home or day-care center that is operated for such purpose, for compensation or otherwise, for more than five hours per week. A permit or certificate, as appropriate, is issued by the New York State Department of Social Services to regulate this type of day care.

**DAYTIME HOURS** — The hours between 7:00 a.m. and 10:00 p.m. local time on Sunday through Thursday, and between 7:00 a.m. and 12:00 midnight on Friday and Saturday.

**DECIBEL** — A unit for expressing the ratio of two amounts of electric or acoustic power equal to 10 times the common logarithm of the power ratio. It is abbreviated "db/A."

**DEPENDENT RELATIVE** — A person who, for economic or medical reasons, is dependent on another person who is related by blood, marriage or adoption.

**DETERIORATION** — The condition or appearance of a building or structure characterized by holes, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect or lack of maintenance.

**DEVELOPMENT** — A man-made change to the natural condition of a site, including, but not limited to, the addition to or erection of one or more structures or buildings, grading, dredging, filling, mining, excavating, paving, clearing or providing a means of ingress and egress to and from or through said site, whether already improved or unimproved.

**DRIVE-IN** — An establishment which, by design, physical facilities or packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

**DWELLING** — A building or part thereof designed and used for human habitation, or intended to be so used, and which meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.



**DWELLING, MOBILE HOME** — A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which in the traveling mode, is 8 feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m<sup>2</sup>) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "mobile home" shall not include travel trailers or any self-propelled recreational vehicle.

**DWELLING, MODULAR HOME** — A factory-manufactured dwelling unit, conforming to applicable provisions of this code and bearing insignia of approval issued by the State Fire Prevention and Code Council, which is constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in a manufacturing facility, intended or designed for permanent installation, or assembly and permanent installation.

**DWELLING, MULTIPLE-FAMILY** — A building or portion thereof, including townhouses, cooperatives and condominiums, that contains three or more dwelling units that are independent of each other and are intended to be the place of residence of families or households living independently of each other.

**DWELLING, ONE-FAMILY** — A detached building containing no more than one dwelling unit.

**DWELLING, TOWNHOUSE** — A building containing two or more dwelling units, each of which has one or two side walls in common with side walls of abutting units and are party or lot-line walls; may contain rental or for-sale housing.

**DWELLING, TWO-FAMILY** — A detached building containing no more than two dwelling units.

**DWELLING UNIT** — One or more rooms located within a dwelling and providing complete living accommodations for one family, including cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entranceway; a one-family dwelling.

**ELEVATED BUILDING** — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

**EMERGENCY WORK** — Work made necessary to restore property to a safe condition following a public calamity, or work necessary to protect persons or property from an imminent exposure to danger.

**EXPOSED TO PUBLIC VIEW** — Any premises or open space or any part thereof, or any building or structure that may be lawfully viewed by any member of the public from a sidewalk, street, road, alleyway or from any adjoining or neighboring premises.

**FAMILY** — An individual, or two or more persons occupying a dwelling unit and living as a single household.



**FARM** — A parcel of land that is used for the production of agricultural products, including the necessary structures and equipment for the operation thereof, that has a minimum area of five acres and that otherwise complies with the regulations of the New York State Board of Equalization and Assessment.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD or FLOODING** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

**FLOOD INSURANCE RATE MAP (FIRM)** — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary and Floodway Map and the water surface elevations of the base flood.

**FLOOD, ONE-HUNDRED-YEAR** — The highest level of flooding that, on average, is likely to occur every 100 years; the base flood.

**FLOODPROOFING** — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** — The same meaning as "regulatory floodway."

**FLOOR** — The top surface of an enclosed area in a building (including basement), i.e., the top of a slab in concrete slab construction or the top of wood flooring in wood frame construction.

**FOOTPRINT** — The land area covered by all principal and accessory buildings on a lot.

**4H/EDUCATIONAL HUSBANDRY** — Opportunities for young people desiring agricultural experiences available through participation in a recognized educational program.

**FRONTAGE** — See "lot, width."

**FUNCTIONALLY DEPENDENT USE** — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility

necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

**GARAGE, PRIVATE** — A carport or enclosed building for use by the inhabitants of a dwelling.

**GARAGE, SERVICE AND REPAIR** — An enclosed building for the indoor storage, repair or painting of motor vehicles and the sale of parts and accessories. A junkyard or salvage yard is not to be construed as a garage.

**GASOLINE SERVICE STATION** — See "motor vehicle service station."

**GOOD WORKING CONDITION** — Fully operable for the use intended.

**GOOD WORKING REPAIR** — A standard of maintenance that renders a building safe, habitable, neat and orderly.

**GRADE, FINISHED** — The final elevation of the ground surface after development.

**GREENHOUSE, PLANT NURSERY** — Any building or structure in which light, temperature and humidity can be controlled for the growing and protection of flowers and other plants that are to be sold commercially.

**HABITABLE AREA** — That area of a building designed to be occupied by one or more persons for living, sleeping, eating or cooking, exclusive of cellars, garages and unheated breezeways or porches.

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HOME OCCUPATION** — Any business activity customarily conducted entirely within a dwelling or structure accessory to a dwelling and meeting the performance standards in § 135-8C(5) of this chapter.

**HOTEL, MOTEL, MOTOR COURT** — A commercial facility designed to be used by transients for overnight or short stay habitation, where access to individual rooms is by a common corridor and where off-street parking facilitates baggage handling by guests.

**JUNK** — Any manufactured goods, appliance, fixture, furniture, machinery, motor vehicle, recreational vehicle, trailer or similar object that is abandoned, demolished, discarded, dismantled, deteriorated or in such condition as to be generally unusable in its existing state.

**JUNKYARD** — A lot or building or part thereof used for the collecting, storage or sale of wastepaper, rags, scrap metal, discarded appliances or similar discarded or waste material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not licensed and in running condition; or for the sale and storage of parts thereof; an auto salvage yard.

**KENNEL** — Any premises, including structures, cages and runs, wherein are harbored more than four domestic animals that are at least four months old and are not owned by the property owner or lessee, for boarding, breeding, grooming, training or selling, whether or not for a fee.

**KNOWINGLY** — Aware that such circumstances exist.

**LABORATORY** — A building or group of buildings within which are located facilities for research, investigation, testing or experimentation, but not facilities for manufacturing or selling of products, except as may be necessary for prototype development or as incidental to the main purpose of the laboratory.

**LANDSCAPING, LANDSCAPED** — The use of lawns, trees, plants or other natural or decorative features, including wood, stone or masonry fencing.

**LAND USE ACTIVITY** — Any action that occurs on land or in a structure that affects the use or appearance of said land or structure or the intensity of use of said land or structure; includes, but is not limited to, new structures, expansions of existing structures, new uses, changes in or expansion of existing uses, the deposit or excavation of material for the purpose of off-site use or sale of soil, gravel or mineral deposits.

**LAWN** — The grassed area around a building or structure for aesthetic enhancement or used for a purpose associated with said building or structure.

**LOT AREA** — The total area within the property lines of a lot exclusive of streets, rights-of-way and other public open space.

**LOT, CORNER** — A lot or parcel of land abutting on two or more roads at their intersection, or on two sections of the same road forming an interior angle of less than 135°.

**LOT COVERAGE** — That percentage of a lot actually covered by the ground level area of a building, excluding terraces, decks and porches that are not enclosed or covered by a roof.

**LOT DEPTH** — The ground-level distance from the road line of the lot to its opposite or rear line, measured along the approximate median between the two side lot lines.

**LOT, FLAG** — A lot that meets, as a minimum, the area requirements of this chapter, and is connected to a public road right-of-way by a strip of land at least 30 feet wide and containing a private access drive.

**LOT, INTERIOR** — A lot other than a corner lot.

**LOT LINE** — A line of record bounding a lot and which divides one lot from another or from a public or private road or any other public space.

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

**LOT, NONCONFORMING** — A lot of record, existing on the date of adoption of this chapter, as it may be amended, which does not meet the minimum area or dimensional requirements of the zoning district in which such lot is located.

**LOT, WIDTH** — The ground-level distance between side lot lines, measured approximately parallel to the front lot line at a distance determined by the front yard setback requirement as set forth in Schedule II of this chapter.<sup>2</sup>

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2. Editor's Note: Schedule II is included at the end of this chapter.

**LOWEST FLOOR** — The lowest level including the basement or cellar of the lowest enclosed area. An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURING ESTABLISHMENT** — An establishment, the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing or testing of materials, goods or products.

**MEAN SEA LEVEL** — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MEMBER** — An individual appointed by the Town Board to serve on the Town Planning Board or The Town Zoning Board of Appeals pursuant to the provisions of the local law or ordinance which first established such Planning Board and Zoning Board of Appeals.

**MIXED-USE DEVELOPMENT** — The development of a lot or tract of land or building for two or more different uses, such as, but not limited to, residential and commercial.

**MOBILE HOME** — See "dwelling, mobile home."

**MOBILE HOME LOT** — A parcel of land reserved for the placement of a single mobile home and the exclusive use of its occupants.

**MOBILE HOME PARK** — A parcel of land which has been planned and/or improved for the placement of two or more mobile homes for nontransient use.

**MOTOR VEHICLE** — Includes but is not limited to automobiles, trucks, buses, mopeds, minibikes and any other vehicle as defined by the Vehicle and Traffic Law of the State of New York, as it may be amended from time to time.

**MOTOR VEHICLE SERVICE STATION** — Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuels, and oil and other lubricating substances, and which may include the sale of motor vehicle accessories, New York State inspection and facilities for washing, lubricating or otherwise servicing motor vehicles, but not including the painting thereof, body and fender work or the dismantling or replacing of engines.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)** — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of this Code.

**NIGHTTIME HOURS** — The hours between 10:00 p.m. on Sunday through Thursday and 7:00 a.m. of the following day, and between 12:00 midnight on Friday and Saturday and 7:00 a.m. of the following day.

**NONCONFORMING BUILDING, LOT, OR USE** — See "building nonconforming, lot, nonconforming" or "use, nonconforming."

**NURSERY SCHOOL** — An activity designed to provide daytime care or instruction for five or more young children (generally two to five years of age), which is operated on a regular basis.

**NURSING OR CONVALESCENT HOME** — Any licensed establishment where persons are lodged and furnished with meals and nursing and/or custodial care, for gain or as a not-for-profit operation.

**ONE-HUNDRED-YEAR FLOOD** — The same meaning as "base flood."

**OPEN SPACE** — That part of the gross lot area that is not used for building, parking or service. Open space may include lawns, shrubbery, garden areas, footpaths, play areas, pools, watercourses, floodable land, wooded areas and paved surfaces used as access drives, but not used for vehicular parking, except in conjunction with one- and two-family dwelling units.

**OPEN STORAGE** — The holding or storing of any material in such a way that the material is uncovered and exposed to the elements of nature.

**OWNER, OPERATOR or MANAGER** — Person who had the legal title, alone or with others, or exercises dominion or control over property, both real and personal.

**PARKING SPACE** — An area for the temporary storage and parking of motor vehicles and which has at least nine feet of width, 20 feet of length and seven feet of clear height, together with adequate provision for maneuvering and access thereto.

**PLANNING BOARD** — The Planning Board of the Town of Waterloo as established by the Town Board by local law or ordinance, pursuant to the provisions of § 271 of Town Law and § 239-c of the General Municipal Law.

**PREMISES** — A lot, parcel, tract or plot of land together with the buildings and structures thereon.

**PRINCIPALLY ABOVE GROUND** — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

**PROFESSIONAL OFFICE** — The office of a member of a recognized profession (a vocation requiring knowledge of some aspect of learning, science or art) and maintained for the conduct of that profession.

**PROPERTY** — Land and whatever is erected on, growing on, placed on or affixed thereto.

**PROPERTY LINE** — The line between lands set aside for a mobile home park and adjacent property.

**RACING COURSE** — Any plot or parcel of land whereon such racing vehicles are operated, whether in competition with others or for testing and maintenance purposes.

**RACING VEHICLE** — All powered vehicles not intended primarily for transportation but maintained and used in competitive or other racing contests and designed primarily for sport. Such vehicles shall include but not be limited to racing cars, stock car racers, motorcycles and vehicles commonly referred to as "go-carts" and "microds."



**REFUSE** — Unwanted or discarded material, including but not limited to the following: garbage, scrap metal, scrap material, waste bottles, cans, paper, rubble, boxes, crates, rags, used construction materials, motor vehicle parts, tires, cardboard, plastic material or glass containers, sweepings, pieces of wood, excelsior, rubber and like material.

**REGULATORY FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 78-12B of Chapter 78, Flood Damage Prevention.

**RESIDENCE, RESIDENTIAL USE** — Any building that is intended to be used primarily as a dwelling.

**RESTAURANT** — A permanent structure used for the serving of meals, with table and chair and/or counter facilities, but not including drive-in facilities and service. (See "drive-in.")

**RETIREMENT COMMUNITY** — Self-contained housing development designed for and marketed to older people and providing minimal services.

**ROAD, PRIVATE** — A vehicular way used to provide access to two or more residences that are owned by unrelated parties and meeting the design provisions of this chapter.

**ROADSIDE STAND** — A stall or booth used for commercial purposes, where farm products are offered for sale on a seasonal basis.

**ROAD, STREET OR HIGHWAY LINE** — The line that is the common boundary line between the lot and a road, street or highway right-of-way.

**ROOMING HOUSE** — A dwelling or that part of a dwelling in which rooming units are offered for gain; a tourist home.

**ROOMING UNIT** — A room or rooms located in a dwelling and used to provide private living and sleeping quarters, but without cooking facilities available to or being part of the rooming unit.

**RUBBISH** — Untreated clean wood, trees, leaves, trimmings and brush.

**SAND DUNES** — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**SCHOOL** — Any building or part thereof, designed, constructed and used for general education purposes under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a corporation or entity meeting applicable requirements of the State of New York.

**SIGN** — Any structure, display, device or representation that is designed or used to advertise or call attention to any thing, person, business, activity, event or place and which is visible from any highway or other road right-of-way. The flag or pennant of any nation, state or municipality shall not be considered a sign.

**SIGN, OUTDOOR ADVERTISING BILLBOARD** — Any device, object or building facade larger than 120 square feet in area, situated on private premises and used for the advertising of goods, services, places, activities or events other than those directly related to the premises on which said sign is located.

**SITE PLAN** — A plan for the proposed development or use of land that is prepared and presented for site plan review pursuant to applicable provisions of Chapter 79, Site Plan Review and Approval, of the Code of the Town of Waterloo.

**SOUND-AMPLIFYING EQUIPMENT** — Any machine or device for the amplification of the human voice, instrumental music or any other sound. "Sound-amplifying equipment" shall not include standard automobile radios or tape recorders when used and heard only by the occupants of the vehicle in which such automobile radio or tape recorder is installed. As used in this chapter, "sound-amplifying equipment" shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

**SPECIAL CONDITIONS** — Conditions and standards applicable to certain uses listed in Schedule I of this chapter,<sup>3</sup> which conditions and standards must be complied with before a permit can be issued by the Zoning and Code Enforcement Officer.

**SPECIAL FLOOD HAZARD AREA** — Areas identified by the Federal Emergency Management Agency in a report entitled the "Flood Insurance Study for the Town of Waterloo, New York, Seneca County," dated March 16, 1981.

**SPECIAL USE PERMIT** — A permit from the Planning Board authorizing certain uses listed in Schedule I herein<sup>4</sup> and subject to general and special conditions to assure that such uses will be in harmony with this chapter and will not adversely affect the neighborhood if such conditions are met. Such special use permit shall be authorized in accordance with the provisions and standards set forth in § 135-8D of this chapter.

**STABLE, PUBLIC** — A facility in which horses are boarded or trained for a fee or are kept and made available for hire, sale or other type of remunerative activity.

**START OF CONSTRUCTION** — The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing of the manufactured home to its permanent site.

**STRUCTURALLY ALTERED** — Any change or alteration in the supporting members of a building; any enlargement of a building or moving of a building from one location to another.

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3. Editor's Note: Schedule I is included at the end of this chapter.

4. Editor's Note: Schedule I is included at the end of this chapter.

**STRUCTURE** — A combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water. (See "building.")

**SUBSTANTIAL IMPROVEMENT** — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**TOURIST HOME** — See "rooming house."

**TRAVEL OR CAMPING TRAILER** — A vehicle specifically designed to be driven or towed and used as a temporary dwelling for travel, recreation and vacation use.

**USE** — See "land use activity."

**USE, ACCESSORY** — A use that is incidental and subordinate to the principal use and located on the same lot therewith, and that does not dominate in area, extent or purpose the principal use of said lot.

**USE, NONCONFORMING** — An established use of a building, structure or land, lawfully existing at the time of adoption or amendment of this chapter, that does not conform to the provisions of Schedule I of this chapter<sup>5</sup> as these provisions apply to the zoning district in which the building, structure or land is located. (See also "lot, nonconforming" and "building, nonconforming.")

**VARIANCE** — Written authority to deviate from any of the regulations of this Code, said authority to be granted by the Zoning Board of Appeals in accordance with applicable provisions of this Code.

**VARIANCE, AREA** — Authorization by the Zoning Board of Appeals to use land in a manner that would not otherwise be allowed due to dimensional or physical requirements and regulations set forth in Schedule II,<sup>6</sup> and elsewhere in Chapter 135.

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5. Editor's Note: Schedule I is included at the end of this chapter.

6. Editor's Note: Schedule II is included at the end of this chapter.



**VARIANCE, USE** — Authorization by the Zoning Board of Appeals for the use of land or a building for a purpose that is otherwise not permitted by Schedule I<sup>7</sup> or other applicable regulations of Chapter 135.

**VEHICLE BODY SHOP** — Any building or portion thereof used primarily for the repair or painting of motor vehicle bodies, whether or not such activity also includes motor service or repair and the sale of motor vehicle fuel.

**WOOD-FIRED OUTDOOR HEATING DEVICE** — Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. This includes any equipment, device or apparatus which is UL listed and intended for outdoor use, regardless of whether it is placed in a secondary enclosure such as a shed, barn, residence, or any other similar structure.

**WRECK** — A motor vehicle in such condition that it cannot be moved under its own power.

**YARD** —

A. An open space that lies between the principal or accessory building(s) on a lot and the nearest lot line. If there is no building on a lot, "yard" shall mean the area within 50 feet of any road right-of-way and within 25 feet of any other lot line, except as may otherwise be provided in a Town zoning ordinance.

B. An unoccupied space, open to the sky, on the same lot with a building or structure.

**YARD, FRONT** — An open space extending across the entire width of a lot, between the building line and the front property line (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar structures.

**YARD LINE** — A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard. (See Schedule II.<sup>8</sup>)

**YARD, REAR** — An open space extending across the entire width of the lot, between the rear line of the lot and a line parallel to said rear lot line and at a distance therefrom as specified in Schedule II<sup>9</sup> for the zoning district in which the lot is located.

**YARD, SIDE** — An open unobstructed space on the same lot with the principal building, between the principal building and the side line of the lot, and extending through from the front yard line to the rear yard line.

**ZONING BOARD OF APPEALS** — The Zoning Board of Appeals of the Town of Waterloo as established by the Town Board by local law or ordinance, pursuant to the provisions of § 267 of Town Law.

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7. Editor's Note: Schedule I is included at the end of this chapter.

8. Editor's Note: Schedule II is included at the end of this chapter.

9. Editor's Note: Schedule II is included at the end of this chapter.

**ZONING AND CODE ENFORCEMENT OFFICER** — The enforcement officer employed by the Town for the purpose of enforcing the terms of the Town of Waterloo Code.

**§ 135-4. Land use control areas.**

**A. Districts.**

- (1) For the purposes specified in this chapter, the Town of Waterloo is divided into the following types of zones (also herein referred to as "districts"):

A	Agricultural
R1	Low-Density Residential
R2	Moderate-Density Residential
C	Commercial
MU	Multiple Use
I	Industrial

- (2) All land in the Town of Waterloo shall fall within one of the established land use management zones as depicted and shown on the Land Use Control Map, dated June 2000, amended December 19, 2000, and as amended by this chapter designating a Multiple-Use (MU) District thereon described as that part of the Commercial District lying along the south side of Routes 5 and 20 and situated between the Seneca-Cayuga Canal and a line parallel to and a distance of 200 feet south of Routes 5 and 20. Said map and all the notations and references shown thereon, and amendments thereto, are hereby incorporated into and made a part of this chapter.<sup>10</sup>

**B. Determination of boundaries.** Where uncertainties exist as to the exact location of any zone boundary shown on the map, one or more of the following guidelines shall be used, as appropriate:

- (1) Boundary lines are intended to follow center lines of streams, street and road lines as shown on the plats of record at the time this chapter is adopted.
- (2) Where the map indicates a boundary approximately upon a lot line, such lot line shall be construed to be said boundary.
- (3) Where boundaries are shown approximately parallel to a feature such as a street, road, highway, railroad or shoreline, such boundaries shall be construed to be parallel to such feature and at such distance therefrom as indicated on the map. If no dimension is given on the map, the boundary shall be determined by use of the graphic scale on said map.

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10. Editor's Note: The Land Use Control Map is on file in the Town offices.

C. Description of districts; purpose. Land use zones in the Town of Waterloo have been established in furtherance of the Town's Comprehensive Plan and for the purposes and the intent set forth below.

- (1) Agriculture (A) District. The intent of the A District is to designate areas where farming, farm-related business and extensive areas of wetlands and other natural resources are the predominant and desired land use activities. Some nonagricultural development, primarily scattered, low-density, one-family housing, has occurred, is anticipated in the future and is appropriate. Regulations and development standards should be kept to the minimum necessary to assist farm operators to maintain the viability of their businesses and to prevent serious environmental degradation.
- (2) Low-Density Residential (R1) Districts. The intent of the R1 District is to designate areas where small concentrations of low-density, nonfarm development, primarily one-family housing, has occurred. Regulations and restrictions in the R1 District are intended to limit the extent of future development and, based on soil conditions and the likelihood of public utilities, restrict the number of nonresidential uses that can be established.
- (3) Moderate-Density Residential (R2) Districts. The intent of the R2 District is to designate areas where a mix of varied types of housing has concentrated. Typically, such areas will have a higher development density and be close to the village or other development concentrations. While public utilities may not yet exist in such areas, R2 Districts are likely targets for such services as funds become available.
- (4) Commercial (C) Districts. The intent of the C District is to designate areas where relatively dense development of mixed land uses has occurred in the past and is appropriate. Such areas provide the transportation and utility infrastructure needed to support higher development density. A variety of land uses is desirable in the C District, including retail commercial, offices, specialty shops, personal and repair services, recreation, marine navigation, public facilities, light industry, parking, limited housing and similar types of development. To maintain safe traffic movement and achieve a level of harmony and compatibility in a mixed-use area, it is desirable to review and approve, disapprove or modify each development proposal as it relates to adjacent land and the overall development plan for the district.
- (5) Industrial (I) District. The intent of the I District is to designate areas where some form of manufacturing, fabrication, assembly, research and development, storage and similar types of land use are appropriate and desired. Some types of commercial development can also be appropriate in an I District, but residential development should be limited. Suitable vehicular access and the availability of water and sewer services are critical components of development in an I District. Review and approval of each development proposal is necessary to promote compatibility between adjacent land uses, to achieve the most efficient use of limited land resources and to minimize adverse environmental impacts.

- (6) Multiple-Use (MU) District. The intent of the MU District is to permit all uses allowed in R1, R2 and C that are compatible with existing uses in the MU District.

**§ 135-5. District regulations and land use schedules.**

- A. Schedules of regulations. Regulations and controls relating to land uses in the Town of Waterloo are set forth in Schedule I (§ 135-5D). Regulations relating to area and bulk regulations (lot size, yards, building height, open space and so forth) are set forth in Schedule II (§ 135-5E). Said Schedules I and II, and any subsequent amendments, are hereby adopted and, with all explanatory matter thereon and related thereto, are hereby made part of this chapter and included herewith.
- B. Uses not provided for.
- (1) Any land use or activity that is not listed in Schedule I is not permitted in the Town of Waterloo. Notwithstanding the above, uses or activities which are not specifically listed in Schedule I may, upon request, be interpreted by the Zoning Board of Appeals to be substantially similar in nature, scope of operation and likely impacts to a listed land use or activity. If such interpretation is made by the Zoning Board of Appeals, the subject land use or activity will then be reviewed in accordance with the special permit provisions of this chapter.
- (2) Such land uses or activities shall comply with all applicable area and bulk regulations and other applicable standards for comparable uses specifically listed in the district.
- C. Site plan approval. Site plan approval is required for land uses or activities as set forth in Chapter 79, Site Plan Review and Approval, of the Town of Waterloo. For all such uses or activities, a building and use permit will be issued by the Zoning Officer after an application for site plan approval has been duly approved.
- D. Schedule I: Land Uses or Activities, Town of Waterloo.<sup>11</sup>
- E. Schedule II: Area, Frontage, Yard, Height and Coverage Requirements, Town of Waterloo.<sup>12</sup>
- F. New York State Agriculture and Markets Law. When any use or activity listed in Schedule I is in conflict with the provisions of § 305, Subdivision 2, of the State Agriculture and Markets Law, the provisions of the said Agriculture and Markets Law shall take precedence.

**§ 135-6. General provisions.**

- A. Applicability.

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11. Editor's Note: Schedule I: Land Uses or Activities, is included at the end of this chapter.

12. Editor's Note: Schedule II: Area, Frontage, Yard, Height and Coverage Requirements is included at the end of this chapter.



- (1) Except as may be otherwise provided elsewhere in this chapter, the general provisions set forth in this § 135-6 shall apply to all land use and development in the Town of Waterloo.
  - (2) No land or building shall hereafter be used or occupied, and no building or part thereof shall hereafter be enlarged or its use altered, unless such action is in conformance with all the regulations specified for the land use control district in which said action occurs.
- B. Lot size. No lot shall hereafter be reduced or altered so as to result in a lot that does not meet the minimum area or yard requirements prescribed in Schedule II of this chapter.<sup>13</sup> A small lot that does not meet the minimum requirements of this chapter at the time it is enacted may be used for a use permitted in the district.
- C. Health Department jurisdiction. Minimum lot sizes specified in this chapter shall be subject to approval and modification by the Seneca County Health Department as necessary to meet applicable regulations, and a copy of the Health Department approval shall be filed with the Code Enforcement Officer prior to the beginning of any of the following activities:
- (1) Construction of any new buildings or structures requiring an on-site sewage disposal system;
  - (2) Placement or sitting of a mobile home requiring an on-site sewage disposal system; or
  - (3) Alteration, enlargement or extension of an existing building(s), structure(s) or mobile home(s) in such a way as to result in a change in the volume or characteristics of the sewage therefrom.
- D. Future public water or sewers. In districts where public water or sewers are likely to be provided within five years, from the date a subdivision proposal is submitted, as may be indicated in the Comprehensive Plan, lot regulations for areas with public water or sewers available, as set forth in Schedule II,<sup>14</sup> will be permitted in subdivision design when at least every other lot is left vacant until municipal water or sewage disposal service is available and if the subdivider has obtained Health Department approval for such delayed development proposal. In such cases, zoning permits will be issued only for alternate lots until public water or sewers have been made available.
- E. Two uses in one structure. If a residential and nonresidential use are to be located in one structure on a single lot, the applicable lot area and frontage requirements for the residential use shall apply and applicable yard setbacks, parking and sign requirements and any other conditions for the nonresidential use shall also apply.
- F. Exceptions.

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13. Editor's Note: Schedule II is included at the end of this chapter.

14. Editor's Note: Schedule II is included at the end of this chapter.

- (1) The height limitations of this chapter shall not apply to any building used for agricultural purposes or to church spires, cupolas, chimneys, silos, water tanks, flagpoles, monuments, skylights, mechanical equipment, antennas, utility lines and similar features.
- G. Obstruction of vision. To preserve visibility at road intersections that are not controlled by a traffic light, nothing higher than three feet shall be located or planted less than 30 feet from the intersection of the road right-of-way lines. Any fence or planting that does not conform to the requirements of this section and thereby results in an obstruction to the vision of motorists shall be corrected within 30 days from the date a notice thereof has been sent to the property owner by the Zoning Officer.
- H. Lot in two districts. When a lot in one ownership is divided by a district boundary line, the regulations and requirements of either district may be extended for a distance of 50 feet into the other district, at the lot owner's discretion.
- I. Drainageways. Natural drainageways shall be preserved and shall be kept free of debris or other obstructions to water flow. Where relocation of a natural drainageway cannot be avoided, it must be located in a way that will assure the unobstructed flow of stormwater.
- J. Rubbish and junk. Lots shall be kept free from abandoned or inoperable vehicles, discarded building material, discarded appliances and furniture, and all forms of rubbish and junk. (See § 135-3, Definitions.)
- K. Excavation, filling or grading. Excavation, filling or grading shall be permitted only when such activity is carried out in accordance with Chapter 80, Mining and Excavation, of the Code of the Town of Waterloo.
- L. General performance standards. All nonfarm land uses or activities in the Town of Waterloo shall be established, constructed or operated in accordance with the following performance standards:
- (1) The activity shall not produce objectionable vibration, glare, heat or noise that is evident beyond the property line.
  - (2) The activity shall not result in the dissemination of noxious dust, gas, smoke, chemicals or odors beyond the property line.
  - (3) The activity shall not produce perceptible electromagnetic interference with normal radio or television reception in any area.
- M. SEQR requirements. No discretionary action required by this chapter shall be taken until there has been compliance with applicable provisions of 6 NYCRR Part 617 (SEQR) and an environmental determination has been made by the lead agency.
- N. Fences erected on residential lots or on land adjacent to residential lots.
- (1) No fence shall be erected on a residential lot or on land adjacent to a residential lot unless a zoning permit has first been obtained. The application for such permit shall be accompanied by a site plan depicting height and location of the fence

relative to all structures on the premises, to all property lines of the premises and to all public right-of-way lines.

- (2) Any such fence shall not exceed eight feet in height above the ground, shall not be located less than three feet from the side and rear property lines of the premises and shall not extend beyond the setback line from any public right-of-way.
- (3) A fence not exceeding three feet in height from the ground may be constructed less than three feet but not less than six inches from the side, front and rear lines of the premises.
- (4) The finished side of such fence shall face adjoining properties and public rights-of-way.
- (5) No temporary fence shall be erected unless permitted in writing by the Town Code Enforcement Officer and subject to such reasonable conditions as such Officer may impose.
- (6) No barbed wire or electric fence shall be erected in a residential district.
- (7) Barbed wire or electric fence on a residential lot in nonresidential districts shall not be erected less than 50 feet from any residence.

**§ 135-7. Supplementary regulations.**

- A. Applicability. Regulations and requirements set forth in this § 135-7 apply to all affected land use activities in all zoning districts in the Town of Waterloo.
- B. Site plan review. Land use activities requiring site plan review and approval, and procedures related to such review and approval, are set forth in Chapter 79, Site Plan Review and Approval, of the Code of the Town of Waterloo.
- C. Floodplains.
  - (1) Location. Floodplain areas are determined by data developed by the U.S. Army Corps of Engineers and the United States Geological Survey. Flood hazard boundary maps are prepared by the Federal Emergency Management Agency.
  - (2) Conditions. No structure, facility or landfill shall be erected or placed that would impede or change the direction of the flow of water in the flood area, or that could collect or catch floating debris, or be placed in such a way that the natural force of floodwater could carry dislodged material downstream to damage public and private property.
  - (3) Wetlands. Notwithstanding any other provisions of this chapter, and particularly Schedule I,<sup>15</sup> to the contrary, construction or any other development on any land in the Town of Waterloo designated as a wetland pursuant to Article 24 of the State Environmental Conservation Law, shall be in accordance with the provisions of

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15. Editor's Note: Schedule I is included at the end of this chapter.

said Article 24. In addition, construction or any other development shall be in compliance with wetland requirements in the Clean Water Act and all requirements of the U.S. Army Corps of Engineers and the United States Environmental Protection Agency.

D. Private roads. A private road will be permitted in all zoning districts in the Town of Waterloo when the following criteria have been met:

- (1) The location of such road has been approved by the Planning Board, either as part of the subdivision approval process or as part of the site plan review process.
- (2) Such road is to be located on a right-of-way or permanent easement at least 30 feet wide.
- (3) Construction for drainage and the road base shall be approved by the Town Engineer.

E. Signs.

(1) General provisions.

- (a) After adoption of this chapter, no sign shall be erected, placed or maintained in the Town of Waterloo unless specifically permitted in this subsection or unless a permit therefor has been issued by the Zoning Board of Appeals. Replacement of any existing sign for any cause shall be in accordance with the more restrictive clause of this chapter.
- (b) Signs must be constructed of durable material and maintained in good condition.
- (c) Other than an official traffic sign or a sign required by law, no sign shall be erected within or shall overhang the right-of-way lines of a public thoroughfare.
- (d) Signs shall not project beyond property lines and shall not block sight lines for vehicles entering or leaving a premises.
- (e) No illuminated sign shall be permitted or installed that would be distracting or hazardous to traffic on an adjacent road. Illuminated signs shall not be flashing or animated.
- (f) No sign shall be higher than 30 feet from the ground unless a variance therefor has been granted by the Zoning Board of Appeals.
- (g) For signs painted or installed on opposite sides of a board or standard (a two-sided sign), only one side need be considered in determining the area of such sign.
- (h) A sign to be installed on the face of any new building may be included in the permit covering the construction of such building and no other permit or fee shall be required.



- (2) Exempt signs. The following types of signs may be erected without a permit in any zoning district:
- (a) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by government agencies, religious or nonprofit organizations. Such signs shall not exceed six square feet in area.
  - (b) Flags and insignia of any government, except when displayed in connection with commercial promotion.
  - (c) Any sign placed by any governmental agency for public purposes, or any nonadvertising sign identifying underground utility lines.
  - (d) On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, internally illuminated or nonilluminated, not exceeding two square feet per face and six feet in height. Business names and personal names shall be allowed, excluding advertising messages.
  - (e) Nonilluminated warning, private drive, posted or no-trespassing signs, not exceeding two square feet per face.
  - (f) Number and nameplate identifying residents and/or property addresses, not exceeding two square feet per face.
  - (g) Private-owner merchandise sale signs for garage sales and auctions, not exceeding four square feet for a period not to exceed seven days, limited to four times per calendar year.
  - (h) Temporary lighted or unlighted signs erected by and for nonprofit organizations such as churches, American Legion, Boy Scouts, Girl Scouts, political organizations, or military reserve associates which advertise suppers, banquets, benefits, fund-raising sales, and similar functions may be erected for a period of 40 days without a permit in any district.
  - (i) Temporary nonilluminated "For Sale," "For Rent," real estate signs and signs of similar nature, concerning premises upon which the sign is located. Such sign shall not exceed 16 square feet in area, and shall be set back at least 10 feet from all property lines. All such signs shall be removed within three days after the sale, lease or rental of the premises or property.
  - (j) Holiday decorations, including lighting, are exempt from the provisions of this chapter and may be displayed in any district without a permit.
  - (k) Integral graphics or attached price signs on gasoline pumps at gasoline stations.
  - (l) Directional signs for meetings, conventions and other assemblies.

- (m) One sign, not exceeding 16 square feet in area, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in active progress.
  - (n) A home business sign not larger than six square feet in area and not illuminated.
  - (o) A political sign not to exceed six square feet which is to be removed within seven days after the election to which it pertains.
- (3) Signs for which a permit is required.
- (a) A single permanent freestanding advertising sign directing attention to a business, product, commodity, service or entertainment located on the same lot as the sign may be erected only in a Commercial (C), Industrial (I) and Agricultural (A) District, provided that:
    - [1] Such sign is located no less than 25 feet from the highway right-of-way line in an Agricultural District and five feet from the highway line in a Commercial and Industrial District.
    - [2] Such sign does not exceed 64 square feet in any Agricultural District, and 32 square feet in any Commercial or Industrial District.
  - (b) An single advertising sign directing attention to an off-premises business, product, commodity, service or entertainment only in a Commercial (C) and Agricultural (A), or Industrial District, provided that:
    - [1] Such sign is located no less than 25 feet from the highway right-of-way line.
    - [2] Such sign does not exceed 32 square feet in any Agricultural Commercial or Industrial District.
  - (c) One or more attached wall signs promoting a business, product, service or entertainment located within the building to which such sign is attached only in a Commercial (C), Industrial (I) and Agricultural (I) District, provided that:
    - [1] Such sign does not exceed one square foot of area for each linear foot of the building wall to which it is attached, with a maximum area of 60 square feet.
    - [2] If more than one such wall sign is attached to the building, the total area of such signs shall not exceed 90 square feet and no single sign shall have an area greater than 60 square feet.
- (4) Procedure. A permit to erect or place any sign for which a permit is required shall be obtained from the Zoning Officer if it is determined that such sign meets the requirements of this subsection. An area variance from the Zoning Board of Appeals shall be required for any proposed sign that does not meet the location requirements, or exceeds the area requirements of this subsection.

**§ 135-8. Special conditions and special use permits.**

- A. Purpose. The purpose of this § 135-8 is to set forth supplemental regulations, procedures and conditions that shall apply to certain land use activities in the Town of Waterloo which, by reason of their distinctiveness, individual character, location and potential effect on the surrounding neighborhood, warrant development conditions (special conditions) or special review and evaluation (special permits) on an individual basis so that the purposes of the chapter will be achieved.
- B. Applicability. No zoning permit shall be issued for any land use or activity listed in Schedule I of this chapter as having special conditions (SC) applicable or requiring a special permit (SP), until the Zoning Officer is satisfied that the conditions and other requirements set forth in this Article VIII have been complied with or that a variance thereof has been duly granted.
- C. Special conditions. The Zoning Officer shall issue a zoning permit for the following uses only when satisfied that applicable conditions set forth in this subsection, and all other applicable regulations, have been met.
- (1) Dwelling, one-family, in A, R-1, R-2 and MU Districts. Each new one-family dwelling must meet or exceed the following conditions:
    - (a) A minimum width of 20 feet.
    - (b) Meets a minimum square footage requirement of 900 square feet, excluding garage or carport.
    - (c) The roof has a type of covering commonly used in residential construction.
    - (d) The exterior siding is of a type of material commonly used in residential construction.
    - (e) In the case of manufactured or modular dwelling, all towing devices, wheels, axles and hitches be removed.
    - (f) That it be installed on a permanent foundation that meets applicable Seneca County Building Code requirements.
    - (g) The material used to skirt the home must simulate the look of block, brick, stone, etc., or be of that material.
    - (h) In the event that no district requirements call for the orientation of the homes, homes shall be placed on the lot in such a manner that is compatible with and reasonably similar in orientation to other site-built housing in adjacent or nearby locations.
  - (2) Home occupation or business in an I District; garage and similar use accessory to a dwelling in an I District. Before a zoning permit is issued for new residential construction, or for the construction of an accessory garage, or for the establishment of a home occupation or business, the Zoning Officer shall inform the applicant, in writing, that industrial development of adjacent land in the Industrial District is likely and will be supported by the Town.

- (3) Dwelling, conversion of an existing building into a multifamily dwelling or new construction of a multifamily dwelling in A and C Districts. Site plan review and approval is required. (See § 135-5C.)
- (4) Dwelling, mobile home, in A and C Districts are permitted when such dwelling is located in an approved mobile home park.
- (5) Home occupation or business in A, R-1, R-2 and MU and R-2 Districts are permitted when:
  - (a) Such use is located in a dwelling inhabited by the business owner or in a building accessory to such dwelling and located on the same lot. Such accessory building shall have a floor area no greater than 500 square feet.
  - (b) All activity related to the occupation or business is conducted inside the dwelling or accessory building.
  - (c) The business is operated by its owner and not more than three persons who do not live in the dwelling.
  - (d) Off-street parking space is provided for not more than four vehicles.
  - (e) There is no outside storage of material, supplies, equipment or products.
  - (f) Delivery of raw materials or pickup of finished products shall not be required more than once each week.
  - (g) The occupation or business would not produce noise, vibration, odor or other nuisance not appropriate in a residential neighborhood.
- (6) Signs in all districts must comply with applicable requirements of § 135-7F of this chapter.

D. Special use permits.

- (1) General requirements. Authorization for any special permit required by this chapter shall be obtained from the Planning Board. Such authorization shall be conditioned on provisions of adequate safeguards to protect the health, safety and general welfare of the public and to mitigate possible detrimental effects on land value and on adjacent property. To this end, before a special permit is authorized the Planning Board shall determine, after a duly advertised public hearing, that the following general requirements will be complied with as well as any other applicable requirements for certain specific land uses or activities as may be set forth elsewhere in Subsection D(2) of this section. The Planning Board shall determine:
  - (a) That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and general welfare will be protected.

- (b) That the existence of the proposed land uses or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.
  - (c) That adequate landscaping and screening is to be provided.
  - (d) That adequate off-street parking and loading is provided and the ingress and egress thereto are so designed as to cause minimum interference with traffic on abutting roads.
  - (e) That the proposed land use or activity will not result in excessive erosion and will not increase surface water runoff onto abutting properties.
  - (f) The proposed water supply and sewage disposal system is determined by the appropriate jurisdictional authority to be adequate.
  - (g) That vibration, glare, heat, noise or other disturbance anticipated from the proposed development can be mitigated to prevent onerous conditions for any existing residence on adjacent or nearby property.
- (2) Specific requirements. In addition to the general requirements for a special permit, as set forth in Subsection D(1) above, the specific requirements for certain land uses or activities, as set forth in this Subsection D(2), shall also be complied with.
- (a) Nursing home; health-related clinic in R-2 District is permitted when a landscaped buffer strip is provided along road frontage and adjacent property lines.
  - (b) Commercial plant nursery/greenhouse in R-1 District is permitted when adequate provisions are made to prevent surface water runoff onto adjacent property.
  - (c) Kennel; animal boarding in A and C Districts is permitted when:
    - [1] Such facility is enclosed and there is no open boarding.
    - [2] There is no outdoor storage of feed, refuse or other material.
    - [3] Shelters for animals within kennels shall not be closer than 100 feet to any lot line.
    - [4] No outdoor area enclosed by fences for the use of animals shall be permitted within the front yard. Fenced areas shall be set back not less than 75 feet from any side or rear property line.
    - [5] Adequate provisions shall be made for disposing of animal waste.
    - [6] All animals shall be kept within a totally enclosed building between 8:00 p.m. and 7:00 a.m.
    - [7] Noise and odors shall not be a nuisance to adjacent property owners.
  - (d) Mini warehouse for self storage in A District is permitted when:



- [1] A landscaped buffer strip is provided between such use and any existing abutting residence or residence district.
- [2] Landscaping is provided along public road frontage.
- (e) Truck, motor freight or construction equipment terminal in A and C Districts is permitted when:
  - [1] Access drives are clearly defined by curbs or lawn and no wider than 60 feet.
  - [2] A landscaped buffer strip is provided along public road frontage.
- (f) Commercial excavation of soil, rock, sand and similar products in A District is permitted when in compliance with Chapter 80, Mining and Excavation, of the Code of the Town of Waterloo.
- (g) Tower for the reception or transmission of electronic signals in all districts is permitted when:
  - [1] A location map has been provided showing all existing residences within a one-thousand-foot radius of the proposed tower.
  - [2] A site plan has been approved. (See § 135-5C.)
  - [3] The applicant, if requested, makes a performance guaranty, or similar provision for correction of any TV, radio or other electronic disturbance caused by the tower's operation.
- (h) Adult entertainment in I Districts is permitted when in compliance with Chapter 85, Sexually Oriented Businesses, of the Code of the Town of Waterloo.
- (i) Racing courses in A and C Districts are permitted when in compliance with Chapter 102, Racing Courses, of the Code of the Town of Waterloo and the following conditions are met.
  - [1] Racing courses; area; parking; location.
    - [a] No racing course shall be operated within the Town of Waterloo on a tract of land having an area, including portions set aside for parking of motor vehicles and other uses in conjunction with the operation of such course, of less than 10 acres, and any such racing course area must provide for parking of all motor vehicles of persons using such course or spectators or other persons attracted to such course because of the operation thereof, off of any portion of highways adjacent to such racing course area.
    - [b] Any such racing course operated within the Town of Waterloo shall be located not closer than 100 yards to the nearest public highway.

- [2] Racing vehicles; mufflers. All racing vehicles operated on such racing course shall be equipped with a muffler or other noise-suppressing equipment which shall be so designed and so employed as to reduce the noise created by said racing vehicle to the minimum possible, and no such racing vehicle shall be equipped with a device which shall modify such exhaust system so as to cut out or bypass said muffler.
  - [3] Maintenance. All buildings, structures and vehicles shall be maintained in connection with such racing course in clean and orderly condition at all times and the grounds shall be kept free of litter, debris, loose timbers, bottles, papers and refuse materials of all kinds.
  - [4] Pavement. All such racing courses operated within the Town of Waterloo shall be paved for their entire length and width with clay, macadam or concrete.
- (3) Procedure for a special permit.
- (a) Application. Application for a special permit shall be made to the Zoning Officer, who shall refer it to the Planning Board for site plan review.
  - (b) Material to be submitted. An application for a special permit shall be accompanied by any written and graphic material which the applicant feels will best illustrate and support the request. Additional information might be requested by the Planning Board.
  - (c) Public hearing and decision. The Planning Board shall conduct a duly advertised public hearing within 62 days from the day an application is received. The Planning Board shall decide upon the application within 62 days after the hearing has been closed.
  - (d) Referral to county planning. If applicable, the application shall be referred to the Seneca County Planning Department for review in accordance with §§ 239-1 and 239-m of the General Municipal Law.
  - (e) Other notification. At least 10 days prior to the public hearing, notice thereof shall be mailed to the owners of record of all properties within a one-thousand-foot radius of the applicant property.
  - (f) Expiration. A special permit shall expire 18 months from the date of issuance if the proposed land use activity has not been substantially implemented as determined by the Planning Board. One twelve-month extension may be granted by the Planning Board.

**§ 135-9. Parking and loading.**

- A. Purpose. The purpose of this section is to assure that all nonfarm land use activities in the Town of Waterloo be provided with sufficient and safe off-street motor vehicle parking and loading space to adequately serve and meet the needs of persons associated

with such land use activities. The requirements of this section do not apply to agricultural land uses.

**B. Off-street parking requirements.**

- (1) **Required spaces.** The minimum number of off-street parking spaces required for land uses or activities permitted by this chapter shall be as set forth in Schedule III,<sup>16</sup> which is hereby adopted and made a part of this chapter.
- (2) **Size and access.** Each required off-street parking space shall have a dimension of at least nine feet by 18 feet, exclusive of passageways and driveways thereto. Each such space shall have direct and usable access to a road, designed and located so as not to require the backing of any vehicle into a road right-of-way, except that this provision shall not apply to one- and two-family dwellings.
- (3) **Parking in yards.** Off-street parking space, open to the sky, may be located in any yard area required by Schedule II of this chapter, except that:
  - (a) No parking space may be located less than 10 feet from any property line of an adjacent residential lot.
  - (b) For nonresidential land use activities, all front yard area not used for parking or access shall be improved by grass, trees, shrubs or other forms of landscaping.
- (4) **Screening and landscaping.** In commercial and industrial districts, and for nonresidential land uses in other districts, off-street parking areas adjacent to an existing residence shall provide a buffer strip designed to screen the parking area from such adjacent residence.
- (5) **Parking area lighting.** If an off-street parking area is to be lighted, such illumination shall be designed using cutoff fixtures, or equivalent, installed so that light does not create glare onto adjacent residential properties or onto any adjacent roadway.

**C. Off-street loading requirements.**

- (1) **Location and size.** All required off-street loading berths shall be on the same lot as the land use activity to be served. Such berths shall not be placed in any required front yard and shall be located so that traffic and access is not blocked. Berths shall be large enough to accept normal delivery vehicles.
- (2) **Space requirements.** Areas for off-street loading shall only be required in commercial and industrial districts and only when necessary to provide adequate service. Unless modified by the Planning Board as part of site plan review, one loading space shall be provided for each 15,000 square feet of floor area or major fraction thereof.

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16. Editor's Note: Schedule III is included at the end of this chapter.



- D. Conflict with other regulations. If off-street parking and loading requirements, as may be set forth in § 135-8C (Special conditions) or § 135-8D (Special use permits) or as a result of site plan review (§ 135-7B), conflict with the requirements of Schedule III, the special conditions or special use permits or site plan review requirements shall take precedence over said Schedule III.
- E. Variance. In case of practical difficulty or unusual conditions arising out of the parking and loading requirements of this section, such requirements may be modified or waived through an application to the Zoning Board of Appeals for a variance in accordance with the provisions of § 135-12F of this chapter.

**§ 135-10. Nonconforming uses.**

- A. Purpose. The purpose of this § 135-10 is to provide for the use of land, buildings and lots that do not comply with the regulations of this chapter and to set forth the circumstances and conditions under which such nonconformity may be continued.
- B. Continuance. Except as otherwise provided in this § 135-10, the lawful nonconforming use of any land, building or lot existing at the date of adoption of this chapter may be continued even though such use, building or lot does not conform to the regulations specified for the zoning district in which such land, building or lot is located. Unless set forth to the contrary elsewhere in this chapter, the following provisions shall apply to all nonconforming uses:
  - (1) The nonconforming use of land may not be expanded or extended so as to occupy a greater area of land unless a variance therefor has been granted by the Board of Appeals.
  - (2) The footprint of a nonconforming building may be enlarged, extended or increased if the lot area, width and yard requirements can be met or an area variance has been granted by the Zoning Board of Appeals.
  - (3) A nonconforming lot shall not be reduced in area or dimension through subdivision so as to increase the amount of nonconformity.
- C. Permission to alter or enlarge. Notwithstanding the provisions of Subsection B to the contrary, the Board of Appeals may, upon written request, permit the alteration to or enlargement of a nonconforming use or building. Such alteration or enlargement shall not be permitted, however, if it exceeds 10% of the original footprint of the building or 10% of the area of the land use activity or results in yards that are less than those required in the district.
- D. Changes. A nonconforming use may be changed to another nonconforming use only by variance granted by the Board of Appeals.
- E. Restoration and repair. A nonconforming building or part thereof that is damaged or destroyed may be restored to a safe and sanitary condition, provided that it is not larger or substantially different in size and configuration than the original. Any damaged nonconforming land or building that is determined to be unsafe or a hazard to public

health or safety shall be subject to all other regulations of the Town, county or state related to unsafe buildings.

- F. Transference. Nonconforming use rights remain with the land when title is transferred, subject to the provisions of this § 135-10.
- G. Reversion. No nonconforming use of land or a building shall, if once changed to a conforming use, be changed back to the previous or a new nonconforming use unless a use variance therefor has been granted by the Board of Appeals.
- H. Abandonment or discontinuance. Abandonment or discontinuance of any nonconforming use for a period of twelve months or more in any fifteen-month period shall terminate such nonconforming use of the structure or premises. Any subsequent use of such building or premises shall be in conformance with the provisions of this chapter. The date of abandonment or discontinuance shall be determined by the Zoning Officer. Extension of the termination date for an additional six months may be granted by the Board of Appeals if a written request is made by the property owner.
- I. District changes. When the boundaries of a district are changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions of this § 135-10 shall also apply to any nonconformity existing therein or created thereby.
- J. Previously prepared plans. Nothing in this chapter shall require any change in plans, construction or designated use of a building for which a zoning permit has been issued prior to the adoption of this chapter.

**§ 135-11. Enforcement; zoning permit; certificate of compliance.**

- A. Enforcement officer; zoning permits. This chapter shall be enforced by the Town of Waterloo Zoning Officer who shall be appointed by and serve at the pleasure of the Town Board. The Zoning Officer shall have the power to make inspection of buildings or premises as is necessary to enforce this chapter.
- B. Zoning permit.
  - (1) Permit required. No building or structure shall be demolished, erected, added to or structurally altered unless a zoning permit therefor has been issued by the Zoning Officer. Except upon a written order of the Zoning Board of Appeals, no zoning permit or certificate of compliance shall be issued for any building or structure if said structure, addition, alteration or use thereof would be in violation of any of the provisions of this chapter. Notwithstanding the foregoing, no zoning permit shall be required for the following: normal maintenance and repair work such as painting, roofing, siding, interior decoration; the demolition or erection of an appurtenant structure having a total floor area of 140 square feet or less; or a pool having an interior depth of 24 inches or less.
  - (2) Application, by whom made and information to be submitted with application. An application for a zoning permit shall:

- (a) Be made by the owner of the premises or a person authorized in writing, executed by the owner and acknowledged in the same manner as required for a deed to be recorded, to act as agent of the owner;
  - (b) Be submitted in duplicate, together with the required fee, and two copies of a layout or plot plan 24 inches in width by 20 inches in height, or in sufficient size adequate to describe the project and acceptable to the Zoning Officer, drawn to scale showing the actual dimensions of the lot to be improved, the exact size of and location on the lot relative to lot lines of any structure to be demolished, repaired, erected, added to or altered; and
  - (c) Include such other information as may be necessary and required by the Zoning Officer to determine whether or not the application should be granted and to provide for enforcement of this chapter.
- (3) Public record. One copy of such application and layout or plot plan shall be returned to the applicant after approval by the Zoning Officer together with the zoning permit, and one copy thereof shall be retained and become a public record of the Town.
- (4) Water supply, sewage disposal and drainage. All water supply and sewage disposal installations shall conform to New York State Department of Health regulations. No application or plot plan shall be approved by the Zoning Officer in any district unless such conformity is endorsed on the plot plan. Drainage affecting adjacent properties shall be considered, including possible runoff to said properties, by the Zoning Officer before issuing a zoning permit.
- (5) Issuance, denial, expiration and revocation of zoning permit.
- (a) It shall be the duty of the Zoning Officer to issue a zoning permit, provided the Zoning Officer is satisfied that the proposed improvement conforms to all requirements of this chapter and other provisions of the Code of the Town of Waterloo, New York, applicable thereto and that other reviews and actions, if any, have been complied with and all necessary approvals have been granted.
  - (b) Zoning permits shall be issued in duplicate, and one copy thereof shall be conspicuously posted on the premises, protected from the weather, whenever any construction or other work is being performed thereon. No construction or work of any kind or nature shall be performed on the premises unless such permit is posted thereon as aforesaid. If the zoning permit is lost or stolen, the Zoning Officer shall issue a duplicate permit upon application therefore and payment of the required fee.
  - (c) In the event the Zoning Officer is not satisfied that the applicant's proposed improvement will meet the requirements of this chapter or any other provisions of the Code of the Town of Waterloo applicable thereto, he shall deny the application for a zoning permit and notify the applicant, in writing, specifying the reasons for such denial.

- (d) A zoning permit shall expire one year after the date of its issue and thereafter be null and void and a new zoning permit shall be required unless the applicant shows good cause why construction of the proposed improvement was not commenced and completed within such one-year period.
- (e) If it shall appear at any time that the application and/or the plot plan is in any material respect false or misleading or that the improvement being constructed on the premises differs materially from the improvement described in the application and/or shown on the plot plan, the Zoning Officer may revoke the zoning permit, and direct that no further construction or work be performed on the premises. Upon revocation of the zoning permit, the permittee shall forthwith surrender the zoning permit to the Zoning Officer. After a zoning permit has been revoked, the Zoning Officer, may, upon satisfactory proof that the permittee will comply with the original zoning permit, issue a new zoning permit and, in his discretion, and as a condition to the issuance of a new zoning permit, require the permittee to file with the Town Clerk an indemnity bond in favor of the Town, conditioned upon compliance with this chapter and any other provision of the Code of the Town of Waterloo, New York, applicable to the improvement, issued by a surety acceptable to the Zoning Officer and sufficient in amount to cover the cost of removing the improvement if it does not so comply.

C. Certificate of compliance.

- (1) Application for a certificate of compliance may be made at any time and must be made coincident with the application for a zoning permit. An application for a certificate of compliance shall be filed with the Zoning Officer, in duplicate and together with the applicable fee, and shall include a detailed description, as of the date of the application of the use of the premises, of the improvements located thereon, and a plot plan, drawn to scale, showing the size of the lot and the location of all improvements thereon relative to the boundary lines thereof. The Zoning Officer shall issue a certificate of compliance if, after investigation and inspection of the premises, the Zoning Officer determines the application accurately reflects the use and improvement of the premises as of the date of the application and as of the date of inspection; otherwise, such application shall be denied in writing and stating the reasons for denial. No certificate of compliance shall be issued by the Zoning Officer if it shall appear that the improvement was made after the date of adoption of this section without first obtaining a zoning permit therefor.
- (2) The Zoning Officer shall keep and maintain a record of all certificates issued pursuant hereto and shall furnish a copy thereof upon request of any person having a proprietary or tenancy interest in the premises upon payment of the applicable fee.

D. Appeal to the Zoning Board of Appeals. Any decision of the Zoning Officer adverse to an applicant or to a permittee may be appealed to the Zoning Board of Appeals pursuant to the provisions of this chapter.

**§ 135-12. Zoning Board of Appeals.**

- A. Establishment. In accordance with the provisions of § 267 of the Town Law, there is hereby established a Zoning Board of Appeals (ZBA) which shall consist of five members to serve for terms as prescribed by law. Members shall be appointed by the Town Board, who shall designate the Chairperson thereof. In the absence of a Chairperson, the Board of Appeals may designate a member to serve as Acting Chairperson. Vacancies shall be filled by the Town Board.
- B. Duties and powers. The Zoning Board of Appeals shall have all the duties and powers prescribed in § 267 of the Town Law and this chapter, including the duties and powers set forth below:
- (1) Grievances and appeals. Any person aggrieved by any decision of the Zoning Officer may take an appeal to the ZBA. The ZBA may wholly or partially reverse or affirm, or may modify the order, requirement, decision or determination appealed from. [Amended 5-20-2003 by L.L. No. 1-2003]
  - (2) Nonconforming uses. Upon application, the ZBA may authorize the alteration, enlargement, change or reversion of a nonconforming use, building or lot in accordance with the provisions of § 135-10 of this chapter.
  - (3) Use variance.
    - (a) On appeal from the decision or determination of the Zoning Officer, the ZBA shall have the authority to grant a use variance, as defined herein. No such use variance shall be granted without a showing by the applicant that zoning regulations and restrictions have caused unnecessary hardship. To prove unnecessary hardship, the applicant must show the following:
      - [1] The applicant cannot realize a reasonable return on the property as zoned.
      - [2] The hardship is unique to the applicant's property and not applicable to a substantial portion of the zoning district.
      - [3] That granting the requested variance will not alter the essential character of the neighborhood.
      - [4] That the hardship has not been self-created.
    - (b) In granting a use variance, the ZBA shall grant the minimum variance necessary to address the unnecessary hardship proven by the applicant and, at the same time, to protect the character of the neighborhood.
  - (4) Area variances.
    - (a) On appeal from the decision or determination of the Zoning Officer, the ZBA shall have the authority to grant an area variance as defined herein. In making its determination, the ZBA shall weigh the benefits to the applicant against the detriment to the health, safety and welfare of the neighborhood and shall also consider:



- [1] 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 of the area variance.
  - [2] Whether the benefit desired can be achieved by some feasible method other than an area variance.
  - [3] Whether the requested area variance is substantial.
  - [4] Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood.
  - [5] Whether the alleged difficulty was self-created. This consideration shall be relevant to the ZBA's decision, but shall not necessarily preclude the granting of the area variance.
- (b) In granting an area variance, the ZBA shall grant the minimum variance deemed necessary and adequate while, at the same time, protecting the character of the neighborhood.
- (5) Imposition of conditions. In the granting of both use and area variances, the ZBA shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

C. Procedure.

- (1) Filing an appeal. A notice of appeal for administrative review, variance or modification of a nonconforming use, building or lot shall be filed by the applicant with the Zoning Officer within 60 days from the date any decision, interpretation or determination has been made by the CEO. The Zoning Officer shall transmit to the ZBA all papers constituting the record or case being appealed.
- (2) Expert assistance. Upon any application for an interpretation, variance, appeal, decision, approval or other action pursuant to this chapter, the applicant shall be obligated to pay the reasonable costs for all consulting or expert technical assistance, including but not limited to scientific, engineering, or appraisal services, required by the reviewing board to properly analyze, review and act upon such application. Said obligation must be met before a zoning permit is issued.
- (3) Hearing and notice. The ZBA shall fix a reasonable time for a public hearing on an appeal and give public notice in the official Town newspaper at least 10 days prior to the date thereof. Notice shall also be mailed by regular first-class mail, at least 10 days prior to the date of a hearing, to the parties and to all persons or firms owning or residing on property located 200 feet or less from the property which is the subject of the hearing.
- (4) Referrals.

- (a) If applicable, the Board shall mail notice of a hearing on any appeal at least five days prior to the date thereof to the Regional State Parks Commission and the appropriate county planning agency as required by §§ 239-1 and 239-m of the General Municipal Law. Such notice shall be accompanied by a full statement of the matter under consideration.
- (b) Appeals related to a use variance request shall be immediately referred to the Town of Waterloo Planning Board for review as to conformance with the objectives of the Comprehensive Plan. No decision shall be made by the ZBA until a report on the appeal has been made by the Planning Board. If the Planning Board fails to issue its report within 10 days from the date of its next scheduled meeting, the ZBA shall assume that a favorable report has been made.

D. Alternate members.

- (1) It is sometimes difficult to maintain a quorum on the Zoning Board of Appeals because members are ill, on extended vacation or find they have a conflict of interest situation on a specific matter before such board. In such instances, official business cannot be conducted which may delay or impede adherence to required timelines. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this chapter.
- (2) Alternate members of Zoning Board of Appeals will serve when members are absent or unable to participate on an application or matter before the board.
- (3) Alternate members of the Zoning Board of Appeals shall be appointed by the Waterloo Town Board for a term of five years.
- (4) Procedure.
  - (a) In the event the Board does not otherwise have a quorum at a duly noticed or continued meeting with respect to a specific item or vote, the acting Chairperson may, at his or her discretion, designate so many of the alternate members present at the meeting as are needed to constitute a quorum. Such alternate members shall then have the right to vote with respect to the specific vote and shall otherwise be vested with all the authority of a regular Board member for the duration of discussion with respect to the matter or resolution for which such vote is required. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.
  - (b) In the event the Board does not otherwise have a super-majority quorum at a duly noticed or continued meeting with respect to a specific item or vote where a super-majority vote is required, the acting Chairperson may, at his or her discretion, designate so many of the alternate members present at the meeting as are needed to constitute a super-majority quorum. Such alternate members shall then have the right to vote with respect to the specific vote and shall otherwise be vested with all the authority of a regular Board member for the duration of discussion with respect to the matter or resolution

for which such vote is required. The term "super-majority quorum" shall, for this section, mean the number of members and alternate members needed to constitute a super-majority of the full Board of regular members. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.

- (c) The additional powers granted by this section shall terminate upon the commencement of the next agenda item occurring after the arrival of an absent regular member. The timing of the arrival of an absent regular member in relation to the commencement of an agenda item shall be as determined in the sole discretion of the acting Chairperson.
  - (d) In the event only one alternate member is needed to constitute a quorum, and more than one is in attendance at the meeting, the acting Chairperson shall have discretion to choose which alternate member, if any, shall be granted authority to act as set forth in this section.
  - (e) An agenda item shall not be delayed to await the arrival of a regular member when a quorum can be achieved with one or more alternate members unless a majority of the newly constituted quorum and the applicant concur.
  - (f) If a Board member is unable to vote due to a conflict of interest or for any reason will abstain from a vote, that Board member will not be included in determining the presence of a quorum.
  - (g) All provisions of state law relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law relating to training, continuing education, compensation and attendance, shall also apply to alternate members.
- E. Time of decision. The ZBA shall decide on the appeal within 62 days after the final hearing. The time within which the Board must render a decision may be extended by mutual consent of the applicant and the Board.
- F. Filing of decisions. Every order, requirement, decision or determination of the ZBA shall be immediately filed in the office of the Town Clerk and shall be a public record.
- G. Provision of appeal. If a variance is granted or if other ZBA approval authorized by this chapter is obtained, all necessary permits shall be subject to the terms and conditions imposed by the Board.

#### **§ 135-13. Penalties for offenses.**

- A. Any person who violates this chapter shall be guilty of a violation punishable by a fine of not less than \$100 nor more than \$250 and a civil penalty in an amount equal to \$500, minimum. Each day a violation of this chapter exists shall be a separate and distinct violation of this chapter.



- B. Any person who violates this chapter may be enjoined from a continuing violation hereof in an action in any court of competent jurisdiction and, in the event an injunction is granted enjoining said violation, the party seeking said injunction shall be entitled to recover the costs, disbursements and reasonable attorney fees incurred in connection with bringing and prosecuting said action.

**§ 135-14. Interpretation; severability.**

- A. Interpretation. The provisions of this chapter shall be held to be the minimum requirements necessary to accomplish the purpose of this chapter and shall be interpreted and applied as such. When requirements of this chapter conflict with the requirements of other lawfully developed rules, regulations, laws or ordinances, the most restrictive, or that imposing higher standards, shall take precedence.
- B. Validity. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

# ZONING

## 135 Attachment 1

### Town of Waterloo Schedule I: Land Uses or Activities

**KEY:**

P = Permitted by right  
 SP = Permitted by special permit  
 SC = Special conditions apply  
 NP = Not permitted

Note: Site plan approval is required for all land uses or activities except single-family dwellings. See § 135-5C.

	Agricultural	Single-Family Home	Varied Types of Homes	Commercial	Industrial	Multiple Use
Land Use or Activity	A	R1	R2	C	I	MU
1. Dwelling, one-family	SC § 135-7C(1)	SC § 135-7C(1)	SC § 135-7C(1)	NP	NP	SC § 135-7C(1)
2. Dwelling, two-family	P	SP § 135-7D(1)	P	NP	NP	P
3. Dwelling, conversion of existing building into two or more dwelling units	SC § 135-7C(3)	NP	SC § 135-7C(3)	NP	NP	SC § 135-7C(3)
4. Dwelling, multifamily, including apartment, condominium and townhouse	SC § 135-7C(3)	NP	SP § 135-7D(1)	NP	NP	SP § 135-7D(1)
5. Dwelling, modular or factory manufactured	SC § 135-7C(1)	SC § 135-7C(1)	SC § 135-7C(1)	NP	NP	SC § 135-7C(1)
6. Dwelling, mobile home	SC § 135-7C(4)	NP	NP	SC § 135-7C(4)	NP	NP
7. Mobile home park	SP § 135-7D(1)	NP	NP	SP § 135-7D(1)	NP	NP
8. Garage and similar use accessory to a dwelling	P	P	P	P	SC § 135-7C(2)	P
9. Community residence (See definitions.)	SP § 135-7D(1)	NP	SP § 135-7D(1)	P	NP	SP § 135-7D(1)

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	<b>Agricultural</b>	<b>Single-Family Home</b>	<b>Varied Types of Homes</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Multiple Use</b>
<b>Land Use or Activity</b>	<b>A</b>	<b>R1</b>	<b>R2</b>	<b>C</b>	<b>I</b>	<b>MU</b>
10. Church, place of public worship and related facility	P	P	P	P	NP	P
11. Nursery school; day-care facility	P	NP	SP § 135-7D(2)(a)	P	NP	SP § 135-7D(2)(a)
12. Nursing home; health-related clinic	P	NP	SP § 135-7D(2)(a)	P	NP	SP § 135-7D(2)(a)
13. Government building, public/private school	P	NP	SP § 135-7D(1)	P	NP	SP § 135-7D(1)
14. Ambulance/fire service	P	NP	SP § 135-7D(1)	P	P	SP § 135-7D(1)
15. Public/private club	P	NP	SP § 135-7D(1)	SP	NP	SP § 135-7D(1)
16. Park, playground, noncommercial	P	P	P	P	NP	P
17. Farming: crops	P	P	P	NP	NP	NP
18. Farming: dairy, livestock (except poultry and hogs)	P	P	NP	NP	NP	NP
19. Farming: poultry, hogs	SP § 135-7D(1)	NP	NP	NP	NP	NP
20. Commercial plant nursery/greenhouse	P	SP § 135-7D(2)(b)	NP	P	NP	SP § 135-7D(2)(B)
21. Roadside stand	SP § 135-7D(1)	SP § 135-7D(1)	SP § 135-7D(1)	SP § 135-7D(1)	NP	SP § 135-7D(1)
22. Bed-and-breakfast facility	SP § 135-7D(1)	NP	SP § 135-7D(1)	P	NP	SP § 135-7D(1)
23. Rooming house; tourist home	SP § 135-7D(1)	NP	SP § 135-7D(1)	P	NP	SP § 135-7D(1)

## ZONING

	Agricultural	Single-Family Home	Varied Types of Homes	Commercial	Industrial	Multiple Use
Land Use or Activity	A	R1	R2	C	I	MU
24. Home occupation or business	SC § 135-7C(5)	SC § 135-7C(5)	SC § 135-7C(5)	P	SC § 135-7C(5)	SP § 135-7C(5)
25. Funeral home	SP § 135-7D(1)	SP § 135-7D(1)	SP § 135-7D(1)	SP § 135-7D(1)	NP	SP § 135-7D(1)
26. Veterinary office of hospital	SP § 135-7D(1)	NP	NP	P	NP	SP § 135-7D(1)
27. Kennel; animal boarding	SP § 135-7D(1)	NP	NP	SP § 135-7D(2)(c)	NP	NP
28. Stable: public	SP § 135-7D(1)	SP § 135-7D(1)	NP	SP § 135-7D(1)	NP	NP
29. Stable: private (owner's use only)	P	SP § 135-7D(1)	SP § 135-7D(1)	SP § 135-7D(1)	NP	SP § 135-7D(1)
30. Commercial nonmotorized recreation: indoor or outdoor, whether or not for profit	SP § 135-7D(1)	NP	NP	SP § 135-7D(1)	NP	SP § 135-7D(1)
31. Recreation track for motorized vehicles	SP § 135-7D(1)	NP	NP	SP § 135-7D(2)(i)	NP	NP
32. Motel/hotel	SP § 135-7D(1)	NP	NP	P	NP	SP § 135-7D(1)
33. Professional or business office (not in home)	SP § 135-7D(1)	SP § 135-7D(1)	NP	P	NP	SP § 135-7D(1)
34. Bank; financial institution	SP § 135-7D(1)	SP § 135-7D(1)	NP	P	NP	SP § 135-7D(1)
35. Retail sales: antiques, crafts and similar small independent activity	SP § 135-7D(1)	NP	NP	P	NP	SP § 135-7D(1)
36. Retail sales, general: food, clothing, furniture, carpets, hardware, lawn and garden supply, pets and similar goods	SP § 135-7D(1)	NP	NP	P	NP	SP § 135-7D(1)

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	Agricultural	Single-Family Home	Varied Types of Homes	Commercial	Industrial	Multiple Use
Land Use or Activity	A	R1	R2	C	I	MU
37. Retail sales: paint, lumber and other building materials and supplies	SP § 135-7D(1)	NP	NP	P	NP	NP
38. Retail sales: plumbing, heating, cooling, electrical supplies and equipment	SP § 135-7D(1)	NP	NP	P	NP	NP
39. Retail sales/service: industrial equipment	SP § 135-7D(1)	NP	NP	P	NP	NP
40. Retail sales/service: agricultural equipment	P	NP	NP	P	NP	NP
41. Retail sales, service and storage: marine and water-oriented	SP § 135-7D(1)	NP	NP	P	NP	SP § 135-7D(1)
42. Retail sales: mobile home, RV, snowmobile and similar item requiring outdoor display	SP § 135-7D(1)	NP	NP	P	NP	NP
43. Restaurant, tavern	SP § 135-7D(1)	NP	NP	P	NP	SP § 135-7D(1)
44. Barber/Beauty shop, laundromat and similar personal service (not a home occupation)	SP § 135-7D(1)	SP § 135-7D(1)	SP § 135-7D(1)	P	NP	SP § 135-7D(1)
45. Convenience (mini) mart	SP § 135-7D(1)	NP	NP	P	NP	SP § 135-7D(1)
46. Mini warehouse for self-storage rentals	SP § 135-7D(2)(d)	NP	NP	P	NP	NP
47. Vehicular fuel and service	SP § 135-7D(1)	SP § 135-7D(1)	NP	P	NP	SP § 135-7D(1)
48. New and used car sales, service and repair	SP § 135-7D(1)	NP	NP	P	NP	NP
49. Car wash	SP § 135-7D(1)	NP	NP	P	NP	NP
50. Printing/publishing (not home occupation)	SP § 135-7D(1)	NP	NP	P	P	NP



## ZONING

	Agricultural	Single-Family Home	Varied Types of Homes	Commercial	Industrial	Multiple Use
Land Use or Activity	A	R1	R2	C	I	MU
51. Commercial assembly: jewelry, leather, fabric, scientific instruments and similar small items	SP § 135-7D(1)	NP	NP	P	P	NP
52. General processing, light manufacturing, assembly	SP § 135-7D(1)	NP	NP	P	P	NP
53. Scientific, agricultural, industrial and similar research, design and production	SP § 135-7D(1)	NP	NP	P	P	NP
54. Warehouse for storage or wholesaling of goods and materials	SP § 135-7D(1)	NP	NP	SP § 135-7D(1)	P	NP
55. Use of accessory farm building for sale of farm commodities, light fabrication or assembly operations	SP § 135-7D(1)	SP § 135-7D(1)	NP	SP § 135-7D(1)	NP	NP
56. Truck, motor freight or construction equipment terminal, with or without repair facilities	SP § 135-7D(2)(e)	NP	NP	SP § 135-7D(2)(e)	P	NP
57. Vehicle wrecking or salvage yard	SP § 135-7D(1)	NP	NP	NP	SP § 135-7D(1)	NP
58. Commercial excavation of soil, rock, sand, gravel and similar products	SP § 135-7D(2)(f)	NP	NP	NP	NP	NP
59. Sign	SC § 135-7C(6)	SC § 135-7C(6)	SC § 135-7C(6)	SC § 135-7C(6)	SC § 135-7C(6)	SP § 135-7C(6)
60. Public utility: local service and distribution	P	P	P	P	P	P
61. Public utility: substation or transmission line	P	NP	NP	NP	P	NP
62. Tower for the reception or transmission of electronic signals	SP § 135-7D(2)(g)	NP	NP	SP § 135-7D(2)(g)	SP § 135-7D(2)(g)	NP
63. Solid waste recycling or transfer operation	SP § 135-7D(1)	NP	NP	NP	SP § 135-7D(1)	NP

# WATERLOO CODE

	Agricultural	Single-Family Home	Varied Types of Homes	Commercial	Industrial	Multiple Use
Land Use or Activity	A	R1	R2	C	I	MU
64. Junkyard	SP § 135-7D(1)	NP	NP	NP	NP	NP
65. Adult entertainment	NP	NP	NP	NP	SP § 135-7D(2)(h)	NP
66. Campground	SP § 135-7D(1)	NP	NP	SP § 135-7D(1)	NP	SP § 135-7D(1)
67. Cemetery	P	NP	NP	NP	NP	NP
68. Marina with docking facilities	SP § 135-7A	NP	NP	P	NP	SP § 135-7D(1)
69. Golf course, including restaurant and driving range	P	P	P	P	NP	NP

# ZONING

## 135 Attachment 2

### Town of Waterloo

#### Schedule II: Area, Frontage, Yard, Height and Coverage Requirements<sup>1</sup>

District	Building Type (See notes below)	Minimum Lot Area (square feet x 1,000)		Minimum Lot Width <sup>2</sup> (feet)		Minimum Yard Setback (feet)			Maximum Building Height (feet)	Minimum Open Space	Notes (see below)
		With Public Sewers or Water	Without Public Sewers or Water	With Public Sewers or Water	Without Public Sewers or Water	Front <sup>3</sup>	Side (each)	Rear			
A Agricultural	All	30	1 acre	100	150	50	15	15	35	0	1
R1 Residential Low-Density	All	30	1 acre	100	150	50	15	15	35	0	
R2 Residential Moderate-Density	a	10	1 acre	75	150	50	15	15	35	0	
	b	5/du		20/du 100 min.	150	50	15	15	35	0	
	c	10		75	150	50	15	15	35	0	
C Commercial	a	10	1 acre	75	150	50	15	15	35	0	
	b	4/du		75	150	50	15	15	35	0	
	c	10		75	150	50	15	15	35	0	
I Industry	All	NA	NA	NA	150	50	15	15	35	20%	2
MU Multiple Use	All	AS APPLIES TO ALLOWED USE									

**NOTES:**

MU = must comply with the district on Schedule II for applicable use

du = dwelling unit

Building Type:

a = 1 or 2 dwelling units

b = 3 or more dwelling units

c = nonresidential or mixed development

<sup>1</sup> Requirements shown in this Schedule II are not necessarily consistent with requirements specified for those land use activities in Schedule I that have special conditions attached (SC) or those that require a special use permit (SP) or site plan approval. Where there are such inconsistencies, the requirements of such special conditions or special use permit or site plan approval shall take precedence over the regulations set forth in this Schedule II.

<sup>2</sup> Flag lots (see definitions) may have a minimum lot width at the right-of-way line of 30 feet.

<sup>3</sup> Front yard setback measured from the right-of-way line of the road.

1. Height limitations do not apply to any building used for agricultural purposes.

2. Lot size to be determined by standards and criteria included in special use permit and site plan review regulations; precedence over the regulations set forth in this Schedule II.

## ZONING

### 135 Attachment 3

#### Town of Waterloo

#### Schedule III: Minimum Off-Street Parking Requirements

#### Town of Waterloo

Land Use or Activity	Space Requirements <sup>1</sup>
One- and two-family dwelling: for each unit	2.00
All other dwelling unit types: for each unit	1.50
Housing for the elderly: for each 3 dwelling units	1.50
Bed-and-breakfast: for each sleeping room let for profit	1.00
Home business (occupation) plus: as required for residence	2.00
Hotel or motel:	
For each rentable room or suite	1.25
Plus: for each 100 square feet in any conference, banquet or restaurant area (or as may be required by local fire codes)	1.00
Restaurant, tavern, social club, or similar use:	
With bar: for each 100 square feet of gross floor area	2.00
No bar: for each 100 square feet of gross floor area (or as may be required by local fire codes)	1.00
General retail sales, office and personal services in detached buildings:	
For each 250 square feet of gross floor area	1.00
Plus: for each dwelling unit	1.00
Furniture or appliance sales and service as primary use: for each 500 square feet of gross floor area	1.00
Shopping center or concentration of attached retail stores, offices and personal services: for each 200 square feet of gross leasable floor area	1.00
Nursery school or preschool day-care: for each person on staff	1.25
Church, auditorium or place of public assembly: for each eight seats	1.00
Medical-related office or clinic:	
For each 50 square feet of gross floor area in any waiting or reception area	1.50
Plus: for each examination or treatment room	1.25
Health and fitness center, bowling alley, skating rink, tennis court and similar indoor recreation facility:	
For each three occupants based on maximum design capacity as determined by applicable fire codes	1.00
Miniature golf, driving range and similar outdoor recreation activity: minimum for each activity	10.00

## WATERLOO CODE

<b>Land Use or Activity</b>	<b>Space Requirements<sup>1</sup></b>
Private club, lodge or similar use: for each five seats based on maximum design capacity of the largest meeting room, as determined by the fire code	1.00
Research office, laboratory and similar use: for each 200 square feet of gross floor area	1.00
Wholesale, warehouse, storage and similar low-person-intensive use: for each 1,000 square feet of gross floor area	0.50
Manufacturing, fabricating, testing, assembling, repairing or servicing facility: for each 1,000 square feet of gross floor area	1.00
All other businesses and commercial uses: for each 250 square feet of gross floor area	1.00

### NOTES:

<sup>1</sup>When calculations indicate that a partial space is required, a full space shall be provided. Example: a general retail sales facility with 4,350 square feet of gross floor area would require 17.4 spaces (4,350 divided by 250). Eighteen spaces should be provided.