

# Town of Parma Chapter 165: Zoning

*FEBRUARY 2025*



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## ARTICLE I. Statutory Provisions, Purpose and Intent

### §165-1 Authority

- A. The Town Board of the Town of Parma, County of Monroe, pursuant to the authority conferred by the Town Law of the State of New York, and in accordance with the Parma Comprehensive Plan, hereby adopts and enacts this chapter.

### §165-2 Title

- A. This Chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Parma."

### §165-3 Purpose

- A. For the purpose of promoting the health, safety and general welfare of the people of the Town of Parma, this chapter is adopted pursuant to Article 16 of the Town Law and pursuant to the Municipal Home Rule Law of the State of New York. Its purpose is to regulate and restrict: the height, number of stories and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards, courts and other open space; the density of population and the location and use of buildings, structures and land for business, industry, agriculture, residence or other purposes. Such chapter and the Official Zoning Map enacted pursuant to this chapter are designed: to lessen congestion in the streets; to secure safety from fire and other dangers; to provide adequate light and air; to provide for solar access and the implementation of solar energy systems; to prevent the overcrowding of land and to avoid undue concentration of population; to facilitate the efficient and adequate provision of public facilities and services; and to provide the maximum protection to residential areas from the encroachment of adverse environmental influences. Such chapter and Official Zoning Map were enacted after reasonable consideration, among other things, as to the character of the Town and its peculiar suitability for particular uses and with a view to conserving property values and natural resources and encouraging the most appropriate use of land throughout the Town.

### §165-4 Interpretation

- A. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum standards and requirements for the protection of the public health, safety and general welfare.

### §165-5 Conflict With Other Laws

- A. Whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted rules, regulations, local laws or ordinances, the most restrictive or those imposing the higher standards shall govern.

### §165-6 Compliance with SEQR

- A. Prior to any action by a municipal board or official on any application made in accordance with the provisions of this Chapter, the Town shall satisfy the requirements of the State Environmental Quality Review (SEQR) regulations.

## §165-7 Amendments

- A. Procedure. The Town Board may from time to time on its own motion, on petition or on recommendation of the Planning Board, or on petition from an interested person and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this Chapter.
- B. Filing of petition. A petition to amend, change or supplement the text of this chapter or any zoning district as designated on the Official Zoning Map established herein shall be filed with the Town Clerk and shall be transmitted by the Clerk to the Town Board. A petition for a change to the Official Zoning Map shall contain a map which clearly describes the affected property and its boundaries and shall indicate the existing zoning district and the requested zoning change. In addition, every petition for a change to the Official Zoning Map shall contain an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in State Environmental Quality Review (SEQR) regulations.
- C. Referral to Planning Board. Each proposed amendment, except those initiated by the Planning Board, shall be referred to the Planning Board for an advisory report. In reporting, the Planning Board shall fully state its reasons for recommending or opposing the adoption of such proposed amendment. The Planning Board may condition its recommendation as may be appropriate and shall state whether such amendment is in harmony with the Town's Comprehensive Plan for land use. The Planning Board shall state its position relative to proposed zoning amendments in writing within 45 days of its receipt of a referral from the Town Board. The absence of a reply from the Planning Board within the forty-five-day period shall indicate that the Planning Board is in favor of the proposed amendment.
- D. Public hearing; notice; recording of actions. Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices and proper recording of zoning actions taken by the Town Board shall apply to all amendments to this chapter.
- E. Disposition final; rehearing on petition. The disposition of a petition for amendment by the Town Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Town Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one year from the date of such previous denial unless the Planning Board shall submit a recommendation, with reasons stated therefore, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority of the Town Board plus one.

## §165-8 Repealer

- A. Except as hereinafter provided, the Zoning Code of the Town of Parma adopted October 16, 1972, and the Official Zoning Map of the Town of Parma dated June 1, 1972, together with all amendments thereto, are repealed and supplanted by this Chapter as of its effective date.
- B. Such repeal shall not affect or impair any act, liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be employed, asserted, enforced or prosecuted as fully and to the same extent as if such repeal had not been effected.

## ARTICLE II. Establishment of Districts

### §165-8 Enumeration of Districts

- A. The zoning districts will be referred to hereinafter in this chapter and on the Zoning Map as follows:

Type of District	Designation
Agricultural-Residential	AR
Rural Residential	RR
Neighborhood Residential	NR
Multifamily Residential	MR
Waterfront Residential	WR
Neighborhood Mixed-use	N-MU
Corridor Mixed-use	C-MU
Light Industrial	LI

### §165-9 Official Zoning Map.

- A. The location, areas and boundaries of the foregoing districts and classes of districts are hereby established as shown on the Official Zoning Map of the Town of Parma filed in the office of the Town Clerk of the Town of Parma, which may be amended, from time to time by action of the Parma Town Board and which map with all explanatory matter shown thereon is hereby made a part of this chapter. Such map shall be duly certified as required by law and shall supersede any map heretofore adopted as the Official Zoning Map of the Town of Parma.

### §165-10 District Boundaries.

- A. All zoning district boundaries shall follow property lines, center lines of streets or roads, corporate limits, streams, unless otherwise located by an appropriate reference in the Official Zoning Map. In the event that the above rule is not applicable, the location of such boundary will be dimensioned.

### §165-11 Applicability.

- A. Except as hereinafter provided, each lot which is created or modified, each building or part thereof which is placed, erected, constructed, altered or moved and each building or lot which is occupied or used after the effective date of this Chapter shall comply with the regulations of the district within which said lot, building or use is located. If the restrictions imposed by this Chapter conflict with the restrictions imposed by other laws, ordinances, rules or regulations, the greater restriction shall prevail.

### §165-12 Zoning Schedule.

- A. Schedule 1 sets forth the various zone districts, the list of permitted and special permitted uses for each district, the minimum dimensional criteria, building height and maximum building coverage.



# ARTICLE III. Zoning Districts

## §165-13 Agricultural Residential (AR) District

### A. PURPOSE

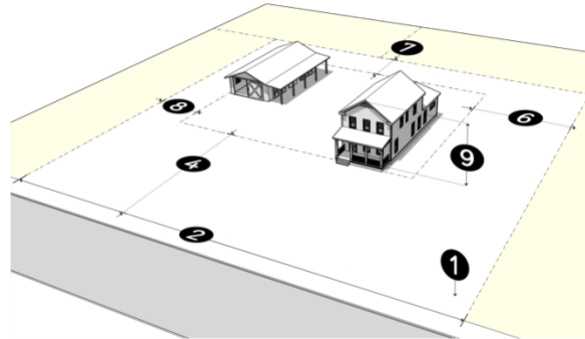
The Agricultural Residential District is established to include land uses that include active farmland, fallow land, woodland and wetland areas, and low-density residential development. Residential development is intended to occur in a manner which supports agricultural operations, protects open space and the natural environment, and contributes to rural character.

### B. LOT AREA AND COVERAGE

①	Lot area for non-agricultural use	1 acre
②	Lot width (min)	100'
③	Lot coverage (max)	20%

### C. YARD SETBACKS & DRIVEWAY

④	Primary street yard	75'
⑤	Secondary street yard setback (min)	75'
⑥	Side yard setback (min)	50'
⑦	Rear yard setback (min)	75'
⑧	Accessory structure rear/side (min)	25'



### D. HEIGHT

⑨	Primary building height (max)	35'
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### E. ENTRANCE

⑩	Primary street facing entrance	Encouraged
⑪	Porch or portico	Encouraged

## §165-14 Rural Residential (RR) District

### A. PURPOSE

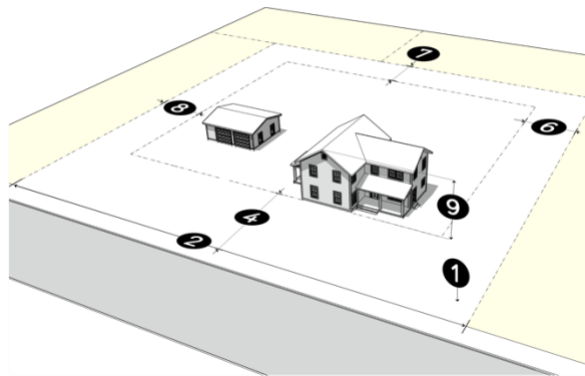
The Rural Residential District is established to include mostly residential development in areas with limited opportunities for infrastructure connections including public sewers. Residential development should include cluster development that preserves rural character, retains open space and conserves natural resources.

### B. LOT AREA AND COVERAGE

①	Lot area (min)	1 acre
②	Lot width (min)	100'
③	Lot coverage (max)	20%

### C. YARD SETBACKS

④	Primary street yard	60'
⑤	Secondary street yard setback (min)	60'
⑥	Side yard setback (min)	25'
⑦	Rear yard setback (min)	50'
⑧	Accessory structure rear/side (min)	25'



### D. HEIGHT

⑨	Primary building height (max)	35'
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### E. ENTRANCE

⑩	Primary street facing entrance	Encouraged
⑪	Porch or portico	Encouraged

## §165-15 Neighborhood Residential (NR) District

### A. PURPOSE

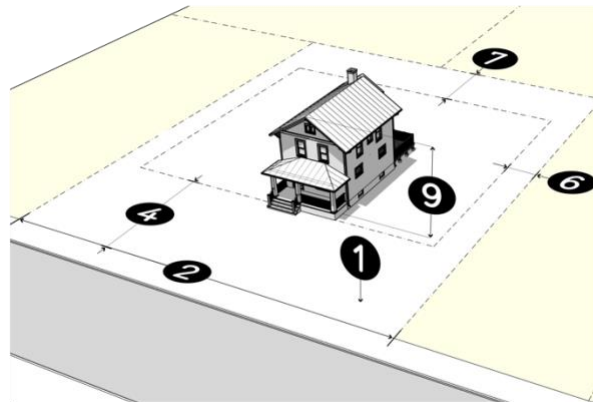
The Neighborhood Residential District is established to regulate land use for suburban-scaled neighborhood residential development, primarily in areas with existing sewer and water facilities and in areas with soils well-suited to medium-density residential development. Such development is intended to occur in a manner that retains open space and conserves significant environmental features.

### B. LOT AREA AND COVERAGE

1	Lot area	20,000 sf
2	Lot width (min)	100'
3	Lot coverage (max)	20%

### C. YARD SETBACKS & DRIVEWAY

4	Primary street yard	40'
5	Secondary street yard setback (min)	40'
6	Side yard setback (min)	10'
7	Rear yard setback (min)	25'
8	Accessory structure rear/side (min)	15'



### D. HEIGHT

9	Primary building height (max)	35'
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### E. ENTRANCE

10	Primary street facing entrance	Required
11	Porch or portico	Encouraged

## §165-16 Multifamily Residential (MR) District

### A. PURPOSE

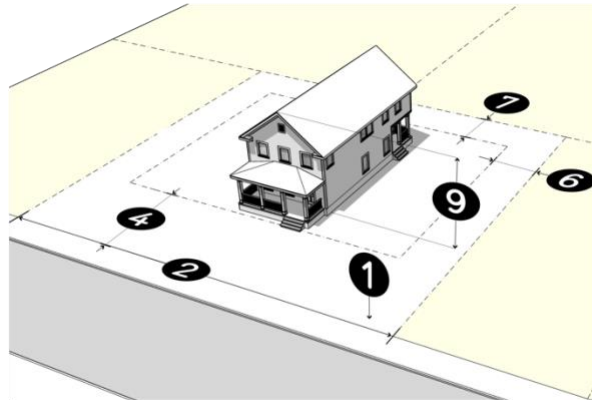
The Multifamily Residential District is intended to regulate land use for more compact neighborhood residential development, primarily in areas with existing sewer and water facilities and in areas with soils well-suited to medium-density residential development. Such development is intended to occur in a manner that retains open space and conserves significant environmental features. Additionally, the Mixed Residential District is intended to permit a wider mix of housing types beyond single-unit homes.

### B. LOT AREA AND COVERAGE

①	Lot area	10,000 sf
②	Lot width (min)	75'
③	Lot coverage (max)	30%

### C. YARD SETBACKS & DRIVEWAY

④	Primary street yard	30'
⑤	Secondary street yard setback (min)	30'
⑥	Side yard setback (min)	15'
⑦	Rear yard setback (min)	15'
⑧	Accessory structure rear/side (min)	10'



### D. HEIGHT

⑨	Primary building height (max)	35'
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### E. ENTRANCE

⑩	Primary street facing entrance	Required
⑪	Porch or portico	Encouraged

## §165-17 Waterfront Residential (WR) District

### A. PURPOSE

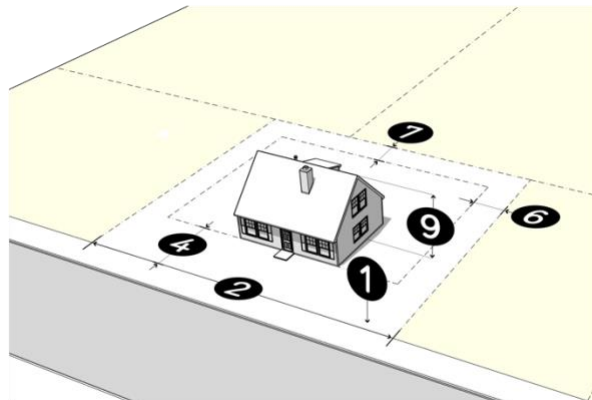
The Waterfront Residential District is established to regulate land use for smaller lots of mixed residential and lakeshore use in areas that were developed before zoning regulations were adopted and where further development depends on the availability of public water and sewer services.

### B. LOT AREA AND COVERAGE

①	Lot area	5,000 sf
②	Lot width (min)	50'
③	Lot coverage (max)	30%

### C. YARD SETBACKS

④	Primary street yard	20'
⑤	Secondary street yard setback (min)	20'
⑥	Side yard setback (min)	10'
⑦	Rear yard setback (min)	10'
⑧	Accessory structure rear/side (min)	5'



### D. HEIGHT

⑨	Primary building height (max)	35'
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### E. ENTRANCE

⑩	Primary street facing entrance	Required
⑪	Porch or portico	Encouraged

## §165-18 Corridor Mixed-use (C-MU) District

### A. PURPOSE

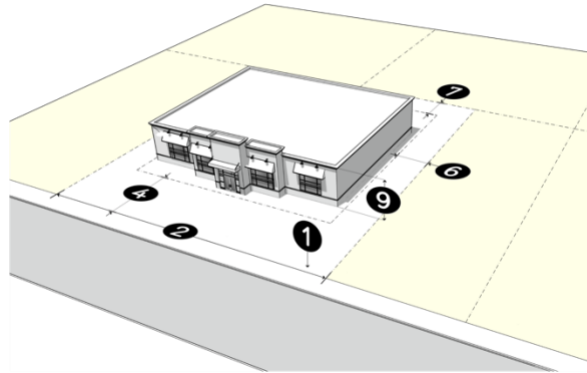
The Corridor Mixed-use District is established to provide for and regulate the development of retail and service businesses whose operations are on a scale suitable to commercial corridors. The design and character of these districts should encourage multi-modal connectivity and safety for all users, including pedestrians, bicyclists and motorists.

### B. LOT AREA AND COVERAGE

①	Lot area	20,000 sf
②	Lot width (min)	75'
③	Lot coverage (max)	50%

### C. YARD SETBACKS & DRIVEWAY

④	Primary street yard	30'
⑤	Secondary street yard setback (min)	30'
⑥	Side yard setback (min)	15'
⑦	Rear yard setback (min)	15'
⑧	Accessory structure rear/side (min)	10'



### D. HEIGHT

⑨	Primary building height (max)	35'
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### E. ENTRANCE

⑩	Primary street facing entrance	Required
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## §165-19 Neighborhood Mixed-use (N-MU) District

### A. PURPOSE

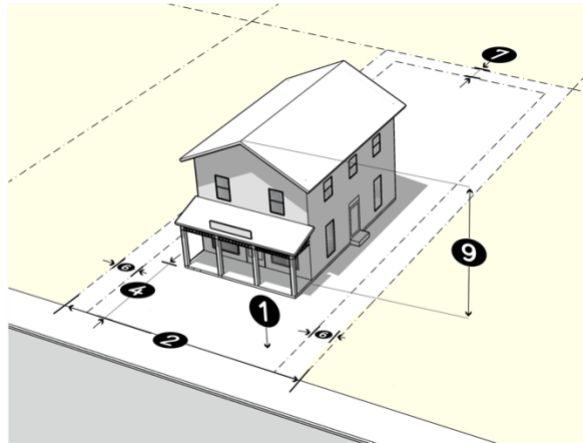
The Neighborhood Mixed-use District is established to provide a mix of small retail shops, service shops and residential uses which are compatible with and complementary to adjacent residential uses. The design and character of these districts should encourage pedestrian connectivity and safety.

### B. LOT AREA AND COVERAGE

①	Lot area	15,000 sf
②	Lot width (min)	50'
③	Lot coverage (max)	50%

### C. YARD SETBACKS & DRIVEWAY

④	Primary street yard	30'
⑤	Secondary street yard setback (min)	30'
⑥	Side yard setback (min)	10'
⑦	Rear yard setback (min)	15'
⑧	Accessory structure rear/side (min)	10'



### D. HEIGHT

⑨	Primary building height (max)	35'
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### E. ENTRANCE

⑩	Primary street facing entrance	Required
⑪	Porch or portico	Encouraged

## §165-20 Light Industrial (LI) District

### A. PURPOSE

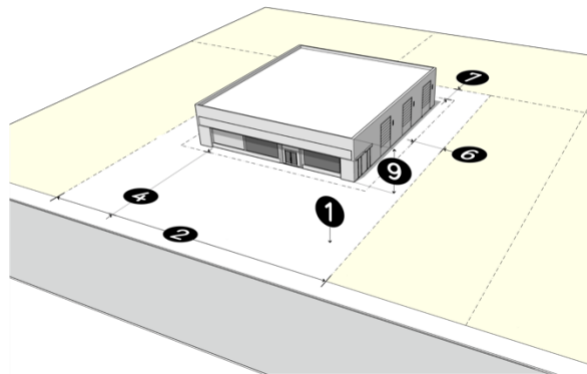
The Light Industrial District is established to permit a mix of modern employment centers in either single parcel or multi-parcel development. This includes land uses related to research and development, production and manufacturing, and warehousing and distribution. Sites in these districts should be able to accommodate larger structures and should include on-site pedestrian connections, landscaping and screening, and other high-quality design considerations that are typical of larger nonresidential development.

### B. LOT AREA AND COVERAGE

①	Lot area	20,000 sf
②	Lot width (min)	100'
③	Lot coverage (max)	50%

### C. YARD SETBACKS

④	Primary street yard	75'
⑤	Secondary street yard setback (min)	75'
⑥	Side yard setback (min)	25'
⑦	Rear yard setback (min)	50'
⑧	Accessory structure rear/side (min)	25'



### D. HEIGHT

⑨	Primary building height (max)	35'
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### E. ENTRANCE

⑩	Primary street facing entrance	Required
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# ARTICLE IV. Use Standards & Supplemental Regulations

## §165-21 Land Use Table and Supplemental Regulations

- A. The following shall apply to all listed permitted and specially permitted uses:
  1. Uses are allowed in each district according to the tables shown on the following pages.
  2. Uses identified with "P" in the table are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this zoning chapter.
  3. Uses identified with "SP" in the table may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article IX of this chapter and shall be subject to the approval of the Zoning Board of Appeals.
  4. Uses not listed and those identified with "-" are expressly prohibited.
  5. Supplemental regulations for permitted and specially permitted uses can be found in § 165-23 of this chapter.
  
- B. Supplemental Regulations Purpose and Intent
  1. The supplemental regulations contained in §165-22 - §165-54 shall be attached to special use permits when necessary or advisable to reduce or eliminate conflicts between uses and to protect the health, safety and general welfare of the Town.
  2. Applicants who have received special use permits with conditions attached shall be responsible for continued compliance with the specified conditions. Noncompliance with any condition shall result in the revocation of the special use permit, and continuance of the use shall only be allowed after re-application for the special use permit.
  3. Land uses requiring special use permits shall satisfy all supplemental regulations. These regulations are included in §165-22 to §165-54.

<b>RESIDENTIAL</b>	<b>AR</b>	<b>RR</b>	<b>NR</b>	<b>MR</b>	<b>WR</b>	<b>N-MU</b>	<b>C-MU</b>	<b>LI</b>	<b>Supplemental Regulations</b>
Single-Unit Home	P	P	P	P	P	P	-	-	
Two-Unit Home	-	-	-	P	-	P	-	-	
Multi-Unit Home	-	-	-	SP	-	-	-	-	§165-54
Home Business	SP	SP	SP	SP	SP	SP	-	-	§165-40
Townhome	-	-	-	SP	-	-	-	-	§165-54
Accessory Apartment	SP	SP	SP	SP	SP	-	-	-	§165-22
Senior Residential	-	SP	SP	SP	-	-	-	-	§165-50
Short-Term Rentals (STR)	SP	SP	SP	SP	SP	-	-	-	§165-53
Bed and Breakfast	SP	SP	SP	-	SP	-	-	-	§165-27

<b>AGRICULTURAL</b>	<b>AR</b>	<b>RR</b>	<b>NR</b>	<b>MR</b>	<b>WR</b>	<b>N-MU</b>	<b>C-MU</b>	<b>LI</b>	<b>Supplemental Regulations</b>
Agribusiness or Agritourism	P	P	P	-	-	-	-	P	
Customary agricultural operations, as defined by this Chapter	P	P	P	-	-	-	-	P	

<b>COMMERCIAL</b>	<b>AR</b>	<b>RR</b>	<b>NR</b>	<b>MR</b>	<b>WR</b>	<b>N-MU</b>	<b>C-MU</b>	<b>LI</b>	<b>Supplemental Regulations</b>
Adult Entertainment Uses	-	-	-	-	-	-	-	SP	§165-25

<b>Animal Care Establishments</b>	SP	SP	-	-	-	-	P	-	§165-26
Animal Boarding and Training Facility	SP	SP	-	-	-	-	P	-	§165-26
Animal Hospital and Veterinarian Office	SP	SP	-	-	-	SP	P	-	§165-26
<b>Bottle Redemption Center</b>	-	-	-	-	-	-	P	P	
<b>Camping Ground</b>	SP	SP	-	-	-	-	-	-	§165-28
<b>Car Wash Establishment</b>	-	-	-	-	-	-	SP	SP	§165-29
<b>Commercial Recreation Facility</b>	-	-	-	-	-	-	P	-	
<b>Commercial Schools for art, beauty, dancing, exercise, music, etc.</b>	-	-	-	-	-	-	P	-	
<b>Daycare, Child and Family Facility</b>	-	SP	SP	SP	-	SP	SP	SP	§165-24
<b>Daycare, Adult Day Healthcare Facility</b>	-	SP	SP	SP	-	SP	SP	SP	§165-24
<b>Gasoline Station</b>	-	-	-	-	-	-	SP	-	§165-37
<b>Golf Course and/or Driving Range</b>	SP	SP	-	-	-	-	SP	-	§165-38
<b>Laundromat</b>	-	-	-	-	-	-	P	P	-
<b>Motel or Hotel</b>	-	-	-	-	-	-	P	-	
<b>Motor Vehicle Uses</b>	-	-	-	-	-	-	SP	-	§165-42
Motor Vehicle Sales	-	-	-	-	-	-	SP	-	§165-42
Motor Vehicle Service and Repair	-	-	-	-	-	-	SP	-	§165-42
<b>Multi-Building Development</b>	-	-	-	-	-	-	SP	-	X
<b>Personal Service Shop or Use</b>	-	-	-	-	-	-	P	P	-
Dry-cleaning Shop, Barber, Beauty Shop	-	-	-	-	-	-	P	P	-
Funeral Home	-	-	-	-	-	-	SP	SP	§165-36
<b>Restaurant, Fast-food</b>	-	-	-	-	-	-	P	-	
<b>Restaurant, Sit-down Service</b>	-	-	-	-	-	-	P	P	-
<b>Retail Use, Small-scale</b>	-	-	-	-	-	-	P	P	-
<b>Retail Use</b>	-	-	-	-	-	-	P	-	
Bakery, Florist, Grocery Store, Craft Store, Clothing Store, Pharmacy, Sundry Goods	-	-	-	-	-	-	P	-	
Building Materials Supply Center	-	-	-	-	-	-	P	-	
Department Store	-	-	-	-	-	-	P	-	
Hardware Store	-	-	-	-	-	-	P	-	
Home Appliance, Flooring, Furniture	-	-	-	-	-	-	P	-	
Garden Supply Store	-	-	-	-	-	-	P	-	
Packaged Liquor or Bulk Refreshment	-	-	-	-	-	-	P	-	
<b>Studios for Art, Music or Dance</b>	-	-	-	-	-	-	P	-	
<b>OFFICE AND INSTITUTIONAL</b>	<b>AR</b>	<b>RR</b>	<b>NR</b>	<b>MR</b>	<b>WR</b>	<b>N-MU</b>	<b>C-MU</b>	<b>LI</b>	<b>Supplemental Regulations</b>
<b>Banks and Financial Institutions</b>	-	-	-	-	-	-	P	-	
<b>Cemetery</b>	SP	SP	SP	-	-	-	-	-	§165-30
<b>Church or Place of Worship</b>	-	SP	SP	SP	-	SP	SP	-	§165-31
<b>Hospital, Convalescent Home, Home for the Aged, Nursing Home</b>	-	-	-	-	-	-	P	-	§165-39

<b>Membership Club or Social Center</b>	-	-	SP	SP	-	-	SP	-	§165-41
<b>Nonprofit Social Center</b>	-	-	SP	SP	-	SP	SP	-	§165-43
<b>Professional Office</b>	-	-	-	-	-	P	P	-	
Administrative or Executive Office	-	-	-	-	-	P	P	-	
Architects, Engineers, Accountants, Lawyers, Financial Planners, etc.	-	-	-	-	-	P	P	-	
Offices and Clinics of New York State-licensed healthcare professions	-	-	-	-	-	P	P	-	
<b>Public School, Library or Museum</b>	-	SP	SP	SP	-	SP	SP	-	§165-48

<b>INDUSTRIAL</b>	<b>AR</b>	<b>RR</b>	<b>NR</b>	<b>MR</b>	<b>WR</b>	<b>N-MU</b>	<b>C-MU</b>	<b>LI</b>	<b>Supplemental Regulations</b>
<b>Commercial Excavation</b>	-	SP	-	-	-	-	-	SP	§165-32
<b>Communication Tower</b>	-	-	-	-	-	-	-	SP	§165-33
<b>Public or Private Utility Services</b>	P	P	P	P	P	P	P	P	§165-47
<b>Self-Storage Facility</b>	-	-	-	-	-	-	SP	P	§165-68
<b>Laboratories Engaged in Research, Testing and Experimental Work</b>	-	-	-	-	-	-	-	P	
<b>Light Manufacturing</b>	-	-	-	-	-	-	-	P	
Manufacturing of Electronic or Optical Instruments	-	-	-	-	-	-	-	P	
Manufacturing, Assembly, Treatment of Goods	-	-	-	-	-	-	-	P	
Printing, Publishing and Bookbinding	-	-	-	-	-	-	-	P	
<b>Machine Shop Operation</b>	-	-	-	-	-	-	-	P	
<b>Solar Array Systems, Large-scale</b>	P	P	-	-	-	-	-	-	§165-51
<b>Solar Array Systems, Small-scale</b>	SP	SP	-	-	-	-	-	-	§165-51
<b>Warehousing and Distribution Center</b>	-	-	-	-	-	-	P	P	

<b>ACCESSORY</b>	<b>AR</b>	<b>RR</b>	<b>NR</b>	<b>MR</b>	<b>WR</b>	<b>N-MU</b>	<b>C-MU</b>	<b>LI</b>	<b>Supplemental Regulations</b>
<b>Accessory Structure</b>	P	P	P	P	P	P	P	P	§165-23
Deck, Porch, Storage Shed, Tennis Court	P	P	P	P	P	P	P	P	§165-23
<b>Drive-through Facility</b>	-	-	-	-	-	-	SP	-	§165-34
<b>Farmworker Housing</b>	SP	SP	SP	SP	-	-	-	-	§165-35
<b>Outdoor Display</b>	-	-	-	-	-	SP	SP	-	§165-44
<b>Outdoor Storage</b>	P	P	P	P	P	P	P	P	§165-45
<b>Private Swimming Pool</b>	P	P	P	P	P	-	-	-	§165-46
<b>Recreational Vehicle</b>	P	P	P	P	P	-	-	-	§165-49
<b>Solar Energy Use, Roof-mounted</b>	P	P	P	P	P	P	P	P	§165-52

## §165-22 Accessory Apartment

- A. The Zoning Board of Appeals may approve a special use permit for an accessory apartment within the AR, RR, NR, MR or WR districts, provided that the standards and conditions in this section are maintained.
- B. It is the intent of the Town to provide housing opportunities for family members to live in an apartment within the same structure as the occupants of the principal residence or in an accessory building in quarters which are accessory to the principal residence. Should there be a change in the conditions existing at the time of the approval of the special permitted use permit, the permit shall become null and void.
- C. The accessory apartment shall be occupied by a person(s) related by either blood, marriage, adoption or other domestic bond to the owner(s) residing on the premises and whose name(s) shall be included in the application to the Zoning Board.
- D. The accessory apartment shall be subordinate in size and location to the principal residential building on the property.
- E. The accessory apartment shall not exceed 35% of the total floor area of the principal building or 550 square feet, whichever is greater.
- F. The owner of the lot on which the accessory unit is created shall occupy at least one of the dwelling units on the premises.
- G. No more than one accessory apartment may be created on any single property.
- H. An accessory apartment is required to be inspected by the Code Enforcement Officer prior to the Town issuing a special permit, prior to any approval of a request for renewal by the Zoning Board and at the termination of the special permit.

## §165-23 Accessory Building or Structure

- A. Accessory or storage buildings, including but not limited to a garage for the parking of passenger motor vehicles of residents on the premises, garden house, tool house, play house, and housing for domestic animals incidental to the residential use of the premises, are subject to the following:
- B. Accessory buildings attached to a principal building shall comply with the yard requirements of this chapter for the principal building.
- C. No detached accessory building in the NR, MR or WR Districts shall exceed 15 feet in height.
- D. No detached accessory building or structure in the N-MU, C-MU or LI Districts shall exceed 25 feet in height.
- E. With the exception of detached private garages, all detached accessory buildings shall be located in the rear yard and subject to the setback requirements of the schedule.
- F. These provisions shall not apply to permitted uses in nonresidential districts except that no detached accessory buildings incidental to permitted uses in such districts shall be closer to the street or right-of-way than the minimum front yard setback for the principal building.
- G. At least 75% of all required yards shall be entirely open and unoccupied by accessory buildings or structures.
- H. The Code Enforcement Officer (CEO) shall require detached accessory buildings to be fenced and/or buffered from the adjacent properties consistent with approved site development plans, in order to protect the value of adjacent properties.
- I. Any accessory building or structure shall not exceed 80% of the size of the principal structure on the lot on which it is located.

**§165-24 Adult Day-care, Childcare and Nursery School**

- A. The Zoning Board of Appeals may approve a special use permit for adult daycare, child-care facilities and nursery schools within the RR, NR, MR, N-MU and C-MU districts, provided that the standards and conditions in this section are maintained.
- B. The building shall meet the requirements of the New York State Uniform Fire Prevention and Building Code.
- C. The proposed use shall comply with the minimum lot size and yard requirements specified in the Zoning Schedule for the zone district in which the proposed use is to be located.
- D. On-site recreational facilities shall be provided and maintained for the exclusive use of clients. Recreational areas shall be physically separate from on-site parking areas or driveways and screened from adjacent properties.

**§165-25 Adult Entertainment Use**

- A. An adult use shall not be operated within 750 feet of:
  - 1. A church, synagogue or regular place of worship;
  - 2. A public facility or building;
  - 3. A public or private elementary school, secondary school, or licensed child daycare center;
  - 4. A boundary of any residential land use or residential zoning district; or
  - 5. A public park.
- B. Only one adult entertainment use shall be permitted on any parcel of land.
- C. No adult entertainment use shall be permitted to locate within 1,000 feet of another adult entertainment use.
- D. For the purposes of this Chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted, to the nearest property line of the premises of a church or public or private elementary, secondary school or licensed child day-care center, or to the nearest boundary of an affected public park, residential district or residential lot or to another adult use.
- E. All adult entertainment uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by this section shall be able to hear any activities within the building or to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.
- F. No exterior sign associated with an adult entertainment use shall contain any photographic or artistic representation of the human body.

## §165-26 Animal Care Establishment

- A. The following regulations shall apply to all animal care establishments in residential districts and will include any establishment that provides veterinary offices, immunizations, diagnosis and treatment of animals, boarding of animals during convalescence, grooming facilities, and general boarding facilities such as kennels, as defined by this Chapter.
- B. Enclosed structures shall be provided for each animal which is boarded, regardless of the specific animal care establishment.
- C. No animal care establishment shall be closer than 100 feet to any side or rear property line.
- D. An enclosed structure shall be provided for each animal.
- E. No animal care establishment shall be located closer than 150 feet to a residential structure on an adjacent lot.
- F. No outdoor runs or open exercise areas shall be visible from any adjacent residential use. All openings from the enclosed structure to the exercise area shall be screened and buffered from any adjacent residential use.
- G. No outdoor storage of feed shall be permitted.
- H. No outdoor storage of animal waste shall be permitted.
- I. No deceased animals shall be buried on the premises.
- J. An exercise area shall be provided for any animal boarding facility. The size of such exercise area shall be based on standards accepted by a nationally recognized animal husbandry organization.
- K. Any outdoor run or exercise area shall be enclosed by a fence of at least 4 feet in height to contain animals being boarded or kenneled.
- L. Provisions for horse boarding operations as defined by the New York State Department of Agriculture and Markets and located within a certified agricultural district.
  - 1. Horse boarding operations located within a certified agricultural district shall not require a special use permit.
  - 2. Horse boarding operations shall be located on a parcel of at least 5 acres.
  - 3. Such operations shall comply with the requirements of Subsections C, I, and K of this section.
  - 4. Animal waste storage areas or facilities shall be located a minimum of 100 feet from any lot line, stream, pond or water supply well.
  - 5. Building setbacks shall conform to the requirements for principal and accessory uses in the underlying zoning district.

## §165-27 Bed and Breakfast

- A. A bed-and-breakfast shall only be specially permitted in a single-family, detached dwelling in the AR, RR, NR, and WR Districts.
- B. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated.
- C. The owner/operator of the bed-and-breakfast shall live full-time on the premises.
- D. No more than 1 non-resident of the premises shall be engaged as employees of the operation.
- E. A bed-and-breakfast shall have a maximum of three guest rooms with no more than two guest rooms sharing a single bathroom.

- F. No more than 8 guests per night shall be permitted in any bed-and-breakfast establishment, and the Zoning Board may fix a lower maximum in the permit.
- G. The maximum length of stay for any guest is 15 consecutive days.
- H. Parking shall not be in the front yard. The Zoning Board shall approve the location and screening of all required parking spaces.
- I. Only dwelling units existing at the time of enactment of this section shall be eligible for conversion to a bed-and-breakfast. Accessory buildings and accessory structures including garages shall not be utilized as a bed-and-breakfast.

## **§165-28 Camping Ground**

- A. The Zoning Board of Appeals may approve a permit for camping grounds within the AC and RR districts, provided that the standards and conditions in this section are maintained.
- B. Camping grounds shall be occupied only by travel trailers, pick-up coaches, motor homes and camping trailers for temporary habitation and used for travel, vacation and recreation purposes only. The removal of wheels and placement of a unit on a foundation in a camping ground is prohibited. No accessory structures shall be attached.
- C. No site preparation or construction shall commence, nor shall existing structures be occupied, until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.
- D. Any campground shall be at least 15 acres.
- E. Not more than 10 travel trailers, campers, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- F. A camping ground shall be located so that no entrance or exit from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area.
- G. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or to other adverse influences, and no portion of the camping grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- H. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions:
  - 1. Such establishment and the parking area primarily related to their operations shall not occupy more than 5% of the gross area of the camping ground. Such establishments shall be restricted to serve occupants of the camping ground.
  - 2. Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character that would attract customers other than occupants of the camping ground.
  - 3. The structures housing such facilities shall not be located closer than 500 feet to any public street and shall not be directly accessible from any public street, except from a street within the camping ground.
- I. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Environmental Conservation and the Monroe County Department of Health and shall receive approval from said agencies.

- J. Streets in camping grounds shall be private, but shall be constructed with a stabilized travelway and shall meet the following minimum stabilized travelway width requirements:
  - 1. One-way, no parking: 12 feet.
  - 2. One-way with parking on one side, or two-way with no parking: 18 feet.
  - 3. Two-way with parking on one side: 27 feet.
  - 4. Two-way with parking on both sides: 34 feet.
- K. Sites. Sites for the parking or placement of recreational vehicles using the campground shall be at least 2,500 square feet in area and have a minimum width of 40 feet.
- L. A minimum of 10% of the gross site area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area or utility site shall be counted as meeting this requirement for recreational space.
- M. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Radii shall be provided to facilitate easy turning movements for vehicles with trailers attached.

### **§165-29 Car Wash Establishments**

- A. The Zoning Board of Appeals may approve a special use permit for a car wash establishment within the C-MU and LI districts, provided that the standards and conditions in this section are maintained.
- B. All car wash establishments shall be no closer than 300 feet to any residential district and shall be separated from a residential district by another nonresidential use.
- C. All washing facilities shall be within a completely enclosed building which shall be designed in keeping with the façades of adjacent land uses.
- D. All vehicle wash operations shall be sound-proofed, and the entire development arranged and operated so that the noise emanating from the use, as measured from any point on the adjacent property, shall be no more audible than the noise emanating from the ordinary street traffic and from other commercial uses measured at the same point on said adjacent property.
- E. Vacuuming facilities may be located outside the building but shall not be in the front yard and shall meet the setback requirements for the C-MU or LI Districts. Setback areas shall be buffered or screened as deemed necessary by the Planning Board during site plan review.
- F. Adequate drainage facilities shall be provided to prevent standing water on-site.
- G. The proposed hours of operation shall be approved by the Planning Board.

### **§165-30 Cemetery**

- A. The Zoning Board of Appeals may approve a special use permit for the establishment and operation of a cemetery within the AR, RR or NR Districts, provided that the standards and conditions in this section are maintained.
- B. No site preparation or use shall commence until final site plan approval granted by the Zoning Board of Appeals and a special use permit has been issued. The following features shall be considered during site plan review:
  - 1. The adequacy of the site to allow for the safe and efficient off-street parking of vehicles being used as part of a funeral procession;



2. The availability of an internal vehicle circulation pattern to permit ingress and egress from the same point of access to a public highway;
  3. The method of water supply;
  4. The location of trash receptacles;
  5. The location of any compost pile, bin or storage facility for plant materials and the screening of all such facilities; and
  6. The overall landscaping plan for the entire site.
- C. Each cemetery shall maintain at least a 10-foot open area around the perimeter of the property that is to be mowed and landscaped.
- D. Each cemetery shall provide a maintenance building to be used for the storage of all equipment and materials being used in the maintenance of the cemetery.
- E. Each cemetery shall maintain and post the hours of operation and use by the public including a phone number for people to call for information or to report an incident.

### **§165-31 Church or Place of Worship**

- A. The Zoning Board of Appeals may approve a permit for a church or other place of worship within the RR, NR and MR Districts, provided that the standards and conditions in this section are maintained.
- B. If a bus is to be used as part of the operation of the use, a designated parking area shall be provided for the storage of this vehicle. Such parking area shall be located behind the principal building and landscaped and buffered from any adjacent residential site. No unregistered vehicles shall be permitted to be stored on any property for which a special use permit has been approved. Should there be a need for more than 1 bus to be used as part of the operations, the operator shall provide a separate designated parking area for each vehicle.
- C. All activities of the special use shall be stated in the terms and conditions of the approval that may be granted by the Zoning Board of Appeals. If the applicant proposes outdoor use of the property, the site plan should identify that portion of the site where such activities are to occur. Prior to the approval of any outdoor use of the property, the Zoning Board of Appeals shall consider how such outdoor use will impact on neighboring areas. The Zoning Board of Appeals shall evaluate such concerns as noise, traffic congestion, traffic safety, off-street parking and neighborhood security as part of its process of deliberation.

### **§165-32 Commercial Excavation**

- A. Permit Application, Review and Renewal Procedures
1. Prior to commencing any excavation or appurtenant activities, an application for a special permit shall be filed with the Town Clerk and approved by the Town Board, pursuant to the provisions of this chapter.
  2. The Town Board may submit the application to the Town Planning Board, the Town Engineer, the Monroe County Department of Planning and Development and the Monroe County Soil and Water Conservation District or such other body or person it may deem suitable for review and recommendations.
  3. The Town Board shall fix a reasonable time for a public hearing on the proposed special permit and shall publish notice thereof in a newspaper of general circulation in the Town not less than 10 days nor more than 30 days prior to the date of the hearing.
  4. Approval or denial of the application by the Town Board shall be rendered within 60 days after the public hearing except if both the Town Board and the applicant mutually consent to a time extension.

5. Permits for commercial excavation operations shall be issued for a period of up to five years. Permits issued subject to these regulations shall, however, be conditioned upon the applicant's receiving a certificate of compliance every six months following its issuance after site inspection and review by an agent of the Town.
  6. The applicant shall have 30 days in which to remedy any deficiencies reported in such site inspection and review. If such deficiencies are not remedied within the thirty-day period, the Town Board may revoke the special permit and proceed against its security in accordance with the terms thereof.
  7. The renewal of a special permit for excavation shall follow the same procedures as those required in this chapter for the original permit, unless specific parts of the procedure are waived by the Town Board.
- B. Security
1. After the approval of the application and before the issuance of any special permit, the applicant and each owner of record of the premises other than the applicant shall jointly execute and file with the Town Clerk security, in form satisfactory to the Town. The security shall be required to assure that the conditions stipulated in the approval of the special permitted use permit, including the restoration of the site and reclamation of mined land in accordance with the approved site plan, are carried out.
- C. Permit Application Materials
1. The application for a special permit shall be signed by the applicant and by each owner of the premises other than the applicant and shall include the following information:
    - i. Name and address of applicant.
    - ii. Name and address of each owner of the premises.
    - iii. A certification of the County Finance Officer showing payment of all taxes to date for the premises.
  2. When applicable, the applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23, of the Environmental Conservation Law.
  3. All applications for a special permit under this section shall contain an operations plan in sufficient detail to describe the excavation operation, including active excavation and storage areas.
  4. Each application shall include vertical aerial photographs at a negative scale no smaller than one inch equals 1,000 feet which are certified as drawn not earlier than one year prior to the date of application. The area covered by the aerial photographs shall include all land within a distance of at least 1,500 feet from the limits of the tract proposed for the permit.
  5. Each application shall include location maps in the form of overlays to the aerial photographs depicting the boundaries of the area proposed for the permit and the area which has been excavated and identifying all existing private and public land uses within a distance of at least 1,500 feet of these areas.
  6. Each copy of the application shall include a natural features map prepared by a licensed engineer or surveyor at a scale no smaller than one inch equals 200 feet. The map shall show the following, both within the tract proposed for the special permit and within 500 feet of the tract:
    - i. Existing topography at contour intervals of five feet.
    - ii. Areas of trees and forest.
    - iii. Average thickness of overburden.

- iv. Surface drainage pattern.
    - v. Location of all underground utilities and facilities.
  7. Each copy of the application shall include an operations map, presented as an overlay to the natural features map. The following features, including the area devoted to each, shall be shown:
    - i. Existing and proposed excavation areas.
    - ii. Existing and proposed appurtenant activities, identified by type.
    - iii. Existing and proposed access roads, identified by width and type of surface material.
    - iv. Existing and proposed parking facilities, identified by type of surface material.
    - v. Existing and proposed fencing and buffers, identified by height and type of material.
    - vi. Areas where topsoil will be temporarily stored for use in restoration.
  8. Each copy of the application shall include a restoration plan, presented as an overlay to the natural features map and consisting of appropriate supplementary descriptive materials. The restoration plan shall include the following:
    - i. Boundaries of the area proposed for restoration.
    - ii. Final topography of the area proposed for restoration at contour intervals of five feet.
    - iii. Final surface drainage patterns and the location and characteristics of artificial drainage facilities in the area proposed for restoration and in contiguous areas.
    - iv. Depth and composition of topsoil proposed to be used in restoration.
    - v. The type and density of trees, shrubs and other vegetation proposed to be used in restoration.
  9. In approving or denying a special permit for excavation, the standards and considerations taken into account shall include, but not be limited to, the factors concerning the proposed excavations, appurtenant activities and restorations as follows:
    - i. Whether they are in accord with the intent of the Town Comprehensive Plan.
    - ii. Whether they will render the land unproductive or unsuitable for agricultural or development purposes.
    - iii. Whether they will impair the aesthetic or natural environment of the excavation area or surrounding area.
    - iv. Whether they will affect the character of surrounding land use.
    - v. Whether they will create excessive traffic or impair the quality of the existing and proposed thoroughfares, community facilities and drainage.
  10. Standards for Site Design and Operation
    - i. The active disturbed area which has not been restored shall, at all times, be limited to the minimal acreage necessary to economically conduct the excavation operation.
    - ii. All structures and appurtenant activities shall conform to the setback requirements of this chapter except that sedimentation ponds may be located within the setback area if the applicant demonstrates that the topography necessitates such a location and also demonstrates that, where appropriate, sufficient safeguards such as a buffer will be provided for the protection of neighboring residents.
    - iii. All access roads shall be designed to take advantage of buffers and to include curbs or other features to screen, as much as feasible, excavation and appurtenant activities from public view. The junction of access roads and public roads shall be at an angle of not more than 10° deviation from a right angle.

- iv. The first 200 feet of access to the excavation site adjoining a public road shall be paved.
  - v. Sufficient off-street parking shall be provided for company employees and visiting vehicles. The parking of any vehicles on a public right-of-way or the parking of vehicles so as to impede traffic or create a traffic hazard shall be prima facie evidence of failure to provide adequate parking.
11. Preservation of Natural Features
- i. All topsoil shall be stripped from the active excavation area and stockpiled for use in accordance with the restoration plan. Such stockpiles shall be seeded, covered or otherwise treated to minimize the effects of erosion by wind or water upon public roads, streams or other water bodies or adjacent property. This provision shall apply to all excavations except those for topsoil removal, in which case the provision shall apply for only that topsoil which has been stripped for use in the restoration plan.
  - ii. Existing hills, trees and ground cover fronting along public roads or adjacent property shall be preserved, maintained or supplemented by selective cutting, transplanting and the addition of new trees, shrubs and other ground cover for the purpose of providing a buffer. If the existing topography and vegetation do not lend themselves to such treatment, the operation shall take into consideration the potential of grading back overburden around the perimeter of the excavation site to create a berm for the purpose of providing a buffer, provided that the berm is properly landscaped with trees, shrubs or other ground cover.
  - iii. No excavation shall be allowed closer than 50 feet to a river, stream, lake or other natural water body. Soil erosion, sedimentation and ground water seepage shall be controlled so as to prevent any negative effects on bodies of water, public roads and neighboring properties.
12. Standards for Restoration
- i. Where topsoil existed prior to excavation, it shall be respread over the excavated area to a minimum depth of six inches.
  - ii. The restoration area shall be planted with trees, shrubs, grass or other vegetation so as to provide for screening, natural beauty and soil stability. The planting shall follow acceptable conservation practices.
  - iii. Restoration shall be undertaken in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the minimal degree necessary to carry out excavation and appurtenant activities. Any alterations of natural and storm drainage shall not adversely affect public roads or neighboring property owners.
  - iv. Restoration shall be a continuous operation, subject to review and approval at each semiannual inspection and at the termination of the permit period. Topsoil grading and planting of the area designated for restoration during the special permit period shall have been completed before a permit renewal is granted.
  - v. Within six months after termination of excavation operations, all equipment, buildings, structures and other unsightly evidence of the operation shall have been removed from the premises or disposed of by approved methods, and all restoration shall have been completed.
13. Preexisting Uses
- i. Any use of any building, structure or premises for excavation or appurtenant activities now lawfully in existence may be continued for a period of six months from the effective date of this chapter, after which time no further excavation, appurtenant or restoration activities may take place except in accordance with the terms and conditions of a special permit therefor issued by the Town Board. Any special permits issued for continuance of existing excavation activities shall be guided by the same standards as permits for new excavation

activities, except that consideration shall be given to circumstances already existing insofar as literal enforcement of the standards herein may be more stringently applied to an existing activity than they would be if such activity were new.

### §165-33 Communication Tower

- A. The Zoning Board of Appeals may approve a permit for the creation and maintenance of communication towers within the LI Light Industrial district, provided that the standards and conditions in this section are maintained.
- B. The minimum lot size for a tower shall be five acres, regardless of whether leased or owned in fee.
- C. No more than one communication tower shall be permitted on any parcel of land.
- D. The minimum setback of any tower part, including accessory facilities, from any property line for each communication tower shall be the height of the tower to be erected plus 20 feet.
- E. No communication tower shall exceed 200 feet above finished grade level.
- F. Communication towers shall be marked and lighted, as appropriate, to comply with standards and requirements of any governmental agency with jurisdictional authority. Whenever possible, towers should be designed and sited to avoid the application of Federal Aviation Administration (FAA) lighting and painting requirements.
- G. The Town of Parma prefers the shared use of towers to the construction of towers for individual use. Where shared use is not possible the location of antenna on preexisting structures shall be considered. Applicants shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as an alternative to the construction of a new tower. Government and emergency service use of towers shall be rent-free.
- H. Applicants intending to share use of an existing tower shall document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.
- I. Applicants proposing to build new towers shall submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
- J. No communication towers shall contain any signage except that identifying a health, safety or general welfare message intended solely for the protection of the public.
- K. All commercial communication towers shall be completely enclosed by a fence, with suitable locking facilities, not less than eight feet in height above ground level.
- L. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
- M. Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green or black below the surrounding treeline unless other standards are required by the FAA.
- N. Accessory facilities shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
- O. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the special permitted use. Clear-cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
- P. Deciduous or evergreen tree plantings may be required by the Planning Board during site plan review.

- Q. An access road and sufficient off-street parking facilities shall be provided to assure adequate emergency and service access. Maximum use shall be made of existing roads. Road construction shall be consistent with standards established by the Town and shall minimize ground disturbance and the cutting of vegetation at all times. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- R. Site plan approval shall be granted by the Planning Board in accordance with the provisions of this chapter. In addition to the specific requirements, a site plan application for a communication tower shall include the following additional information:
1. The location of all structures and trees on the site and on any adjacent property within 50 feet of the subject property line.
  2. Documentation of the proposed intent and capacity of use as well as a justification for the height of any tower and antennas and justification for any proposed clearing of land or vegetation.
  3. All information prepared by the manufacturer of the tower, or the applicant for which a special permitted use permit is being sought, including, but not limited to, the following:
    - i. Type of tower to be erected.
    - ii. Identification of any anti-climb device to be installed.
    - iii. Identification of the levels of radiation to be emitted by or from the communication tower.
    - iv. Identification of the effects that the operation of the tower will have on other existing communication towers or antenna within 1,000 feet of the proposed structure.
  4. The Zoning Board of Appeals and the Planning Board may consult with the Town Engineer or retain the services of a communications consultant to review the proposed site plans for a communication tower. All consultant costs incurred by the Town in the review of site plans and application documents shall be borne by the applicant.
- S. Exceptions. The following communication towers are excepted from the provisions of this section:
1. Facilities under the control or ownership and used exclusively by a public or governmental agency.
  2. Satellite dish antennas as regulated elsewhere in this chapter.
  3. Conventional television and radio antennas when used exclusively for private benefit and involving a structure with a height less than 15 feet above existing grade, or if attached to a structure, 15 feet above the maximum height of the building.
  4. Lawful or approved uses existing prior to the effective date of these regulations.
- T. Time limit. In consideration of a special permitted use permit for the erection and maintenance of a communication tower, the Zoning Board of Appeals may impose a specific time period for the operation of the use. Said time limit shall clearly stipulate the conditions imposed for granting the special permitted use permit and the basis for the Zoning Board of Appeals not to renew said permit for another specified time period.
- U. Removal. In the event that a communication tower becomes obsolete due to new technology, is no longer used for the purpose specified in the application, or the communication facility ceases operations for a period of 90 days, such tower, structures or facilities shall be dismantled and removed from the site within 30 days of receipt of written notice from the Town and based upon the Town's declaration to the effect specified herein.
- V. Assurances. The Zoning Board of Appeals may, as a condition of special permitted use permit approval, require the applicant to provide a letter of credit, performance bond or other financial guarantee to ensure that funds will be available for the Town's use to remove said structure in the event of noncompliance with the provisions of this chapter or if the structure is no longer used for the purpose for which the permit was granted.

- W. Although the Town would encourage applicants to find suitable locations in the LI Light Industrial District, the Zoning Board of Appeals is authorized to approve a special permitted use permit for communication towers in any other district, provided that the applicant submits sufficient technical information to document that the proposed use cannot achieve its communications goals in the LI Light Industrial District. In considering such a request, the Zoning Board of Appeals shall be guided by the standards of this section but may also impose additional requirements and controls to minimize potential impacts on neighboring properties.

### **§165-34 Drive-through Facility**

- A. Drive-through facilities shall only be permitted in the Corridor Mixed-use (C-MU) District.
- B. All drive-through facilities shall comply with the following regulations:
1. Each drive-through facility and its associated use shall provide ingress and egress so as to minimize traffic congestion.
  2. Drive-through facilities, including any protective canopies, signage, drive-through travel lanes, or other associated elements, shall meet the setback requirements for the property.
  3. Drive-through facilities with an amplified audio/visual system shall be setback a minimum of 30 feet from the property line. These facilities shall not be located adjacent to residential uses or districts.
  4. Stacking space for these facilities shall not impede on- or off-site traffic movements. The stacking space shall be delineated from other internal areas using pavement markings that are identifiable during all seasons.



## §165-35 Farmworker Housing to Support Agricultural Operations

- A. Farmworker housing to support an individual agricultural operation is permitted within the AR, RR, NR and MR Districts. This use shall also be permitted in any district where it will be in support of a farm operation as defined in Article 25AA, Section 301.11 of New York's Agriculture and Markets Law and located within a certified agricultural district.
- B. Farmworker housing in support of a farm operation as defined in Article 25AA, Section 301.11 of New York State Agriculture and Markets Law and located within a certified agricultural district. Such housing shall be subject to site plan review by the Planning Board and subject to the following standards and conditions. All other farmworker housing shall, in addition to site plan review by the Planning Board, require a special permit from the Zoning Board of Appeals. The maximum number of farmworker housing units allowed in support of an individual agricultural operation shall be based on:
  - 1. Justification of need for the number of dwelling units requested. This justification is to be based on, among other items, full time employment by one or more persons living as a family in the farmworker dwelling unit and deriving their principal income from the individual agricultural operation for which the housing is requested.
  - 2. A farmworker housing unit shall only be occupied during the planting, growing and harvesting season for the agricultural operation. At all other times the farmworker housing unit shall be secured and maintained in a state of good repair.
  - 3. No farmworker housing unit shall be used, leased or rented to another person if that person does not have a legal interest established with the individual agricultural operation.
  - 4. All farmworker housing units shall be located on the same parcel as the individual agricultural operation. This provision shall not exclude arrangements whereby farmworker housing is shared by two or more individual agricultural operations.
  - 5. All farmworker housing units shall comply with the standards of the State Uniform Fire Prevention and Building Code.
  - 6. All farmworker housing units shall have a septic system approved by the Monroe County Department of Health, or an approved connection to a public sewer system.
  - 7. All farmworker housing units shall have a driveway to a public highway. To the extent possible, this driveway shall be combined with the driveway for the owner of the individual agricultural operation and any other driveways for all other farmworker housing units associated with said individual agricultural operation.
  - 8. All farmworker housing units shall have a designated area for parking of at least one vehicle per housing unit. This parking area shall be located adjacent to, or within 100 feet from, the main entrance to each farmworker housing unit. All such parking area(s) shall be adequately screened or buffered from existing dwelling units or adjacent residential zoned land.
  - 9. All farmworker housing units shall be anchored to a concrete pad or attached to a building foundation.
  - 10. All farmworker housing units that contain 980 square feet or less shall have a designated storage area of at least 1,600 cubic feet (10 feet by 20 feet by eight feet). The storage area shall be separate from the farmworker dwelling unit and screened or buffered from existing dwelling units or adjacent residential zoned land.
  - 11. All farmworker housing units shall be located on that portion of an actively farmed site which the Planning Board had determined would cause the least disruption to continued farming operations. The basis for this determination will include an overall site plan identifying the land needed for production and the land needed in support of said production.
  - 12. The maximum land area to be used for farmworker housing units shall not exceed 5% of the total area of the parcel.



13. All farmworker housing units, regardless of the zone district, shall be subject to the front, side and rear setback standards specified in Schedule I<sup>14</sup> for principal buildings in the AC Agricultural Conservation District.
- C. The Zoning Board of Appeals shall require the applicant to prepare and submit an agricultural data statement for all farmworker housing units. The data statement shall be referred to the Agricultural Advisory Committee and to the Monroe County Department of Planning and Development as part of any required referral under the provisions of §§ 239-l and 239-m of the General Municipal Law. Said statement will be used to identify the level of agricultural operations occurring within 500 feet of the site for which the special permitted use permit is requested. Said data statement shall also be used to give notice to adjacent property owners of the request for a special permitted use permit.

### **§165-36 Funeral Home**

- A. The Zoning Board of Appeals may approve a special use permit for a funeral home within the N-MU and C-MU Districts, provided that the standards and conditions in this section are maintained.
- B. As a part of site plan review, the Planning Board shall determine that the street on which the funeral home is proposed can carry the volume of traffic likely to be generated by the proposed use. To the extent practical, funeral homes should be located such that traffic associated with this land use does not flow through adjacent residential neighborhoods.
- C. A caretaker's residence may be provided within the main building of any funeral home.
- D. Loading and unloading areas used by ambulances, hearses or other such service vehicles shall be screened from adjacent residential uses with a wall or densely planted shrubs of 6 feet in height.

### **§165-37 Gasoline Station**

- A. Gasoline stations shall be limited to a maximum of 12 individual filling pumps.
- B. No sale of gasoline shall be permitted to be established on any lot within a distance of 500 feet of an existing gasoline or filling station or of any lot for which a building permit has been issued for the erection of such a station or any use which includes gasoline pumps.
- C. Gasoline pumps or lubricating or other devices shall be located not nearer than 20 feet to any street or other lot line. No traffic hazard affecting the public safety will be present.
- D. Entrance and exit driveways shall have an unrestricted width of not less than 12 feet (one-way); shall not be located nearer than 10 feet to any lot line; and shall be so laid out as to avoid the necessity of any vehicle backing into any public right-of-way.
- E. Where the lot on which the fuel sales will occur is within 100 feet of a residential district, architectural design of buildings and structures shall recognize and respect the architectural character of the existing adjacent neighborhood in terms of scale and proportion.
- A. The review by the Zoning Board of Appeals will be conducted with attention to proposed architectural features, details, materials and colors of buildings and structures and the Board may require modification of designs and may impose conditions in granting approval.

### **§165-38 Golf Course or Driving Range**

- A. The Zoning Board of Appeals may approve a permit for a public or private golf course, excluding indoor recreation facilities, within the AR, RR and NR Districts, provided that the standards and conditions in this section are maintained.
- B. The minimum lot size shall be 50 acres for a nine-hole course or for an "Executive Par 3" course.
- C. The minimum lot size shall be 100 acres for an eighteen-hole course.

- D. A golf driving range may be permitted as an accessory use to a golf course. The driving range shall not be operated as a separate use.
- E. A restaurant serving alcoholic beverages may be permitted as an accessory use to a golf course.
- F. Any seasonal use of the golf course for such activities as cross-country skiing or snow mobile trails shall be subject to Zoning Board of Appeals approval. The operator shall submit a proposed site plan to the Planning Board delineating the locations proposed for such activities.

### **§165-39 Hospital, Convalescent Home, Home for the Aged, Nursing Home**

- A. The Zoning Board of Appeals may approve a special permit for a hospital, convalescent home, home for the aged, nursing home or proprietary care facility within the C-MU district, provided that the standards and conditions in this section are maintained.
- B. The minimum lot area shall be 3 acres.

### **§165-40 Home Business**

- A. The Zoning Board of Appeals may approve a special use permit for home businesses within the AR, RR, NR, MR and WR Districts provided that the standards and conditions in this section are maintained.
- B. The purpose of this section is to provide opportunities for economic advancement among residents of the Town and to protect the character of residential and agricultural areas of the Town. Businesses established pursuant to this section are expected to blend in with the existing character of the area in which they are located.
- C. A variety of commercial and professional office uses may be permitted, provided that all requirements within this section are met. The home business shall not involve any operation considered to be hazardous.
- D. The appearance of the structure shall not be altered, and the business shall not be conducted in a manner that would cause the premises to differ from its existing neighborhood character either using colors, materials, construction, lighting or the emission of sounds, noises or vibrations. No lights or noise from the home business shall be noticeable at any time from any public street or neighboring property.
- E. Operation and Employees:
  - 1. The operator of the home business shall reside in the single-family dwelling located on the same lot as the home business.
  - 2. No more than 1 person, other than members of the family occupying such dwelling, shall be employed in such home business at any one time.
- F. Floor area:
  - 1. No more than 15% of the gross floor area of a dwelling shall be used for the conduct of a home business, up to a maximum of 500 square feet, provided that the portion of the dwelling used for residential purposes shall comply with all applicable laws and codes.
  - 2. The entire gross floor area of no more than one detached accessory structure may also be permitted for use of a home business, in addition to space within the dwelling.
- G. Outdoor displays of goods or materials shall not be a permitted accessory use for a home business.
- H. Each home business shall be permitted 1 sign with no more than 2 printed sides. All signs shall comply with Article V of this Chapter.
- I. All home businesses shall be conducted in such a manner that all the clients, customers, and others coming to do business at the site of the home business shall arrive and depart between the hours of 7:00 AM and 9:00 PM, Monday through Saturday, and 12:00 PM to 5:00 PM on Sunday.

- J. More than one home-based business may be permitted for each residential property, provided that the combined impact of such home businesses does not exceed any of the thresholds established by this section. A separate permit is required for each home-based business.

### **§165-41 Membership Club or Social Center**

- A. The Zoning Board of Appeals may approve a special use permit for a membership club or social center within the NR, MR and C-MU Districts provided that the standards and conditions in this section are maintained.
- B. Any retail sales of goods or the personal services provided in conjunction with this use shall only be for the benefit of members and their guests and such use shall be incidental to the primary use or function of the facility.

### **§165-42 Motor Vehicle-based Use**

- A. The Zoning Board of Appeals may approve a special permit for establishments that sell or service new or used cars, trucks, motorcycles, recreational vehicles and lawn or farm equipment in the C-MU District, provided that the standards and conditions in this section are maintained.
- B. All sales and repairs of vehicles or equipment shall be conducted in a fully enclosed building located on the same lot, and having a building area of not less than 1,000 square feet devoted to the sales and servicing of such vehicles and equipment. All vehicle lifts or pits, dismantled vehicles and all parts and supplies shall also be located within a building enclosed on all sides.
- C. All service or repair of motor vehicles shall be conducted in a building enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.
- D. Accessory to such building, the sale of such vehicles and equipment may be carried on in an unenclosed area, provided that:
  - 1. Such area is on the same or an adjacent lot to such building. If the enclosed area is on an adjacent lot, the lot shall be not more than 200 feet from the lot with the building and shall further be in the same ownership as said building; be in the HC Highway Commercial District; and be used for no other purpose.
  - 2. Such unenclosed area shall be paved and suitably drained subject to requirements established by the Planning Board. Such areas shall be maintained in a neat and orderly manner and in good order and condition.
  - 3. All exterior illumination shall be approved by the Planning Board during site plan review, and shall be shielded to reduce the glare that may negatively impact on surrounding properties and streets.
  - 4. The Planning Board, during site plan review, shall review and approve the amount and location of landscaping and buffer screening to be provided, consistent with conditions of the Planning Board approval of the special permitted use permit.
- E. No establishment for the sale of such vehicles and equipment shall be opened, conducted or maintained except as provided herein. None of the provisions of this section, however, shall be deemed to prohibit the continuance of the present use of any property for the sale of such vehicles and equipment, provided that any change in said use shall be the subject to the provisions of this section. Plans for any changes required to bring about such conformance shall be submitted to and approved by the Planning Board before any such change shall be made. The Zoning Board of Appeals may approve, modify or disapprove such plans and may impose reasonable and appropriate conditions to such approval so that the spirit of this chapter shall be observed.
- F. A minimum area of 200 square feet shall be provided on the lot for each motor vehicle displayed, parked or stored in any unenclosed area. Each motor vehicle stored or displayed therein shall be

- placed or parked parallel to each other facing in the same direction and such motor vehicles shall be arranged in an orderly manner in such spaces.
- G. All vehicle parking and storage shall be on a rear or side parking lot and shall comply with all off-street parking requirements in this Chapter.
  - H. Entrance and exit driveways shall have an unrestricted width of not less than 12 feet (one-way), shall not be located closer than 10 feet to any property line and shall be laid out as to avoid the necessity of any vehicle backing out into any public right-of-way.
  - I. Gasoline or flammable oils in bulk shall be stored fully underground, not nearer than 10 feet to any lot line.
  - J. No commercial sale of gasoline shall be permitted, nor shall any pump be located in a front or side yard.

### **§165-43 Nonprofit Social Center**

- A. The Zoning Board of Appeals may approve a special use permit for nonprofit social centers for charitable, cultural or community purposes within the NR, MR, N-MU and C-MU districts, provided that the standards and conditions in this section are maintained.
- B. The minimum lot size shall be 2 acres.
- C. All activities associated with this special permitted use permit shall be conducted from inside the structure.
- D. The Zoning Board of Appeals may establish the hours of operation for such special permitted use as part of the approval of the permit.

### **§165-44 Outdoor Display of Goods**

- A. Any outdoor display of goods shall not exceed 25% of the gross floor area of the primary structure.
- B. The display area shall not block automotive traffic, public or private sidewalks, fire lanes, or other travel lanes.
- C. Such displays shall be allowed adjacent to a principal building wall and extending to a distance no greater than 5 feet from the wall.
- D. Such displays shall not be permitted to block windows, entrances or exits and shall not impair the ability of pedestrians to use the building or surrounding sidewalk.
- E. The items for display are labeled for sale and said area shall not be used for storage purposes.
- F. No business establishment shall place or display goods for purposes of sale or permit any coin-operated vending machine of any type to be placed in any location which would infringe upon the required setbacks specified in this chapter.

**§165-45 Outdoor Storage**

- A. Outdoor storage shall not be allowed in the front yard.
- B. Outdoor storage structures shall not occupy more than 15% of the entire lot area.
- C. All outdoor storage structures shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses.
- D. Screening shall be of sufficient height and density to completely hide any storage structure from public view, including from streets and other public accessways. All screening shall be maintained in such a manner as to present a neat and orderly appearance.
- E. No lot shall be used for the commercial storage or disposal of solid or liquid waste without the prior approval of the Town Board. Duly approved individual sewage disposal systems shall be excepted from this provision. Town Board approval shall be given only upon a finding that the proposed use shall not have a detrimental effect upon surrounding properties and evidence of any required permits necessary from the New York State Department of Health and/or Environmental Conservation, and the Monroe County Department of Health. The Town Board may require the submission of any documents necessary to make the foregoing finding. This provision shall not prohibit the storage of animal waste upon any farm.

**§165-46 Private Swimming Pool**

- A. Private swimming pools shall be permitted as an accessory use in any residential district, provided that there is an existing residence on said lot and the regulations in this section are complied with.
- B. Swimming pools shall be completely enclosed and secured by a fence and gate in accordance with applicable NYS codes.
- C. Outdoor swimming pools shall be located in the rear or side yard. Such pools shall meet the setback requirements of the specific zone district in which they are located.
- D. No swimming pool shall be closer to the street or front lot line than the front of the building or structure to which the pool is an accessory use.
- E. No permit shall be issued for a swimming pool unless the applicant can show that the proposed drainage of such pool is adequate and will not interfere with the property of others, with public highways or with area drainage facilities.
- F. No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance to surrounding properties.
- G. All overhead wiring shall be installed in accordance with the National Electric Code.
- H. Building permits shall be required for all swimming pools 24 inches deep or deeper.
- I. Applications for swimming pool permits shall comply with these regulations and all applicable requirements of the State of New York and the County of Monroe, including plumbing and building codes. Where the regulations of the Town, county and state are inconsistent, the more restrictive requirements shall govern.

**§165-47 Public Utility**

- A. The Zoning Board of Appeals may approve a special use permit for essential public utility services as defined by this Chapter, provided that all standards and conditions in this section are maintained.
- B. The design of any building in connection with such facility shall conform to the general character of the area and shall not adversely affect the sale and comfortable enjoyment of property rights in the district in which it is located.
- C. The proposed improvement shall not create communication interference to the detriment of adjacent property owners.
- D. All parking areas for utility vehicles and employee vehicles shall be adequately screened and buffered from adjacent properties.
- E. All materials and equipment used in conjunction with thaae utility service shall be located within an enclosed structure. If such an enclosure is not practical, such use shall be effectively screened and buffered from adjacent properties.
- F. All utility sites shall have adequate and attractive fences and other safety devices provided, including security site lighting, as may be deemed appropriate by the Zoning Board of Appeals. No site lighting shall be permitted to create glare or to illuminate any adjacent land.
- G. A landscaped buffer strip of not less than 15 feet in depth shall be provided around the perimeter of the property proposed for such use.

**§165-48 Public School, Library or Museum**

- A. Any public school or education facility shall be located within 3 miles of an existing fire station.
- B. All outdoor recreation areas shall be maintained in the rear and/or side yards. Where such facilities are to be located adjacent to a residential site, berms with landscaped plantings shall be installed along the borders to mitigate the effects of noise on the adjacent residential sites.
- C. Busing operations, including dropping off or picking up children and the possible need for a school bus garage facility, shall be considered as part of the special permit and site plan approval by the Planning Board. In the review of said site plan, the Planning Board shall attempt to mitigate the impact of such operations from the balance of the site and from any adjacent residential sites.

**§165-49 Recreational Vehicles**

- A. No front yard shall be used for the open storage of boats, snowmobiles, all-terrain vehicles or any type of trailer used to transport such equipment or materials. Such equipment belonging to the resident of the property may be stored in an accessory structure or kept in open storage in the rear or side yards but not within the required setbacks. This regulation is not intended to prohibit the temporary parking of such equipment in a driveway or turnaround, if it bears current registration or licensing.
- B. One recreational vehicle owned by guests of residents shall be permitted to be parked on private property for a period of up to 14 consecutive days in any calendar year. No person shall be permitted to lease land for the placement of a recreational vehicle in a residential district.
- C. The Town shall have the authority to remove or order the relocation of the placement of any motorized or recreational vehicle stored on private property if the Code Enforcement Officer shall determine that said placement or location creates a threat to public safety.

**§165-50 Senior Residential Development**

- A. The purpose of a Senior Residential development is to:
1. Provide a variety of senior-oriented housing types in an area with public water and sewer services.
  2. To regulate land use for senior-oriented residential development in a manner that provides certain advantages over that which would be obtained under conventional zoning.
  3. To provide a development framework for senior-oriented residential communities that results in land uses and physical site arrangements that are not contemplated under conventional zoning.
  4. To preserve and enhance natural features of the site.
- B. The following objectives shall be considered in the development of a senior residential development:
1. Provide for a maximum choice in the types of environments, occupancy, tenure, types of housing, lot sizes and community facilities available to existing and potential residents.
  2. Provide for usable open space and recreation areas and other facilities serving the community, such as trail ways to neighboring properties, sitting benches, and the like.
  3. Provide for access to trail ways, open space and other community services through clearly designated pathways as part of the project development.
  4. Provide for convenient location of commercial and service areas that are appropriately scaled to serve primarily residents of the senior residential development and to minimize impacts on traffic and neighboring properties;
  5. Provide for safe and efficient vehicular ingress and egress, as well as circulation within the site.
  6. Provide for safe and convenient pedestrian access to facilities within the district, public transportation facilities and to any existing pedestrian walkways that adjoin the district.
  7. Provide for auxiliary parking as may be necessary and ensure that such parking areas are treated with appropriate landscaping or structural features to allow a more aesthetic presentation to the entire district.
  8. Provide for the preservation of trees, outstanding natural topography and geologic features, and the prevention of soil erosion.
  9. Provide for a creative use of land and related physical development that allows orderly transition of land from rural to urban uses.
  10. Provide for an efficient use of land, resulting in smaller networks of utilities and streets, thereby lowering housing costs.
  11. Provide for service alleys to allow safe and adequate access to structures in the district for purposes of refuse removal, emergency access and other public or private services.
  12. Provide for a development pattern consistent with the objectives of the Comprehensive Plan.
  13. Provide for special security needs of persons and property within such district as deemed necessary by the nature of the development.
  14. Provide for a more desirable environment than would be possible through the strict application of other provisions of the Town's zoning regulations.
  15. Promote community senior housing in a unique setting that is appropriate to the anticipated residents of each such community by utilizing homeowners' or condominium associations, deed restrictions and other regulatory procedures, where appropriate.

#### Project size, location and ownership

16. Land to be considered for a senior residential development must contain a minimum of 15 contiguous acres and may be located in either the NR or MR districts.
17. The tract of land for a project may be owned, leased or controlled either by a single person, a corporation or by a group of individuals and/or corporations. An application must be filed by the owner or jointly by all the owners of property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
18. All senior residential developments shall provide safe and efficient pedestrian circulation and site lighting.
19. All senior residential developments shall be served by publicly owned, operated and maintained water supply and sanitary sewage disposal facilities.
20. Each building shall be provided with suitable containers for the storage of recyclable materials and refuse collections. Such containers shall be screened from public view by use of fences or solid walls.
21. All senior residential developments shall have direct access from common parking areas to a dedicated street.
22. Not less than 25% of the land area within senior residential developments, excluding parking areas and vehicle access facilities, shall be established and maintained as open space for the use and enjoyment of residents and their guests.

#### C. Permitted Uses

1. All residential types may be permitted as principal uses, including but not limited to single-family dwellings, twin home dwellings, townhouse dwelling units and multiple-residence buildings, provided that the residences are predominantly designed for persons age 55 or older.
2. The following uses are permitted as accessory uses to the principal use of the senior residential development:
  - i. Recreation and open space uses which are scaled primarily to serve the residents.
  - ii. Indoor or outdoor recreational facilities for the private, noncommercial use of the residents.
  - iii. Community buildings and facilities owned and maintained by the Town.
  - iv. Decks or porches, provided that each serves only a single dwelling unit.
  - v. Courtyards, gazebos, tennis courts or swimming pools for the private, noncommercial use of the residents.
  - vi. Garages for the private, noncommercial use of the residents and to store vehicles and equipment used in property maintenance.
  - vii. One utility shed per dwelling unit for the private use of the individual household, provided that the structure does not exceed an area of 100 square feet and is located no further than 20 feet from an entrance to the residence to which it is an accessory use.

#### D. Procedures

1. Before the consideration of approving a senior residential development, the owner or their authorized agent shall submit a conceptual site plan for approval by the Town Planning Board as described in Article VIII of this chapter.
2. Once a site plan is approved, an application for a special permit shall be submitted to the Town's Zoning Board of Appeals for review, as described in Article IX of this chapter.



## Solar Array System, Large-scale and Small-scale

- E. Purpose
1. These regulations shall regulate the construction, maintenance and placement of solar array systems and any associated accessory uses and equipment.
  2. The purpose of this legislation is to balance the potential impact on neighbors when solar array systems may be installed near their property while preserving the rights of the property owners to install solar collection systems without excess regulation.
- F. Applicability
1. The requirements of this section shall apply to all solar array systems installed or modified after the effective date of this Chapter, excluding general maintenance and repair.
  2. All solar array systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code, the National Electrical Code (NEC) and other local regulations in the Town's code.
- G. SEQRA Requirements
1. Under New York State's SEQRA regulations, actions are grouped as Type I, Type II or Unlisted Actions. Type II Actions are exempt from review and include actions such as construction, expansion or placement of minor accessory structures.
  2. The Town considers rooftop and building-integrated solar uses to be Type II Actions and therefore exempt from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form).
  3. Large-scale and small-scale solar array systems, as defined by this Chapter, that meet the thresholds contained in the SEQRA regulations are considered more likely than others to have a significant adverse environmental impact. These uses shall be considered Type I Actions.
  4. Any need for a complete Environmental Impact Statement (EIS) shall be determined by the Town Board in accordance with the significance of the potential adverse environmental impact.
- H. Setbacks, Lot Size, and Lot Coverage
1. The regulations in this sub-article shall apply to both large-scale and small-scale solar array systems.
  2. Solar array systems shall be considered principal uses and shall be permitted according to the regulations contained herein.
  3. Large-scale solar array systems shall only be permitted in the Agricultural-Residential (AR) and Rural Residential (RR) Districts. Small-scale solar array systems shall only be specially permitted in the Agricultural-Residential (AR) and Rural Residential (RR) Districts.
  4. Solar array systems shall comply with the height and setback requirements of the underlying zoning district together with the following area requirements, whichever is more restrictive:
    - i. Solar array systems shall be set back a minimum of 300 ft from the edge of any public right-of-way.
    - ii. Solar array systems shall be set back a minimum of 200 ft from each property line bordering the property on which the use will be sited.
    - iii. Solar array systems shall be set back a minimum of 350 ft from any residential land use on an adjacent property.
    - iv. Solar array systems shall be at least 50 ft from any structure on the premises hosting the solar energy system, which may contain additional solar energy equipment.

- v. No part of the large-scale solar array system shall exceed 35 ft in height.
  5. Solar array systems shall be located on lots with a minimum lot size that is large enough to accommodate the proposed system. No solar array system will be permitted on multiple parcels. In this case, the system would only be permitted if the parcels were combined and retired by deed.
  6. The maximum lot coverage for any large-scale solar array system, inclusive of all solar energy systems, solar energy equipment, and relevant accessory uses shall be included in a property's total lot coverage and shall not exceed 50% of total lot coverage.
- I. Fencing, Glare, Screening and Landscaping
1. All mechanical equipment related to any solar array system shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. All fencing shall be 7 feet in height in accordance with National Electric Code.
  2. All solar panels to be included in a large-scale solar array, small-scale solar array, or roof-mounted solar systems shall have an anti-reflective coating.
  3. The removal of existing vegetation is limited to the extent necessary for the construction and maintenance of the solar array system. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
  4. Applicants seeking to develop large-scale solar array systems shall develop, implement and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators.
  5. Solar array systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
  6. Solar array systems larger than 10 acres shall be required to:
    - i. Conduct a visual assessment of the visual impacts of the solar array system on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending on the scope and potential significance of the visual impacts, additional impact analyses, including a digital viewshed report, shall be required to be submitted by the applicant.
    - ii. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading or other means so that views of solar panels and solar energy equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
    - iii. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town of Parma.
- J. Safety
1. All solar array systems shall be certified under the applicable electrical and/or building codes as required.
  2. Solar array systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the Town's fire department.

3. Where deemed necessary, the Zoning Board of Appeals may require the applicant to ensure emergency access to the facility area for local first responders by installing an emergency local box or similar device in a location subject to approval by the Town's fire department.
- K. Battery Storage
1. If solar storage batteries are included as part of a small-scale or large-scale solar array systems, then their location, placement and maintenance shall be governed by and in accordance with the regulations in this section, the New York State Uniform Code and all regulations promulgated under New York State Code and the National Electric Code.
  2. When storage batteries are no longer in use, they shall be properly disposed of in accordance with New York State law and all other relevant and applicable Federal and local disposal laws and/or regulations.
- L. Decommissioning Plan and Financial Surety
1. A system decommissioning plan shall be required as a result of any of the following conditions:
    - i. The land lease – if any – ends, unless the project owner has acquired the land.
    - ii. The solar array system ceases to generate electricity on a continuous basis for 12 months.
    - iii. The solar array system is damaged and will not be repaired or replaced by the owner of the solar energy system.
  2. If any of the above conditions are met, and upon notification or instruction by the Town of Parma, the owner of the solar development in question shall implement the decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation activities shall be completed within 12 months.
  3. The owner of the solar array system, hereafter referred to as the facility, shall be responsible for the decommissioning plan and all related costs to decommissioning.
  4. The owner of the facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Parma zoning law, shall restore the property to its condition as it existed before the facility was installed, pursuant to which shall include the following:
    - i. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations located less than 36-inches below the soil surface, and/or less than 48-inches below the soil surface in areas consisting of mineral soil groups (MSG) 1-4 and/or active agricultural lands.
    - ii. For projects located on areas consisting of MSG 1-4 and/or active agricultural lands, removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets "Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands."
    - iii. Removal of any solid and hazardous waste caused by the facility in accordance with local, state and federal waste disposal regulations.
    - iv. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.
  5. The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities shall be estimated on the date and time that development applications are filed.
  6. A decommissioning security shall be executed in the amount of 115% of the cost of system decommissioning, removal, and site restoration.
  7. The cost estimate and decommissioning surety shall be re-visited every 5 years and updated as needed to account for inflation or other cost changes.

M. Agricultural Resources

1. Solar array systems shall occupy no more than 50% of an area of mineral soil groups (MSG) 1-4 within the facility area.
2. If the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this section.
3. To the maximum extent practicable, solar array systems located on MSG 1-4 shall be constructed, monitored and decommissioned in accordance with the NYS Department of Agriculture and Markets "Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands."

**§165-51 Solar Energy System, Roof-mounted**

- A. Roof-mounted solar energy systems shall be a permitted accessory use in all districts, subject to the provisions in this section.
- B. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
- C. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- D. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- E. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

**§165-52 Short-term Rental (STR)**

- A. Short-term rentals, hereafter STR, shall be owner-operated.
- B. No more than 1 non-resident of the premises shall be engaged as employees of the operation.
- C. An STR shall have a maximum of 4 guest rooms with no more than 4 guest rooms sharing a single bathroom.
- D. The maximum length of stay for any guest is 30 consecutive days.
- E. Parking for STR guests shall not be located or permitted in the front yard of the property. The Planning Board shall approve the location and screening of all required parking.

**§165-53 Townhome or Multi-unit Home**

- A. All townhome and multi-unit residential uses and developments shall provide safe and efficient pedestrian circulation and site lighting.
- B. All townhome and multi-unit residential uses and developments shall be served by publicly owned, operated and maintained water supply and sanitary sewage disposal facilities.
- C. Each building shall be provided with suitable containers for the storage of recyclable materials and refuse collections. Such containers shall be screened from public view by use of fences or solid walls.
- D. All townhome and multi-unit residential uses and developments shall have direct access from common parking areas to a dedicated street.
- E. Not less than 25% of the land area within a townhome and multi-unit residential uses and developments, excluding parking areas and vehicle access facilities, shall be established and maintained as open space for the use and enjoyment of residents and their guests.

## ARTICLE V. Development Standards & Regulations

### §165-54 Regulations Applicable to all Districts

- A. Buildings, Structures and Lots
1. No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used, for any purpose other than those included among the uses listed as permitted uses in each zone district of this chapter and meeting the requirements set forth herein. Open space contiguous to any building shall not be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements and all other regulations required by this chapter for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this chapter, and the certificate of occupancy or certificate of compliance, as appropriate, shall become null and void.
  2. No building or structures shall hereafter be erected or altered to exceed the height, to house or accommodate a greater number of families, to occupy a greater percentage of lot area, to have narrower or smaller rear, front or side yards than is specified in this chapter for the district in which the building or structure is located, or to be less than one full story in height as defined in this chapter.
  3. No part of a yard or open space required for any building shall be included as part of the yard or open space required for another building.
  4. No lot shall be reduced in size if, as a result thereof, its area or any of its dimensions or open spaces shall be smaller than required by this chapter.
  5. Any required yard shall be entirely open and unoccupied by buildings other than:
    - i. Entrance porches or steps up to 7 feet in depth, front to rear, in a front yard.
    - ii. Porches and terraces, provided that they are no closer to the lot lines than required by the setback restrictions applying to the district.
    - iii. Residential accessible ramps in the front, side or rear yard. Ramps shall meet the requirements of the New York State Fire Prevention and Building Code and shall not exceed those same requirements as they apply to ramp width and landing area, if the structure will encroach into the required setbacks.
  6. Except as specifically provided herein, no lot shall have erected upon it more than one principal building or be allowed more than one principal use.
  7. Every principal building shall have access to a public street improved to meet Town requirements. Access may be either by a driveway or private road approved by the Town.
  8. Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard setback area shall be measured from such proposed right-of-way line.
  9. For the purpose of regulating the location of buildings on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.
  10. Any structure which has had utility service disconnected for 6 consecutive months shall not be used for any purpose without obtaining a new certificate of compliance.
- B. Roads, Intersections, Public Facilities and Right-of-Way
1. Where a private road or drive provides access to more than two principal buildings, said road or driveway shall have a right-of-way width of not less than 50 feet and a travelway width of not

less than 12 feet, improved with a durable all-weather surface, subject to approval of the Planning Board during subdivision review. All structures shall be so located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.

2. All driveways from a state or county highway shall include sufficient space to turn a vehicle around. The Planning Board shall reserve the right to require a similar vehicle turnaround on Town roads. The need for a turnaround on Town roads shall be determined based on the location of the property and existing and projected traffic volumes.
  3. At the intersection of two or more streets, no hedge, fence or wall (other than a single post or tree) which is higher than 3 feet above ground level measured at the edge of the pavement or at the curb, nor any obstruction to vision, including agricultural crops, shall be permitted within 50 feet of any intersecting street.
  4. On all nonresidential properties within the Town of Parma, the owner and occupant shall maintain the walkways, sidewalks, driveways and parking areas located in the front, rear or side of such premises, from the building line to the nearest public street line, in a clean, sanitary, and safe condition and free from litter, debris, paper, dirt, garbage, junk, snow, ice or other obstruction and in good repair, and shall be liable to any party for injuries sustained as a result of the failure to so maintain the same.
  5. Nothing in this chapter shall restrict the construction, use or maintenance of public buildings, structures or facilities, parks or other publicly owned properties or the installation and maintenance of such public utilities as may be required to service any district. All facilities shall be subject to the yard requirements of this chapter and to site plan review.
- C. Public Health and Welfare
1. No manure, odor or dust-producing substances shall be permitted to be stored within 100 feet of any lot line, or any stream carrying water six months each year.
  2. The use of any lot or building involving the disposal of sewage or wastewater shall be by an approved connection to the public sewer system or a private septic system approved by the Monroe County Department of Health.
    - i. The dumping of refuse, waste material and other substances, excluding vegetative compost material, shall be prohibited in all districts. This is not, however, to be construed as prohibiting filling to establish grades following the issuance of a permit by the Code Enforcement Officer (CEO). Materials used as fill to establish grades shall consist solely of clean dirt, gravel and other clean fill. All materials applied shall be leveled and covered with at least 4 inches of clean dirt and seeded subject to approval of the Code Enforcement Officer. These provisions shall not apply to customary agricultural practices on land used for farming purposes.
    - ii. Discharges from individual sewage disposal systems shall be in accordance with approved plans and the procedures and standards of the New York State Departments of Health and Environmental Conservation, and the Monroe County Department of Health.
- D. Junk Vehicles
1. No lot shall be used for the open storage of unlicensed or unregistered vehicle(s) or their parts unless said vehicle(s) are being offered for sale in accordance with the following provisions. The parking of unregistered motor vehicles for sale on the premises of a principal residential structure shall be subject to the following conditions:
    2. Only one unregistered vehicle may be parked outside of a fully enclosed building for sale at any one time.
    3. Only two unregistered vehicles, that are owned by the resident or property owner, may be sold or offered for sale in any twelve-month period.

4. In no event shall a vehicle be displayed for sale for a period which exceeds 60 days during any twelve-month period.
5. No unregistered vehicle advertised for sale shall be parked within any public right-of-way and no closer than 15 feet to any property line.
6. The open storage of abandoned motor vehicles or parts thereof on private property is expressly prohibited in the Town of Parma. It shall be unlawful for any person or legal entity, either as owner, occupant, lessee, agent, tenant or otherwise of private property within the Town, to keep in open storage an abandoned motor vehicle or any part or piece thereof on private property within the Town unless:
  - i. Such motor vehicle is stored on premises legally located, used and operated as a junkyard.
  - ii. Said motor vehicle is stored in a completely enclosed structure conforming with the provisions of this chapter.
  - iii. Said motor vehicle is under repair, reconstruction or refurbishing by the owners thereof, who must actually be residing at the premises. Not more than one such motor vehicle shall be permitted at any one time on any premises. Said motor vehicle shall be so maintained and protected as to not create any safety hazard or nuisance to surrounding property owners and shall not remain on the premises for a period of more than six months.
  - iv. Said motor vehicle may be kept for open storage on premises within a commercial or industrial district for a period of no more than six months while awaiting repair or servicing at such premises.
  - v. If it appears to the Code Enforcement Officer that a violation of this section is occurring, the Code Enforcement Officer shall serve or cause to be served written notice, either personally or by registered mail, return receipt requested, upon the owner, occupant, tenant or person having charge of such private property, advising said person of such violation. Said notice shall contain a general description of the premises and the approximate location of such motor vehicle or vehicles. The notice also shall contain an order that such person cease and desist said violation within 10 days after the receipt of said notice.



### **§165-55 Access Control**

- A. In order to encourage the sound development of street frontage, the regulations in this section shall apply to all nonresidential buildings and uses.
- B. Each separate use, grouping of attached buildings or groupings of permitted uses shall not have more than one point of access. Additional accessways may be approved by the Planning Board based on the need for such additional access which is supported by a traffic analysis prepared and submitted by the applicant.
- C. The use of common access points by two or more permitted uses shall be encouraged by the Planning Board in order to reduce the number and closeness of access points along the roads and to encourage the fronting of significant traffic-generating uses upon a parallel access road and not directly upon a primary road. Access points for industrial uses shall not be less than 24 feet nor more than 40 feet in width. All other access points shall not be less than 20 feet nor more than 30 feet in width.
- D. In the review of site plans, the Planning Board may, as a condition of approval, require cross-access easements between multiple parking areas. Such an easement would be activated to provide cross-site access and parking for adjacent lots and uses if and when the adjacent lots are developed for nonresidential purposes.
- E. The Planning Board may also request additional width, fencing and vegetation based on the type of use proposed.

### **§165-56 Buffers**

- A. A buffer strip 10 feet in width shall be provided upon all non-residential land uses which abut a residential land use at the side or rear lot line. This buffer strip may be included within the required side or rear yard setback.
- B. No parking area, building or other structure or paved area except walks, walls or fences shall be permitted in any buffer strip.
- C. No storage or display of goods shall be permitted in any buffer strip.
- D. Buffer strips shall include solid fencing and/or live, healthy vegetation of at least 5 feet in height.
- E. Each buffer strip shall be planted with at least 2 trees and/or shrubs every 10 linear feet. The remainder of each buffer strip shall be landscaped in grass, ground cover, other vegetation or a walk, wall or fence.

### **§165-57 Building Placement and Orientation**

- A. The regulations in this section shall apply to all nonresidential buildings and uses in the C-MU and N-MU Districts.
- B. To the maximum extent practicable, all buildings shall be arranged to orient toward public streets and frame the corner at the intersection of any 2 streets.
- C. All buildings shall have front entrances which face public streets and shall include a sidewalk connecting the entrance to the public sidewalks.
- D. If a public sidewalk is not present, a sidewalk shall be installed parallel to the street or roadway in addition to the sidewalk connecting to the building entrance.

## §165-58 Building Composition

- A. The regulations in this section shall apply to all nonresidential buildings and uses in the C-MU and N-MU Districts.
- B. Buildings shall exhibit a clearly defined base, mid-section and crown. This can be accomplished using a combination of architectural details, materials, and colors.
- C. Façades of buildings shall be broken down into a series of appropriately proportioned "structural bays" or components typically segmented by a series of columns, masonry piers, or pilasters that frame window, door and bulkhead components.
- D. A façade bay shall have a maximum width of 20 feet.
- E. Long, blank, unarticulated wall façades that face a major street are prohibited.
- F. Elevation features should have depth, avoiding a flush or flat appearance.
- G. Where a portion of a building façade without windows is necessary to front on a street, it shall be "broken" by vertical and horizontal articulation (e.g., sculpted, carved or penetrated) characterized by breaks (reveals, recesses) in the surface of the wall.
- H. The proportion of glazing to overall ground floor façade area shall be a minimum of 50% on façades facing a major street.
- I. The proportion of glazing to overall upper floor façade area shall be a minimum of 25% on façades a major street.

## §165-59 Fences and Walls

- A. Provisions applicable to all districts.
  - 1. Except for fences associated with agricultural uses, a building permit shall be required for the erection of any fence or privacy structure. A site plan showing the proposed location and details of the fencing or privacy structure shall be provided to the Planning Board with the application for the permit.
  - 2. Closed fences shall not be permitted along any front lot line or alongside lot lines between the front setback line and the highway right-of-way. Open fences along these lot lines shall not be higher than 3 feet above the adjacent ground level. Open fences allowed herein shall be encouraged to be decorative, such as a split-rail fence or board fence. Except as provided for in this article, wire fences, other than chain link, shall be prohibited.
  - 3. No fence shall be erected to encroach on any property line or upon a public right-of-way or designated easement.
  - 4. Where the land is used and occupied as a farm, open style fences shall be permitted, as necessary, to restrain livestock.
  - 5. No fence which is expressly designed with an intent to injure or malign anyone who attempts to climb such a fence shall be permitted. The exceptions to this rule are certain types of fences listed below in Subsection C.
  - 6. The finished or decorative side of a fence shall face away from the applicant's yard.
  - 7. Chain link fencing used to enclose a tennis court may be permitted up to 10 feet in height, provided that such fencing is not less than 25 feet from either the side or rear property line.
  - 8. The restrictions specified herein shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.
  - 9. No fence that would impede or direct the flow for stormwater runoff shall be erected in a flood hazard area.

10. Up to 50 linear feet of fencing, up to a maximum of 6 feet in height, may be installed without a permit to enclose a run or pen for domestic animals, subject to the front, side and rear setback requirements of the zoning district. This shall only be permitted for residential uses and districts.
- B. Provisions applicable to the AR, RR and WR Districts
1. Fences on properties in the Agricultural-Residential (AR), Rural Residential (RR) and Waterfront Residential (WR) Districts may be erected up to a height of 4 feet within the rear and side yards.
  2. Privacy structures and open and closed fences up to a height of 6 feet may be permitted on a lot for the express purpose of enclosing or screening a swimming pool or patio area. Such privacy structures shall be subject to the front, side and rear setback requirements of the zoning district. The complete enclosure of a yard in this manner shall not be permitted.
  3. Fences shall not be permitted in the front yards.
  4. Properties located in the AR and RR Districts with a lot size of 2 acres or less may erect fences in accordance with §165-62 C.1-C.2 below.
- C. Provisions applicable to the NR and MR Districts
1. Fences on properties in the Neighborhood Residential (NR) and Multifamily Residential (MR) Districts may be erected up to a height of 6 feet within the side and rear yards.
  2. No fence more than 3 feet in height shall be erected in the front yard.
  3. Chain-link fences shall be permitted in the side and rear yards, and they shall be limited to 4 feet in height.
  4. Decorative fence posts may extend above the foregoing height limitations by no more than 6 inches.
- D. Provisions applicable to nonresidential districts
1. A fence up to 10 feet in height, including a barbed-wire top or an electric-shock fence may be permitted in the Corridor Mixed-use (C-MU) and Light Industrial (LI) Districts upon approval of the Planning Board. In order to obtain approval, the applicant must demonstrate that any one of the following conditions exists:
    - i. The fence is needed to prevent entry to an area which may be hazardous to the health, safety or welfare of a person or persons.
    - ii. The fence is needed to secure an area where materials and/or equipment are stored.
    - iii. The fence is needed to keep animals, other than common household pets, except in a kennel situation, from leaving the site.
    - iv. In the Board's opinion, other reasons are presented which, in the general community interests of public safety, justify the need for such a fence.
  2. If such fencing is approved by the Town Board, the fact that it is either barbed or electrified shall be clearly indicated on the fencing at intervals of not more than 75 feet.

## §165-60 Cutting and Filling Permits

- A. No filling of earth or other materials to establish grades shall be allowed without a permit issued by the Planning Board.
- B. Cutting and filling permits shall be required for filling and cutting of earth measured at greater than 50 yards or as determined by the Code Enforcement Officer.
- C. All requests for cutting and filling permits shall be supported by a plan of action, complete with appropriate documentation to describe the size and type of the proposed operation. Four copies of the plan shall be submitted with the application to the Planning Board.
- D. The following information shall be identified on the plan, drawn to scale, preferably one inch equals 50 feet, but no smaller than one inch equals 100 feet:
  - 1. North arrow.
  - 2. Property owner's name and address.
  - 3. Operator's name and address, if different from property owner.
  - 4. Property lines and dimensions and highway boundary lines.
  - 5. Existing grades based on USGS datum.
  - 6. Existing topography (woods, large trees, streams, ditches, swales, roads, structures, etc.) on the site to be filled, and on adjacent properties if within 20 feet of the property line.
  - 7. Proposed finished grades after filling is completed.
  - 8. Proposed entrance to dumping site, and method of controlling access, such as a fence and gate, to prevent unauthorized dumping.
  - 9. Estimate of the volume (cubic yards) of fill to be placed.
  - 10. Approximate timetable for the operation.
  - 11. Statement as to the type of materials to be placed.
  - 12. Type and thickness of final cover material and topsoil and seeding mixture.
  - 13. Reasons for filling.
  - 14. Show typical cross section of fill area.
  - 15. Show on plan and notes how erosion is to be controlled.
  - 16. All maps and supporting documentation shall be prepared by a licensed surveyor or engineer.
- E. The owner of the site and/or the operator of the fill shall be present at the Planning Board meeting to present the application and to respond to questions.
- F. The Planning Board may consult with other Town boards, agencies and consultants prior to reaching a decision on the proposed action.

## §165-61 Landscaping

- A. This shall apply to all landscaping for nonresidential uses and lots in the C-MU, N-MU and LI Districts.
- B. All plants (including grass) shall be living plants. Artificial plants shall be prohibited.
- C. Plants native to Upstate and Central New York are required.
- D. Front yard and Foundation Landscaping
  - 1. Front yard and foundation landscaping must be provided. Foundation landscaping shall be provided in the form of a continuous 5-foot (minimum) landscape area around the full perimeter of the building, excluding pedestrian and vehicle access points.
  - 2. Front yard landscaping and building foundation landscaping shall include a combination of trees, flowering shrubs, perennials, and ground covers.
  - 3. Foundation landscape areas shall be 100% planted along the front, 50% planted along each side and 25% planted in the rear.
- E. A minimum of 80% of surface area shall be covered by living materials for all areas where landscaping is required. Living materials shall not include mulch, bark, gravel or other non-living material.
- F. Deciduous trees shall be a minimum of 1.5 inch caliper at the time of planting, and 8 feet in height at the time of planting.
- G. Evergreen trees shall have a minimum height of 5 feet at the time of planting.
- H. Due to heat and drought stress and vision clearances, ornamental and evergreen trees are not recommended, unless advised by the Town based on site conditions or circumstances.
- I. Upright shrubs shall be a minimum of 24 inches in height and spreading shrubs, deciduous or evergreen, shall be a minimum of 15 inches in diameter.

## §165-62 Hours of Operation

- A. No business use operating in a Neighborhood Mixed-use (N-MU) District shall be open to the public during the hours of 8:00 PM to 8:00 AM.
- B. Hours of operation for nonresidential uses in all other districts shall be determined through the site plan review process by the Town's Planning Board.

## §165-63 Off-street Parking and Loading

- A. In all districts there shall be provided, at the time any building or structure is erected, enlarged, increased in capacity or changed in use, improved and usable off-street parking spaces for motor vehicles in accordance with the requirements of this article. None of the off-street parking facilities as required herein shall be required for any existing building or use, unless said building shall be enlarged or the use of land changed. In such cases, off-street parking facilities shall be provided as hereinafter specified for the building as enlarged or to accommodate the needs of the new use. The requirements for off-street parking shall not apply to spaces used for the display of motor vehicles offered for sale, provided that such spaces are not used for or made available for customer, employee, or other visitor parking.
- B. Parking Design and Access
  - 1. Off-street parking spaces shall be provided as further specified in this chapter and shall be furnished with necessary passageways and driveways. For the purposes of this chapter a parking space shall not be less than 9 feet in width and 18 feet in depth exclusive of accessways and driveways.

2. Off-street parking areas for nonresidential uses shall provide an additional area of 100 square feet of area per off-street parking space to provide sufficient area for access drives and aisles.
  3. All off-street parking space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner.
  4. All parking areas, passageways and driveways (except where provided in connection with one- and two-family dwellings) shall be adequately drained and surfaced with a dustless, durable, all-weather surface, subject to approval of the Planning Board during the site plan review process.
  5. Each off-street parking space shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any motor vehicle may be parked and unparked without moving or damaging another.
  6. Access for nonresidential parking areas shall consist of at least 1 drive aisle 15 feet in width for parking areas with fewer than 20 spaces and at least 2 drive aisles 10 feet in width for parking areas with more than 20 spaces.
  7. Off-street parking areas with a capacity for more than 20 vehicles shall delineate fire lanes and post "no parking" markers, in compliance with provisions of the Town Fire Code.
  8. Any off-street parking area with at least 20 off-street parking spaces shall designate a minimum of five percent of those spaces, up to a maximum of 10 spaces, as only for the handicapped and clearly mark them for such use. Parking spaces designated to serve handicapped individuals shall comply with ICC/ANSI A117.1 and shall be at least 11 feet in width and 18 feet in depth.
- C. Parking Location
1. Front yard parking shall be prohibited in the N-MU and C-MU Districts.
  2. Parking within the N-MU and C-MU Districts shall be in either the side or the rear yards of the property.
  3. Side yard parking shall be setback a minimum of 10 feet behind the front building façade.
  4. Off-street parking for single-unit and two-unit residential dwellings shall be provided on a driveway which provides access to such residences or a garage which is accessory to such residential uses.
  5. No driveway providing access to an off-street parking area shall be located within 20 feet of any side lot line, or within 50 feet of a street intersection measured along the curblines of the same street on which the driveway is located.
- D. Shared Parking
1. The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots may be approved by the Planning Board, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately.
  2. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use. Said document shall bind the owner, his heirs and assigns to maintain the required joint use throughout the life of such uses and shall be approved by the Town Attorney.
- E. Screening and Landscaping
1. Whenever a parking area for a nonresidential building or use faces a street or a property line, a planting area of a minimum width of 8 feet with plantings at least 3 feet high planted at least 3

feet on center shall be provided between the parking area and the street line or property line. The planting plan for this strip shall be approved by the Planning Board as part of the site plan review.

2. Whenever a parking area abuts a residential use or district, a planted buffer shall be provided. Landscaping utilized for this buffer shall not be less than 4 feet in height and spaced at least 3 feet apart on center. The planted buffer area shall not be less than 10 feet in depth.
- F. Lighting
1. All off-street parking areas and appurtenant passageways and driveways (excluding areas serving one- and two-family dwellings and farm dwellings) shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.
  2. Any lights used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining property.

G. Required Off-street Parking Spaces

1. When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one parking space.
2. In any case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. In the case of a use not specifically mentioned in this chapter, the requirements for off-street parking facilities shall be determined by the Planning Board during the site plan review process. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for joint use.
3. The minimum number of off-street parking spaces for specific uses as regulated in this Chapter is contained in the table below.
4. If any proposed use is not specifically identified herein, the Planning Board shall determine the number of parking spaces to be required for such proposed use.

RESIDENTIAL	Parking Required
<b>Single-Unit Home</b>	1.5 spaces per unit
<b>Two-Unit Home</b>	1.5 spaces per unit
<b>Multi-unit Home</b>	1.5 spaces per unit
<b>Bed and Breakfast</b>	3 spaces for guests + 1 for each nonresident employee
<b>Home Business</b>	2 spaces for client use + 1 for each nonresident employee
<b>Short-term Rental (STR)</b>	1 space per unit rented

NON-RESIDENTIAL	Parking Required
<b>Industrial Use</b>	1 per 1,000 sf of building area
<b>Membership Club or Social Center</b>	1 per 200 sf of building area
<b>Motor Vehicle Use</b>	1 per 200 sf of building area
<b>Personal Service Shop</b>	1 per 500 sf of building area
<b>Professional Office Use</b>	1 per 500 sf of building area
<b>Restaurant</b>	1 per 200 sf of building area
<b>Retail Use</b>	1 per 500 sf of building area



PUBLIC AND INSTITUTIONAL USES	Parking Required
<b>Auditorium, Church, Theater, Assembly Hall</b>	1 per 500 sf of building area
<b>Hospital, Nursing Home, Convalescent Home</b>	1 per 500 sf of building area
<b>Membership Club or Social Center</b>	1 per 200 sf of building area
<b>Public Facility</b>	1 per 500 sf of building area
<b>Parks and Outdoor Recreation</b>	5 spaces for each gross acre of land up to 50 acres and 1 space per gross acre of land above 50 acres
<b>School</b>	1 per 2,000 sf of building area

H. Loading Regulations

1. For every building, structure or part thereof having more than 4,000 square feet of gross building area erected and occupied for commerce and industry as well as other uses requiring the receipt and distribution of materials and merchandise by vehicles, there shall be adequate space provided and permanently maintained for loading and unloading berths provided on the same lot with such building. Such berths shall be located in order to avoid undue interference with the public use of streets, alleys or off-street parking areas and provided in accord with the following standards:
  - i. 4,000 to 25,000 square feet: 1 space.
  - ii. For each additional 25,000 square feet: 1 space.
2. The loading berth in each instance shall be not less than 12 feet in width, 55 feet in length and 14 feet in height.
3. No commercial vehicle with a load capacity of more than two tons shall be parked out of doors overnight or on Sunday in a residential district. No such vehicle shall be parked in any district for the purpose of displaying a commercial speech sign.

**§165-64 Permitted Modifications**

A. Use of Nonconforming Lots of Record

1. A nonconforming lot of official record existing at the effective date of this chapter may be used for any purpose permitted in the zone district in which it is located, irrespective of its area or width, provided that the owner of which does not own any adjoining property which would create a conforming lot if all or part of said property were combined with subject zone lot and provided that the minimum area and lot width for such lot shall be as follows:
  - i. 20,000 square feet of area and 100 feet of width in residential and industrial districts;
  - ii. 12,000 square feet of area and 80 feet of width in business and commercial districts; and
  - iii. All other provisions of this chapter are adhered to.
2. No lot or lots in single ownership shall hereafter be reduced so as to create one or more nonconforming lots.
3. A permit for the use of preexisting lots which are less than the lot area and width specifications described above may only be issued following the approval of a variance by the Zoning Board of Appeals.

B. Yard Regulations

1. In the case of lots which comply with the provisions for modifications as specified in § 165-65 A above, the minimum side yard setback shall be equal to 10% of the lot width. In no case, however, shall the minimum side yard setback be reduced to less than 10 feet.
  2. In the case of lots which comply with the provisions for modification of § 165-65, the minimum rear yard setback shall be no less than 10% of the lot depth. In no case shall the minimum rear yard setback be less than 10 feet in residential, business and commercial districts, and 15 feet in industrial districts.
  3. The side and rear yard setback reduction shall apply only if the provisions that qualify an existing lot of record set forth in § 165-65 are in place. The provisions set forth in this article are applicable irrespective of whether the existing lot is undeveloped or used for an approved purpose.
  4. Permits for setbacks that would be less than those specified herein may only be issued following the approval of a variance by the Zoning Board of Appeals.
  5. In residential districts where the frontage on the same side of the street within 500 feet of the subject parcel is 50% or more developed, the required front yard setback for a new structure may be modified to the average for such existing development. Otherwise, the requirements of the schedule shall apply.
- C. Height Regulations
1. The height limitations of this chapter shall not apply to church spires, belfries, cupolas, domes, silos and other buildings not used for human occupancy.
  2. Chimneys, ventilators, skylights, water tanks, television and radio antennas and similar features and necessary mechanical appurtenances usually carried on and above the roof level may exceed the height limitations of this chapter by not more than 30 feet.
  3. The provisions of this chapter shall not apply to prevent the erection of a parapet wall or cornice for ornamental purpose which may extend above the height limits of this chapter by up to five feet.
  4. Public and quasi-public buildings, schools, churches and other similar permitted uses may exceed the maximum height specified for the zone district, provided that the minimum front, side and rear yard setbacks are increased by two feet for each one foot of such additional height up to a maximum height of 50 feet and provided that there are on-site fire protection facilities, approved by the Code Enforcement Officer.

## §165-65 Preservation of Natural Features

- A. No structure shall be built within 50 feet of the bed of a stream carrying water on an average of six months of the year, except for:
  1. Public bridges, public water works and other municipal or public utility facilities.
  2. Such private bridges, fords, drainage conduits, embankments and similar structures as are necessary to permit access to a lot or portion thereof or as are incidental to a lawful use of a lot, provided that such structure will not have a material adverse effect on the stream, nor alter the flow of water therein, nor substantially increase the likelihood of flood or overflow in the area.
- B. No person shall strip, excavate or otherwise remove topsoil for use other than on the premises from which taken, except in connection with the approved construction or alteration of a building, swimming pool or other use or structure on such premises pursuant to the provisions of this chapter.
- C. No movement of earth or fill shall be permitted at any time in any district which adversely affects conditions on any other property.
- D. Whenever natural features such as trees, brooks, drainage channels and views interfere with the proposed use of property, the retention of the maximum amount of such features consistent with the intended use of the property shall be encouraged.

## §165-66 Projections into Required Yards

- A. Cornices, canopies, eaves or other architectural features may project into side yards a distance not exceeding three feet.
- B. Fire escapes may project into side and rear yards a distance not exceeding four feet six inches.
- C. Bay windows, balconies, fireplaces, uncovered stairways and necessary landings and chimneys may project a distance not exceeding four feet, provided that such features do not occupy in the aggregate more than  $\frac{1}{3}$  of the length of the building wall on which they are located.
- D. Patios may be located anywhere within the required side yards, provided that they are at grade. Raised decks and patios shall not be closer than 10 feet to any adjacent property line.

## §165-67 Multi-building Development

- A. Purpose
  - 1. There are some parcels within the Corridor Mixed-use (C-MU) district that are large and narrow lots, which extend across multiple zoning districts. These parcels are large enough to be occupied by more than one building now or in the future. The regulations in this section are intended to ensure that traditional "strip commercial" centers are avoided and a horizontal mixing of land uses can be permitted to encourage varied development on parcels which stretch across more than one zoning district.
- B. Site Layout and Building Orientation
  - 1. All primary and pad site buildings shall be arranged and grouped close to front primary streets.
  - 2. All primary and pad site buildings shall frame and enclose parking areas, public spaces, plazas or other site amenities on at least three sides.
- C. Pad Sites and Buildings
  - 1. The number, location and design of independent pad sites shall reinforce rather than obscure the identity and function of the primary commercial development.
  - 2. To the maximum extent practicable, pad sites shall be clustered together to define street edges and entry points or to enclose and create usable places between buildings. The even dispersal of pad sites in a widely-spaced pattern within the development, even if along the street edge(s), is discouraged.
  - 3. Wherever practicable, spaces between adjoining pad site buildings should be improved to provide small pockets (preferably heavily-landscaped) of customer parking, pedestrian connections, small-scale project amenities, or focal points. Examples include but are not limited to:
    - i. A landscaped pedestrian walkway linking customer entrances between two or more pad site buildings;
    - ii. A public seating or outdoor eating area;
    - iii. An area landscaped with a variety of plant materials emphasizing four-season colors, textures and varieties; or
    - iv. Sculptures or fountains.
- D. Free-standing Kiosks and Automated Teller Machine (ATM) Structures
  - 1. All kiosk-type buildings and structures shall be integrated with the overall commercial or center development, and shall be subject to the same guidelines as all other buildings within the development.

2. Freestanding kiosks and drive-up ATM structures shall not be located along the primary access street frontage.
  3. Access to a freestanding kiosk or drive-up ATM structure shall not be from the adjacent public streets. Access shall be from drives and streets internal to the development.
  4. Freestanding kiosks and drive-up ATM structures shall comply with the building design standards applicable to pad sites set forth in
- E. Self-storage Facilities
1. Self-storage facilities shall only be permitted in the C-MU District as one structure or building which is part of a multi-building development on a single lot or property.
  2. Self-storage facilities shall not be permitted to front the street in the C-MU District and shall be located in the rear of multi-building developments.

## ARTICLE VI. Environmental Protection Overlay Districts (EPOD)

### §165-69 Purpose and Intent

- A. The purpose of the Environmental Protection Overlay Districts established in this article is to assist the Town in meeting its obligations to comply with the provisions of the State Environmental Quality Review (SEQR) regulations and to ensure that adequate consideration is given to potential development impacts in sensitive environmental areas within the Town of Parma. The Town's Comprehensive Plan identifies the use of overlay districts as a technique to protect and preserve unique environmental features based upon the following reasons:
1. Prevention of an irreversible loss in natural resources.
  2. Enhancement of flood protection.
  3. Maintenance and/or improvement of surface water quality.
  4. Preservation of wildlife habitats.
  5. Aesthetics.
  6. Maintenance of soils and slope stability.
  7. Maintenance of open space.
  8. Control of impacts on existing development.

### §165-70 Regulations to be Superimposed Over Other District Regulations

- A. The regulations contained in each EPOD are not intended to be substituted for primary zoning district provisions, but are superimposed over such provisions, and should be considered as additional requirements to be met prior to project approval. These additional requirements shall be based on sound management practices and must be reasonably related to the protection of the natural resource in question. The purpose of the overlay districts is to provide the Town with an additional level of review and regulation that controls how land development permitted by the Town's primary zoning districts should occur in or near sensitive or unique environmental areas.

### §165-71 Establishment of Districts

- A. In order to implement the purpose and intent of this article, the Town of Parma has been divided into the following EPOD's:
1. EPOD (1) Large Wetland Protection District.
  2. EPOD (2) Small Wetland Protection District.
  3. EPOD (3) Floodplain Protection District.
  4. EPOD (4) Stream Corridor Protection District.
  5. EPOD (5) Woodlot Protection District.
  6. EPOD (6) Lakefront Coastal Erosion Hazard District.

## §165-72 EPOD Maps

- A. The locations and boundaries of EPOD's (1) through (6) are delineated on maps on file in the Town Building Department. Collectively these maps are known as the "Town of Parma EPOD Maps" and include the Environmental Atlas maps of the Town prepared by the Monroe County Environmental Management Council (EMC). The Town of Parma EPOD Maps shall be used only for reference purposes. An on-site visit shall be made to determine specific or exact boundaries of the various overlay districts. Additional investigations and/or other environmental analyses may be required in order to determine whether a specific parcel of land is included within one or more of the overlay districts and to locate the boundary on the property. Temporary flagging of boundaries in the field may be required during the review of applications, and permanent staking may be required as a condition of permit approval.

## §165-73 Interpretation of District Boundaries

- A. The Code Enforcement Officer (CEO) shall be responsible for interpreting environmental protection overlay district boundaries based on an interpretation of the Town of Parma EPOD Maps, as well as the use of other criteria set forth in this article for determining such district boundaries. The CEO may request the assistance of the Town Engineer, the developer's engineer, or other appropriate department or agency in making such a determination.
- B. The requirements of the overlay district shall be met in addition to any requirements specified for development in the respective primary zoning district.
- C. Appeals from determinations of district boundaries shall be handled in the same manner as other administrative determinations under this chapter.

## §165-74 Permit Application and Review Requirements

- A. General applicability. An EPOD development authorization shall be required subject to the provisions of this section and prior to the commencement of any regulated activity or the issuance of any building permit for regulated development in a designated EPOD district.
- B. Exempt activities. The following activities are exempt from the permit procedures of this section:
  1. Lawn care and maintenance.
  2. Noncommercial gardening activities.
  3. Tree and shrub care and maintenance.
  4. Removal of dead or deteriorating vegetation, except when associated with development, or to prepare land for development.
  5. Removal of structures smaller than 100 square feet in area.
  6. Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
  7. Reconstruction of structures damaged by a natural disaster, provided that the new construction is of the same size, and at the same location.
  8. Customary agricultural activities, except for new or expanded structures.
  9. Public health activities, orders and regulations of the New York State Department of Health, Monroe County Department of Health or other related agency.
  10. Installing utility service from an existing distribution facility to a structure, where no major modifications or construction is necessary.
  11. Drilling a water well to serve a single residence.

12. Construction associated with stormwater discharge if regulated under the Town of Parma Drainage Regulations.
  13. Dredging less than 500 cubic yards to maintain an existing navigation channel.
  14. Installing a dock, pier, wharf or other structures built on floats or open-work supports, and having a top surface area of less than 200 square feet, when authorized by the Department of Environmental Conservation (DEC).
  15. Any activity associated with normal, outdoor recreational activity.
- C. Development within EPOD's may be authorized by the Planning Board concurrently with approvals for development for which the Board has jurisdiction. Approvals for other regulated activities shall be obtained from the CEO.
- D. Application Procedure
1. Applications for EPOD development approval shall be made in writing to the CEO on forms available in the Town Building Department.
  2. Application instructions shall be provided to applicants. Application instructions shall include submittal requirements, fees, procedures and approval criteria.
  3. The application shall be made by the property owner or his/her agent and shall be accompanied by the materials and fees specified.
  4. For projects to be reviewed by the Planning Board, the applicant shall submit the following to the CEO:
    - i. For concept stage drawings, boundaries may be transcribed from the Official EPOD Maps.
    - ii. For preliminary stage drawings, the applicant shall also show a more precise location of the boundary, as observed on the property. A note shall be provided indicating the person making the observation, and the date.
    - iii. For final stage drawings, the plan sheets shall show boundaries approved by regulatory agencies where applicable, or otherwise by the CEO.
    - iv. Engineering plans, construction notes and development restrictions detailing methods to be used to protect EPOD areas and/or to mitigate EPOD impacts shall be provided on or with preliminary and final stage submittals.
  5. For activities not subject to Planning Board review, the applicant shall submit the following to the CEO:
    - i. A statement indicating the types of activities proposed on the property and within the EPOD boundaries.
    - ii. A sketch showing the locations and dimensions of proposed activities and construction, locations and dimensions of existing structures, and natural features and vegetation on the property.
    - iii. Boundaries of all EPOD's transcribed from the Official EPOD Maps, and more precise boundary locations identified from observation at the site, with notes identifying each.
    - iv. Narrative and plans showing how the EPOD's will be protected and/or impacts mitigated.
  6. Fees shall be determined by the Town Board. This fee shall be in addition to any other fees required.
  7. Review Procedures
    - i. Whenever possible, the review of activities within EPOD's shall be performed concurrently with other required approvals.
    - ii. Each application shall be referred to the to the Planning Board for their review.

- iii. The application may be referred to other appropriate boards and agencies for their review and recommendations. Such boards or agencies shall have 30 days from the date of receipt of a completed application in which to report their recommendations. For projects to be reviewed by the Planning Board, the timeline for review shall be consistent with other project review timelines prescribed elsewhere in Town Law. Failure for a board or agency to respond within these timeframes shall not be cause to postpone consideration of the application.
  - iv. The CEO or the Planning Board shall have the authority to grant or deny an EPOD development application, subject to the standards, criteria and other factors contained in this article.
8. Public Notice
- i. Public notification of and public hearings for an application to conduct a regulated activity within an EPOD shall only be required when associated with an activity otherwise requiring public notification or hearing.
  - ii. Wherever possible, public hearings for EPOD authorization shall be scheduled simultaneously with public hearings required under site plan review, subdivision review or any actions required to comply with the State Environmental Quality Review Act for the proposed action.
9. The following criteria shall be used to determine whether a regulated activity should be permitted, not permitted or permitted with conditions:
- i. The activity is compatible with the preservation, protection and conservation of the environmentally sensitive area.
  - ii. The activity will result in no more than insubstantial degradation to, or loss of, any part of the environmentally sensitive area.
  - iii. The activity is compatible with the public health and welfare.
  - iv. The activity conforms with additional standards and criteria of the individual EPOD, as noted elsewhere in this article.
10. For activities and impacts for which compatibility with the above cannot be demonstrated, the applicant may submit a mitigation plan, which demonstrates that the proposed activity satisfies a social or economic need which clearly and substantially outweighs the net loss or detriment to the benefit(s) and/or function(s) provided by the environmentally sensitive area. The net loss is to be evaluated with the inclusion of any mitigation measures which may be proposed to replace lost benefits and/or enhance remaining benefits.
11. The applicant shall have the burden of demonstrating this weighing of benefits and losses to the satisfaction of the Town. At a minimum, the following information should be prepared by the applicant and submitted to the Town:
- i. The identification of the existing values, functions and benefits provided by the environmentally sensitive area relative to its hydrologic functioning, wildlife habitats and aesthetic/recreational use.
  - ii. An assessment of the impact of the proposed project on these values.
  - iii. Details of any proposed mitigation measures should be provided along with an evaluation of the extent to which these measures will replace the benefit, value or function and/or enhance those remaining.
  - iv. An identification and documentation of the social or economic need for the proposed activity.
- E. Development Conditions



1. Any authorization issued in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached, as are deemed necessary, to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the purpose and intent and the specific provisions of this article. Every permit issued pursuant to this article shall contain the following conditions:
    - i. The CEO or the Town Engineer and/or other appropriate Town official shall have the right to inspect the project from time to time.
    - ii. Authorization shall expire with the expiration of approval of associated development, or six months after the date the authorization was issued, if the approved action is not initiated.
    - iii. The permit holder shall notify the appropriate Town official at least five days in advance of the date on which the authorized activity is to begin.
  2. For projects requiring site plan or subdivision approval, the EPOD shall be shown on the final site map or plat, along with a statement that any future activity in the EPOD shall require Town authorization.
  3. The Planning Board or CEO may incorporate permit conditions of other agencies into local approval conditions and/or supplement these with local conditions.
  4. For the purpose of implementing this section, the Planning Board may require engineering, design and construction plans to alleviate or mitigate adverse impacts that may be created by the proposed development.
  5. Area and dimensional standards of the underlying zoning district may be replaced by more stringent standards which may better fulfill the intent of this district.
  6. In considering the number of lots permissible under § 278 of Town Law, lands within the floodplain and wetland overlay districts shall not be counted in the calculation of land available for development.
  7. Larger lots or open spaces not utilized for development shall be treated in one of the following manners:
    - i. Dedication to the public.
    - ii. Reservation from development with land held in common by a community association.
    - iii. Restrictive covenants on EPOD lands and other lands designated by the Planning Board to enhance the open space qualities of the development to minimize land disturbance and to maintain natural open space values.
  8. A maintenance and environmental management plan shall be submitted for all lands subject to Subsection I(7) above.
  9. The use of § 278 in conjunction with these regulations shall not be permitted where, in the opinion of the Planning Board, the concentration of individual sewage disposal systems may impair ground or surface waters, or unnecessarily disturb woodlots.
  10. Development on lots should consider the visual perception of the development from adjoining developments, adjoining lots and roadways.
  11. Wherever possible, open space linkages shall be provided to adjoining designated open space lands in order to maintain continuity.
  12. The Planning Board may reduce front yard setbacks on two-acre or larger lots where construction of the access driveways would unnecessarily disturb the landscape, and providing that other design guidelines of individual EPOD Districts can be met.
- F. Notice of Decision
1. All decisions shall require written findings consistent with the above.

2. Where applicable, notice of decisions shall be the same as required for associated development or approvals. If unassociated, notice shall be the same as for a building permit.
- G. Requirements for Letter of Credit or Certified Check
1. Following approval of an application, and prior to the issuance of any building or other permit, the applicant shall furnish the Town with an irrevocable letter of credit or certified check in an amount determined by the Town Board to be sufficient to cover the costs of compliance, contingencies and inspection of the various specifications and conditions of the EPOD development authorization. The purpose of the letter of credit or certified check shall be to ensure that all items, activities or structures specified in the plans approved by the CEO or the Planning Board are constructed or carried out in accordance with such plans and specifications and other appropriate requirements of the Town of Parma.
  2. The irrevocable letter of credit or certified check shall continue in full force and effect until such time as the CEO has completed inspection of the completed work.
  3. The requirement for a letter of credit or similar financial guarantee may be waived by the Town Board upon recommendation of the Town Engineer.
- H. The CEO may suspend an authorization (temporarily) until such time as the board having jurisdiction reviews the suspension. The board having jurisdiction, upon recommendation of the CEO, and after providing the permittee five days' written notice, may suspend or revoke an approval issued in accordance with the provisions of this article where it has found evidence that the applicant has not complied with any or all terms or conditions of such approval, has exceeded the authority granted in the approval or has failed to undertake the project in the manner set forth. The CEO shall notify the applicant of the findings and reasons for revoking or suspending an authorization issued pursuant to this article, in writing, and shall forward a copy of said findings to the applicant.

## **§165-75 EPOD (1) Large Wetland Protection District**

- A. Purpose and Intent
1. Wetlands provide hydrologic benefits such as flood and storm water control, and water quality protection. They also provide unique wildlife habitat for waterfowl, amphibians, fish, mammals and birds. Finally, wetland areas are used extensively for education, research, recreation and open space. The purpose of these regulations is to maintain these values consistent with sound planning principles and the objectives of the Town Comprehensive Plan.
- B. EPOD Boundary Determination
1. Development proposed within freshwater wetlands is regulated by the New York State Department of Environmental Conservation for wetlands which are 12.4 acres or larger, and/or by the United States Army Corps of Engineers for any federally regulated wetlands. It is the obligation of each applicant to determine if the project contains any state-designated wetland. If a project contains a state-designated wetland, staff from the Department of Environmental Conservation must stake the wetland and buffer areas, as well as issue a permit for any development impacting these areas. If a project contains a federally designated wetland, a similar process must be followed, and a permit must be issued by the Buffalo office of the United States Army Corps of Engineers.
- C. Additional Procedures and Conditions
1. Wetlands designated by New York State as Class I are the most valuable wetlands. Class I wetlands shall have a buffer zone as described by state requirements. Actions within said buffer zone shall be regulated by the provisions of Title 6 NYCRR Part 663. The Class I buffer zones include PM-1, PM-2 and GR-1.
  2. The applicant shall show state and/or federally approved wetland boundaries on all preliminary and final development plans submitted for Planning Board review.

3. All correspondence to or with agencies regarding the establishment of boundaries, permit applications and permit approvals shall be provided to the Town along with other application materials.

## **§165-76 EPOD (2) Small Wetland Protection District**

### A. Purpose and Intent

1. Small wetlands are as important as large wetlands in providing multiple, unique benefits for our environment. Wetlands provide hydrologic benefits such as flood and storm water control, and water quality protection. They also provide unique wildlife habitat for waterfowl, amphibians, fish, mammals and birds. Finally, wetland areas are used extensively for education, research, recreation and open space.
2. The management measures detailed below are intended to preserve and protect the functions and benefits of the wetland areas of the Town of Parma that are regulated by the United States Army Corps of Engineers. The measures apply to wetland areas which are between 12.4 and 1.0 acres in size. These smaller wetlands are expected to provide the same benefits and functions as the larger wetland areas currently protected by the New York State permit program and, hence, are worthy of protection.

### B. Delineation of Boundaries

1. Identification and mapping of all wetland areas of the Town of Parma is not feasible. Instead, an initial screening of the potential for the presence of wetlands on a site shall be made at the time of application. A detailed site survey for wetlands shall be made if the potential is present for the disturbance of any wetland area.
2. If the presence of a wetland is confirmed and there is a potential for disturbance, a specific weighing of the benefits of the proposed project versus loss of wetland function and benefit shall be made to determine if the activity should be modified or denied. This process shall also be undertaken if the site incorporates any part of a larger wetland.
3. The potential for the presence of wetland vegetation and/or wildlife habitat has been evaluated for the soils of Monroe County. This evaluation is based upon mapping and interpretation of Monroe County soils by the United States Department of Agriculture, Soil Conservation Service. Soil units with a high potential to support wetland plants and/or wildlife are generally characterized as having seasonal high groundwater levels within 0.0 to 1.0 feet of the surface and/or as having a frequent flooding frequency. The list of soils having these characteristics shall be maintained by the CEO, and shall be made available to all applicants.
4. If any of the above soil units are present in an area which may be disturbed, then a vegetative survey shall be completed and certified by a qualified wetlands specialist (as defined in 6 NYCRR Part 665.5(a)(2)) to determine the presence and extent, if any, of wetlands on the site. The definition of wetlands shall be consistent with Article 24 of the New York State Environmental Conservation Law [§ 24-0107(1)], as amended, and/or by the Corps of Engineers in their current regulatory guidance.
5. If 1.0 or more contiguous acres of such wetland are found to be present, the location and extent of the wetland areas shall be shown on the proposed site plan with an appropriate buffer zone that may be adjusted according to the size and potential significance of the wetland.
6. The location of wetlands, potential wetlands and proposed buffer areas shall be depicted on all site plans and suitable for concept stage submittals to the Planning Board and the CEO. Preliminary and final stage applications shall delineate actual boundaries as located in the field and accepted by the responsible agencies.
7. If it is determined that the project contains a federally designated wetland, the applicant shall obtain all required wetland permits from the Buffalo office of the United State Army Corps of Engineers.

C. Activities Regulated

1. All activities not otherwise exempted by §165-74B shall be regulated.
2. The regulations shall only be applicable for wetlands which are between 1.0 and 12.4 acres in size.
3. Additional exempt activities
  - i. Freshwater wetland and buffer zone. Exempt activities as defined by the New York State Freshwater Wetlands Law, 6 NYCRR Part 663.4, or as subsequently amended.
  - ii. Buffer zone. Substantially modifying or expanding existing functional structures or facilities which involve only a temporary disturbance.
4. The applicant shall show state and/or federally approved wetland boundaries on all preliminary and final development plans submitted for Planning Board review.
5. All correspondence to or with agencies regarding the establishment of boundaries, permit applications and permit approvals shall be provided to the Town along with other application materials.

### **§165-77 EPOD (3) Floodplain Protection District**

A. Purpose and Intent

1. Floods are natural phenomena which increase in frequency and magnitude due to development. In natural systems, they clear debris from stream channels and replenish topsoil and nutrients to floodplain areas. However, when development encroaches upon floodplains, floods carry off pollutants from lawns, impervious surfaces and on-site sewage disposal systems and may pollute wells, and damage property. It is the intent of this EPOD to provide notice of flooding potential and to direct applicants to the proper section of the Town Law which governs development in areas with potential for flooding and to expand the review of such applications.

B. Delineation of District Boundaries

1. Areas subject to flooding are delineated on the county's Environmental Atlas maps. The locations and elevations of floodplains and floodways are identified on maps prepared by FEMA. These maps are on file in the Building Department.

C. Activities Regulated

1. It is not the intent to add any additional regulatory control over development than is already provided in Town Law. Applicants are directed to Article V of this chapter for regulated activities, application procedures and standards. Separate EPOD development authorization shall not be required, unless the proposed action is also sited within EPOD (4).

D. Additional Procedures and Conditions

1. Applicants are directed to show the location of EPOD (3) on all development permit applications.

## §165-78 EPOD (4) Stream Corridor Protection District

- A. Purpose and Intent
  - 1. The purpose of the Stream Corridor Protection District is to provide special controls to guide land development within the major waterway corridors in the Town of Parma. The district encourages planning and development of land so as to protect and preserve sensitive environmental areas, to prevent soil erosion, sedimentation and slope failure due to removal of vegetation, dredging, filling, damming or channelization; to prevent degradation or loss of scenic views and the natural character of the area; and to prevent activities which degrade water quality or fish and wildlife habitat.
- B. Delineation of District Boundaries
  - 1. The boundaries of the Stream Corridor Protection District shall be based on a map with stream numbers prepared by the Town Engineer. The Stream Corridor Protection District shall extend a distance of 50 horizontal feet from the edge of each stream.
- C. Activities Regulated
  - 1. All activities not otherwise exempted by §165-74B shall be regulated.
  - 2. Additional exempt activities
    - i. Construction of bridges.
    - ii. Construction of ponds.
    - iii. Thinning and clearing of trees and shrubs, if maintaining at least 60% perimeter coverage along the stream.
- D. Standards for Permit Review
  - 1. Any applicant for a permit to undertake a regulated activity within a Stream Corridor Protection District shall be required to adequately demonstrate that the proposed activity shall in no way, at present or at any time in the future, adversely affect the following:
    - i. Water quality.
    - ii. Watercourse flood-carrying capacities.
    - iii. Rate of sedimentation.
    - iv. Velocity of surface water runoff.
    - v. Natural characteristics of the watercourse or floodplain.
    - vi. Soil stability.
    - vii. Fish and wildlife habitat.
  - 2. No permit to undertake a regulated activity within the district shall be issued unless it is determined that the proposed project complies with the following additional standards:
    - i. The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands; change in water temperature due to removal of shade vegetation; or nonpoint sources of pollution due to stormwater runoff, septic systems or any other activity on the site.
    - ii. The project shall provide adequate measures to protect surface and ground waters from direct or indirect pollution and from overuse.
    - iii. Fill shall not encroach on natural watercourses, constructed channels or floodway areas.
    - iv. Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation. Such roads, trails and walking paths shall be

constructed and sited in such a manner as to maximize the visual opportunities of a water body while maintaining the environmental features of the entire site.

- v. No new dock, boat launching site or fishing access and parking area shall be constructed unless it is shown that it shall not impede the natural flow of the streams to which this section applies and shall be located and constructed so as to minimize its intrusion into the streams and avoid adverse environmental impact and unreasonable impacts upon public use of the waters.

E. Additional Procedures and Conditions

1. A vegetative buffer of 25 feet shall be retained from each edge adjacent to the watercourses to absorb floodwaters, to trap sediments, to protect adjacent fish and wildlife habitats and to protect scenic qualities. Wherever possible, the buffer shall retain natural vegetation.
2. Site preparation, including the stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated within 14 days of disturbance. During the interim period, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.
3. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.
4. New structures, except for fences, bridges and fishing access parking areas, shall not be constructed within 25 feet of the bank of the stream.
5. New structures shall be designed and constructed in accordance with erosion control standards and stormwater control standards contained in the Best Management Practices for Storm Water Management Guidelines for New Development, as found in Chapter 6 of the New York State Department of Environmental Conservation's Stream Corridor Management Manual.

## **§165-79 EPOD (5) Woodlot Protection District**

A. Purpose and Intent

1. The purpose of the Woodlot Protection District is to preserve and protect the aesthetic, wildlife habitat and air quality benefits of woodlots located within the Town of Parma. The controls and regulations of this district are designed to limit the potential adverse impacts of development actions on woodlots by managing development in these areas and by requiring review and permit approval prior to the start of construction.

B. Delineation of District Boundaries

1. The boundaries of the Woodlot Protection District shall be delineated on the Town of Parma EPOD Maps and shall include all areas in the Town of Parma with five or more contiguous acres of woodlots. Active orchards are not included in the district.

C. Activities Regulated

1. All activities not otherwise exempted by §165-74B shall be regulated.
2. Activities that would involve the clearance of more than one acre of the woodlot EPOD.

D. Standards for Permit Review

1. Any applicant for a permit to undertake a regulated activity within a Woodlot Protection District shall be required to adequately demonstrate that the proposed activity shall in no way, at present or at any time in the future, adversely affect the following:
  - i. Soil stability.

- ii. Velocity of surface water runoff.
  - iii. Existing drainage systems.
  - iv. Natural characteristics of a watercourse or wetland.
  - v. Significant tree species.
  - vi. Significant wildlife habitats.
- E. Specific Standards
- 1. No permit to undertake a regulated activity within the Woodlot Protection District shall be issued unless it is determined that the proposed project complies with the following standards:
    - i. A pre-, during- and post-protection plan for trees to be saved or moved shall be prepared. For applications to be reviewed by the Planning Board, this plan shall be prepared by a qualified consulting forester, arborist or horticulturist.
    - ii. For applications to be reviewed by the Planning Board, an integrated site plan which includes the woodlot protection plan, the landscape plan and any additional development on the site shall be prepared by a qualified consulting forester, arborist or horticulturist. The plan shall show all new or expanded structures, utilities, access roads, grading or other activities which may adversely affect the woodlot.
    - iii. Vehicles, materials and equipment storage shall not be allowed in areas fenced to protect trees.
    - iv. In planning development sites, applicants shall preserve as much mature vegetation as possible. The use of clustering of buildings to avoid mature wooded areas shall be encouraged wherever practical, as well as the planting of replacement vegetation to mitigate the unavoidable uses of woodlots.
- F. Additional Procedures and Conditions
- 1. Site preparation, including the stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated within 14 days of disturbance. During the interim period, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.
  - 2. Erosion and siltation controls shall be consistent with the most recent edition of the New York State Guidelines for Urban Erosion and Sediment Control.

## **§165-80 EPOD (6) Lakefront Coastal Erosion Hazard District**

- A. Purpose and Intent
- 1. New York State has determined that development in and near areas subject to coastal erosion and flooding may be hazardous to life and damaging to property. Legislation has been enacted to regulate development in these areas. The New York State Department of Environmental Conservation administers this program under Article 34 of the Environmental Conservation Law. It is the intent of this EPOD to provide notice of coastal erosion potential, direct applicants to the proper review authorities, and coordinate activities with other reviewing agencies. It is not the intent to add any additional regulatory control or exercise any additional local authority over activities within these areas.
- B. Delineation of District Boundaries
- 1. Areas subject to coastal erosion, and surrounding areas where DEC maintains jurisdiction over development activities, are identified on Official Coastal Erosion Maps prepared by NYSDEC. These maps are on file in the Town Building Department.

C. Activities Regulated

1. As it is not the intent to add any additional regulatory control over development, applicants are directed to 6 NYCRR Part 505 which cites regulatory authority, jurisdiction and procedures. Separate EPOD development authorization shall not be required, unless the activity falls within other regulated EPOD boundaries.

D. Additional Procedures and Conditions

1. It is the responsibility of each applicant to determine if the project is within areas subject to DEC jurisdiction, and to contact DEC to determine regulatory requirements and procedures.
2. Applicants are directed to show the location of EPOD (6) on all development permit applications.
3. All correspondence to or with agencies regarding the establishment of jurisdiction, permit applications and permit approvals shall be provided to the Town, along with other application materials.



## ARTICLE VII. Sign Regulations

### §165-81 Purpose

- A. The purpose of this article is to promote and protect the public health, welfare and safety by regulating existing and proposed signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction that may contribute to traffic accidents, and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, to prevent one sign from obstructing the view of another sign and to curb the deterioration of natural beauty.
- B. No sign or outdoor advertising of any character shall be permitted in any zone district of the Town of Parma except in conformity with the regulations of this chapter.

### §165-82 Nonconforming, Off-premises Advertising

- A. All signs legally established prior to the effective date of this chapter which do not conform to the regulations contained herein shall be considered nonconforming signs.
  - 1. Miscellaneous. A sign established prior to the effective date of this chapter pursuant to a special permitted use, variance, exception or other sign permit, license, waiver or consent shall be considered a nonconforming sign.
  - 2. Off-premises advertising sign. An off-premises advertising sign not situated within a district wherein such a sign may be allowed as specified in this chapter, and such signs situated in any other zone district for which a sign permit is denied, shall be considered nonconforming.
  - 3. Abatement. All nonconforming signs shall be terminated or brought into compliance within the time periods set forth in the sign depreciation schedule (see § 165-84), except as otherwise provided for by a sign variance granted by the Zoning Board of Appeals.
- B. Off-premises advertising signs situated in districts wherein a sign permit is authorized shall be terminated within the time periods set forth in the sign depreciation schedule, except as otherwise provided for by a valid sign permit. No sign permit waiver may be granted for an off-premises advertising sign except for an extension of the continuance period as provided in §165-84.

### §165-83 Abandoned Signs and Removal of Abandoned Signs

- A. The Code Enforcement Officer (CEO) shall order the removal of any sign which has become abandoned. In making such determination, the CEO shall consider, but need not be limited to, the following elements:
  - 1. Period of nonuse of the activity, product, or service of the sign, provided that where a business activity has been discontinued for a period of 90 days, the sign shall be presumed to have become abandoned unless the owner, beneficial user or other party in interest files a written certification with the CEO that said sign (including its appurtenances) is to be utilized within 30 days following such 90-day period.
  - 2. The sign is situated upon or incidental to a site which has been scheduled for demolition and it appears that the activity, product, or service is no longer viable irrespective of the lapse of time.
  - 3. The applicable sign permit time period has expired.
  - 4. The sign is otherwise nonconforming or illegal and the owner or beneficial user cannot with reasonable diligence be located.
- B. Any nonconforming, abandoned or illegal sign existing on or after the effective date of this chapter shall be removed by the owner of the premises upon which such sign is located after written notice as

provided herein. Upon removal of any wall sign (including signs painted on walls) the surface area of the facade shall, within 30 days of removal, be restored to a condition substantially equivalent in appearance to the remaining portion of the facade. The CEO, upon determination of the expiration of the continuance period, of any such sign or such other time limit which may be provided for, shall direct the owner or beneficial user of such sign, in writing, to remove the said sign within 30 days from the date of such notice. Upon failure to comply with such notice within the prescribed time, the CEO shall remove or cause removal of such sign, and shall assess all costs and expenses incurred in the said removal against the property on which such sign is located.

#### **§165-84 Continuation of Nonconforming Signs**

- A. Any nonconforming sign lawfully existing at the time of the adoption of this chapter may be continued, provided that it is maintained in good condition.
- B. If the ownership of the property on which the sign is located changes hands, the nonconforming sign shall be removed within 60 days of the change in possession. The replaced sign, if any, shall comply with all of the requirements of this chapter.

#### **§165-85 Provisions Applicable to All Districts**

- A. Property Sign Numbering
  1. All principal structures located within any residential, commercial or industrial zone district shall have or display at least one set of street numbers assigned to it. Numbers must be prominently displayed on the front of each structure. All stores and businesses shall have the numbers displayed at the main entrance.
  2. In the case where the principal structure is not clearly visible from the street or more than 100 feet from the edge of the road right-of-way, a post with the property numbers displayed upon it, not to exceed five feet in height, shall be installed in close proximity to the property access, no less than five feet nor more than 25 feet from the edge of the road right-of-way. All numbers shall be visible from the street and shall not be blocked from view by shrubs, fences and trees or other obstruction.
  3. All numbers shall only be arabic in design, a minimum of five inches in height, and shall sharply contrast in color from the structure.
  4. Address numbers on mail boxes that are clear of any obstruction, including other mail or paper boxes, etc., visible from both directions of travel, at least three inches in height, and which meet all of the other regulations of this section shall be acceptable in lieu of a separate post.
  5. In the case of new construction, no temporary or final certificates of occupancy will be issued until the CEO verifies that such street numbers have been properly installed. Furthermore, no inspection for new construction will be provided until the developer installs the lot number in a prominent location on the site, prior to construction.
  6. The absence of address numbers, or the insecure fastenings or absence of any whole number thereof, or the use of any number not properly assigned by the Town, or its failure to meet the visibility requirements, shall be considered to be in violation of this chapter.
  7. Any structure having street numbers that are arabic in design, logical in sequence, within the distance required, a minimum of four inches in height and of contrasting colors as of the effective date of this chapter shall be deemed to be in compliance with this section.
  8. The Code Enforcement Officer is hereby authorized to grant exemptions from the number and size requirements of this section where public safety is not adversely impacted.
  9. Failure to comply with the property numbering regulations shall be a violation of this chapter.
- B. General Sign Regulations

1. All signs shall be located on the same site as the use they identify or advertise, unless otherwise provided for in these regulations. No signs shall extend or project beyond the property line or into the public right-of-way.
  2. No sign shall be placed or erected on the roof of a building.
  3. No portable or temporary signs shall be placed upon any premises or on any building except as provided by this chapter.
  4. Any visual message incorporated into an awning/canopy attached to a building or one without a visual message but because of its color, shape, design or lighting, shall be considered a sign and not an environmental shield.
  5. Area of irregularly shaped signs or pane signs of individual letters shall be calculated by using the total rectangular area encompassed by the outline.
- C. Prohibited Signs
1. The following signs shall be prohibited in all districts
    - i. Billboards.
    - ii. Mobile Signs including signs attached to vehicles and/or trailers.
    - iii. Pennants and Streamers.
    - iv. Pole signs.
    - v. Roof-mounted Signs.
    - vi. Signs attached to a tree, utility pole or otherwise affixed to anything other than an approved sign support structure.
    - vii. Signs containing reflective materials.
    - viii. Signs that obstruct the public right-of-way or obstruct the view of traffic.
    - ix. Signs that obstruct the view of another sign on an adjacent property.
    - x. Television Display Signs.
- D. Traffic Hazard and Safety
1. No permanent or temporary sign shall be erected or placed at or near the intersection of any street in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the placement, design or color of the sign, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device, or which makes use of the words "Stop," "Look," "Drive-In," "Danger," "Go Slow," "Caution," "Warning," "Right," "Left" or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.
  2. No sign shall be animated or flashing or shall include the use of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving objects.
  3. No sign shall, by its light, brilliance, type, design or character, create a public or private nuisance. The use of a par-spot, beacon light or moving light shall be prohibited. Illumination where permitted must be designed and shielded so that the light sources do not constitute a possible hazard to traffic and cannot be seen from any adjacent residential district. A certificate of approval from an electrical inspection agency that is recognized by the Town Board must be submitted for every electrically illuminated sign.
- E. Temporary Commercial Signs
1. Businesses situated in the Town of Parma may, for a period not to exceed seven days, and not more than 10 times per year, display a temporary sign. The purpose of said sign shall be to advertise the business or its products.

2. These temporary signs are to be a minimum of five feet from the right-of-way and shall not impair vision from the road where they are situated. Said signs are not to exceed 32 square feet and shall not exceed a maximum height of six feet above the existing grade.
3. Illumination. Temporary signs may be illuminated either internally or externally, except that no flashing or moving arrow light may be used.

## **§165-86 Permit-exempt Signs in All Districts**

- A. The following signs shall be allowed in any zone district of the Town of Parma without a permit, provided that such signs comply with the general requirements of this chapter:
  1. Property address signs.
  2. Safety signs, road signs, historical markers, service identifications or highway directional signs erected by or as required by municipal or public agencies.
  3. Signs not exceeding four square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification without commercial connotations for the premises. Such sign shall be located no closer than 15 feet to a side property line and may be placed up to the front property line.
  4. Signs regulating the use of a property, such as no hunting, no fishing, etc., provided that such signs do not exceed two square feet in area.
  5. Signs not exceeding two square feet, directing and guiding traffic and parking but bearing no advertising matter. No more than two such signs shall be permitted per driveway.
- B. Roadside Stand Signs
  1. A non-illuminated sign, not larger than 32 square feet in area, may associated with a roadside stand may be displayed during the growing season to advertise the sale of locally grown edible farm products.
- C. Temporary Signs
  1. Temporary signs shall include, but not be limited to:
    - i. Real estate signs including those advertising the rental or lease of the premises on which the signs are located.
    - ii. Construction signs for a project or development.
    - iii. Political campaign signs which promote and support a candidate or candidate for any public office or which advocates a position on upcoming ballot propositions.
    - iv. Auction and/or charitable event signs for special events of charitable or public service groups, excluding garage sales.
    - v. Garage sale signs for private-owner temporary merchandise sales. Such signs shall not be attached to fences, trees, utility poles or the like, nor shall they be placed in a position that will obstruct or impair vision, the flow of traffic, or in any manner create a hazard or nuisance to the health and welfare of the general public.
  2. All temporary signs in this section shall be no more than 5 feet in height above the ground, located no closer than 15 feet to a side property line and may be placed up to the front property line.
  3. All temporary signs in this section shall be no larger than 8 square feet in size.
  4. All temporary signs shall be removed within 1 week of completion of the event, activity or service to which they are advertising.
  5. All temporary signs shall be non-illuminated.

- 6. In the event where a project or development abuts two or more streets, 1 additional temporary sign shall be permitted. This total of 2 temporary signs will allow them to orient to each abutting street.
- D. Noncommercial Speech Signs
  - 1. The maximum number of noncommercial speech signs per lot shall be two.
  - 2. Such signs shall not exceed a total of 20 square feet in area for all signs on a single lot.
  - 3. Freestanding noncommercial speech signs shall not exceed six feet in height above grade level.
  - 4. Noncommercial speech signs shall not be illuminated, except indirectly.

**§165-87 Permit-regulated Signs by District**

- A. The following table of permitted signs in the Town of Parma require approval of an application submitted to the Town of Parma Code Enforcement Officer (CEO) according to § 165-89 of this chapter. Each sign included within the table includes specific dimensional and location requirements in this section.
  - 1. Sign types identified with a "P" in the table are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this zoning chapter.
  - 2. Sign types not listed and those identified with a "-" are expressly prohibited.

SIGN TYPES PERMITTED	AR	RR	NR	MR	WR	N-MU	C-MU	LI
Awning Signs	-	-	-	-	-	P	P	-
Entrance Identification Sign	P	P	P	P	P	-	-	-
Feather Flag Signs	P	P	-	-	-	-	-	-
Monument Signs	-	-	-	-	-	P	P	P
Projecting Signs	-	-	-	-	-	P	P	P
Wall Signs	P	P	P	P	P	P	P	P
Window Signs	-	-	-	-	-	P	P	P

- B. Awning Signs
  - 1. Awning signs shall have a minimum height of 10 feet.
  - 2. Awning signs shall have a maximum area of 2 square feet per linear foot of each building wall facing a public street.
  - 3. Awning signs shall not extend outside the overall length or width of the awning or extend above the height of the building wall to which the awning is attached.
  - 4. Awning signs shall only be permitted on the ground floor of a building or structure.
  - 5. Awning signs shall not be internally illuminated.

C. Entrance Identification Signs

1. These permanent entrance identification signs shall be monument signs, as defined by this chapter.
2. Two permanent entrance identification signs for each subdivision or multi-unit residential development or for a community center, church, fire department or other nonprofit organization, provided that:
  - i. The structure does not exceed 4 feet in height at any point above the median ground level.
  - ii. The area of the structure shall not exceed 40 square feet.
  - iii. The gross lettering or signage area does not exceed 50% of the total area of the structure.
  - iv. Setbacks shall be not less than 5 feet from any right-of-way line to any part of the structure.
  - v. Appurtenances such as wing walls or planters shall not exceed 50% of the main structure's length on either end.
3. Each proposal for such identification sign as specified in Subsection B.1 above shall be reviewed and approved by the Zoning Board of Appeals during permit review, whether proposed along with site development plans or after development is completed. In reviewing the proposals, the Planning Board shall, in addition to the criteria outlined in Subsection B.1 above, consider the following:
  - i. The proposed location does not interfere with pedestrian or vehicular traffic visibility.
  - ii. The design is of a permanent type of construction such as masonry or pressure treated wood with adequate foundation and horizontal support to withstand wind loads.
  - iii. Illumination, if provided, is situated such that there is no glare or undue spillover of light.
  - iv. There is assurance of perpetual maintenance by a homeowners' or tract association, the developer, or an individual lot owner where the sign is located and that such responsibilities are clearly spelled out in the deeds or association bylaws.

D. Monument Signs

1. Monument signs shall not exceed 4 feet in height.
2. The maximum sign area shall be 24 square feet. This excludes the area of the monument's base.
3. Monument signs shall be setback 5 feet from the public sidewalk or the front lot line, whichever is farther from the street.
4. No monument sign shall be setback farther than 10 feet from any public sidewalk or street.

E. Feather Flag Signs

1. Feather flag signs shall be permitted in the AR and RR Districts for associated roadside stands and agribusiness uses.
2. Feather flag signs shall be located no closer than 15 feet to any public right-of-way and shall be located on the lot for which the business is located.
3. Feather flag signs shall be no larger than 32 square feet in size.

F. Projected Signs

1. Projecting signs shall not exceed 10 square feet in area per sign face.
2. No projecting sign shall be erected to extend more than 12 inches from the face of the building to which it is attached.
3. No portion of any projecting sign shall extend more than 4 feet from the building to which it is attached.

- G. Wall Signs
  - 1. Wall signs shall be a minimum of 12 feet above the ground or a maximum of 25 feet above the ground.
  - 2. Wall signs shall not exceed a height of 3 feet and shall not exceed an area in square feet equal to 1 times the length of the building's frontage, up to a maximum of 60 square feet.
- H. Window Signs
  - 1. Window signs shall only be permitted on the first floor of street-facing building façades and shall be located in such a way that does not unnecessarily detract pedestrian visibility into buildings.
  - 2. A window sign shall not exceed a maximum of 25% of total glass area.

## **§165-88 Digital Signs**

- A. A digital sign may not allow the display message to change more frequently than once every 8 seconds, with a transition period of 1 second or less. Messages may not contain the appearance of motion or animation. Transitions between messages may contain the appearance of motion or animation.
- B. A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article. Certification must be provided to the Town demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Code Enforcement Officer in their reasonable discretion, at the owner's expense, to ensure that the specified brightness levels are maintained at all times.
- C. Maximum brightness levels for digital signs shall not exceed 5,000 nits or "Candelas per Square Meter" or "cd/m<sup>2</sup>" when measured from the signs face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 500 nits or "Candelas per Square Meter" or "cd/m<sup>2</sup>" when measured from the sign's face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service for the location of the sign.
- D. Brightness of digital signs shall be measured as follows:
- E. At least 30 minutes following sunset, a foot-candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.
- F. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
- G. If the difference between readings is 0.2 foot candles or less, the brightness is properly adjusted.
- H. Digital signs shall be specially permitted by the Zoning Board of Appeals and should only be considered for public or institutional land uses such as government buildings or structures, schools, community centers and other similar uses.

## §165-89 Application for Sign Permit

- A. A permit to erect, enlarge or place any sign permitted by this chapter shall be obtained from the Town of Parma Code Enforcement Officer.
- B. Applications for a sign permit shall be made in writing by the owner, lessee or erector and be accompanied by a scale drawing showing dimensions, proposed design, the legend, colors, materials, structural details and a tape or plot locations map delineating the location of buildings, parking areas, other signs on the same property, frontage of each unit and/or any fences or other obstructions in relation to the designed location of the proposed sign. Lessee or erector applicants shall present evidence of the approval of the owner for such erections.
- C. Any additions to an existing sign shall be by permit application, as prescribed above.
- D. No permit issued under the terms of this chapter shall be transferable to any person other than the original applicant.
- E. A sign permit shall become null and void if the work for which the permit was issued has not been started within a period of 6 months after the date of issue of the permit.
- F. Application for a permit, which requests a sign not permitted under this chapter, must be presented to the Zoning Board of Appeals. Upon such application to the Board, a public hearing shall be held, with notices of such a public hearing, for granting a special permitted use permit as it shall be determined in accordance with the following facts:
  - 1. The proposed sign is in harmony with the standards for permitted signs and within the spirit of this chapter.
  - 2. The presence of the proposed sign shall not be detrimental to adjacent property.
  - 3. The proposed sign does not, by reason of its location, create a hazard of any nature to the public in general or to any adjacent owner or occupant.
  - 4. The proposed sign does not in any way interfere with the lawful enjoyment of the public highway or of adjacent property.

## §165-90 Sign Maintenance

- A. All signs erected and maintained within the Town of Parma shall be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose fastenings, and at all times shall be maintained in a safe condition so as not to be detrimental to the public health or safety. Painting, cleaning or repair maintenance shall not be considered a sign erection or alteration, which requires a permit, unless a structural change is made.
- B. The Code Enforcement Officer may remove summarily and without notice:
  - 1. Any sign which is a source of immediate peril to persons or property; or
  - 2. Any such sign placed in a public right-of-way so as to cause a traffic hazard to be removed summarily and without notice.



**§165-91 Noncompliance; Penalties for Offenses**

- A. Failure to comply with any of the provisions of this article shall be deemed a violation of this chapter and subject to the penalties set forth in Article IX.
- B. The Code Enforcement Officer shall have the authority to enforce the removal of any signs that are in violation of this chapter. Failure to comply with this written order within 10 days shall be considered a violation. If the violation is not corrected within 30 days from the date of such notice, the Town of Parma shall have the authority to remove such sign and to charge the owner for the cost of the removal by adding the costs to the Town tax bill on the property.
- C. Prior to the Town's removal of any sign, the owner of the sign may request a hearing before the Zoning Board of Appeals. No action shall be taken by the Town until a decision has been rendered by the Zoning Board of Appeals.

## ARTICLE VIII. Site Plan Review

### §165-92 Authority

- A. The Town of Parma Planning Board is hereby empowered to grant site plan approval in accordance with the provisions of § 274-a of the New York State Town Law. Those identified site development permit applications, or special permitted use permits requiring site plan approval as a prerequisite, shall be regulated as set forth in this section. The application procedures for required permits are contained in Article IX of this chapter.
- B. Approval Requirements
  - 1. To determine whether site plan approval shall be required by the Town Planning Board, refer to the specific zoning district and/or overlay zoning sections of this chapter. Generally speaking, site plan approval is required for site developments of permitted uses occurring within the following districts:
    - i. Neighborhood Residential (NR) District
    - ii. Multifamily Residential (MR) District
    - iii. Waterfront Residential (WR) District
    - iv. Neighborhood Mixed-use (N-MU) District
    - v. Corridor Mixed-use (C-MU) District
    - vi. Light Industrial (LI) District
  - 2. Generally speaking, site plan approval is required for site developments of specially permitted uses occurring within the following districts:
    - i. Agricultural-Residential (AR) District
    - ii. Rural Residential (RR) District
    - iii. Neighborhood Residential (NR) District
    - iv. Multifamily Residential (MR) District
    - v. Waterfront Residential (WR) District
    - vi. Neighborhood Mixed-use (N-MU) District
    - vii. Corridor Mixed-use (C-MU) District
    - viii. Light Industrial (LI) District
- C. In conducting its review of any site plan application, the Town Planning Board shall require compliance with the standards, regulations and development criteria of this chapter.
- D. Where it is deemed appropriate, the Town Planning Board may waive any of the administrative requirements of this article based on its findings as set forth in the public record on said application.

### §165-93 Applicability

- A. Site plan approval shall be required as a prerequisite prior to the issuance of a building permit for proposed actions which meet one or more of the thresholds defined in this section. The Code Enforcement Officer (CEO) shall notify applicants for a building permit if site plan approval is required.
- B. The thresholds which determine the need for site plan approval are as follows:
  - 1. Any new principal permitted use.
  - 2. Any new special permitted use.

3. The legal conversion of the use of an existing structure from one type of use to another.
  4. An addition to a legally existing use or the legal conversion of the use of an existing structure which would require five or more new parking spaces.
  5. Any modification to a commercial or industrial use.
- C. The CEO shall determine if an applicant meets one or more of the thresholds listed above. If the applicant does not meet any of the thresholds, the CEO shall issue a building permit and/or certificate of zoning compliance, provided that the proposed action is consistent with the applicable regulations of this chapter.
- D. If the CEO determines that site plan approval by the Planning Board is required, the CEO will advise the applicant as to applicable procedures and requirements.

### **§165-94 Application for Site Plan Approval**

- A. An application for site plan approval shall initially be made in writing to the CEO and shall contain the following information:
1. Nature of proposed development.
  2. Section of this chapter specifying the need for site plan approval.
  3. Location of proposed development.
  4. Description of property involved, including tax account number.
  5. A complete and signed environmental assessment form (Part 1).
  6. Request to appear before Town Planning Board at a regularly scheduled meeting.
- B. Upon review of said application letter, the CEO shall prepare a written response to the applicant containing the following information:
1. Date of Planning Board meeting at which the application for site plan approval will be discussed.
  2. A preliminary indication under SEQR as to include the type of action involved and appropriate SEQR forms to be completed by the applicant or agent.
  3. A tentative time schedule for conceptual, preliminary and final site plan approval.
  4. Any other information the CEO deems appropriate, including identification of the applicant's interest in the proposal, any fees and criteria for site plan preparation.
  5. In the event that a preliminary site plan identifies the potential need for dimensional variances, the applicant shall first be denied preliminary site plan approval by the Planning Board, before appealing the need for such variance(s) to the Zoning Board of Appeals. Where the Planning Board has denied such site plan on these grounds, the Planning Board shall convey its opinion to the Zoning Board of Appeals on the requested variances. Once variances have been granted, the applicant may proceed for final site plan approval. If the variances are denied, the applicant shall submit a revised site plan complying with the dimensional requirements of the zoning district.
- C. The Planning Board shall, for each preliminary site plan application, determine whether a public hearing would serve a community benefit according to such a determination by the Planning Board.

**§165-95 Application for Concept Site Plan Review**

- A. Upon receipt of said CEO's report, the applicant may prepare a concept site plan for review by the Planning Board, which contains the following information:
  - 1. Title of drawing.
  - 2. An area map showing the parcel under consideration for site plan review, a plan drawn to scale based on the entire parcel, and all properties, subdivisions, streets and easements within 500 feet of the boundaries thereof.
  - 3. Internal street pattern, if any, of the proposed development.
  - 4. Location of all existing structures and vegetation on the site and the future use of the same.
  - 5. Existing zoning classification(s) of the property and all properties within 500 feet, and any restrictions on land use of the site.
  - 6. Existing natural features on the site and the future use of the same.
  - 7. Contour intervals at five-foot intervals, unless the Planning Board specifies otherwise.
  - 8. Name of owner(s) of the parcel and owners of adjacent properties.
- B. The Planning Board shall consider all concept site plans at a regularly scheduled meeting and may, at this stage, suggest changes in the plan involving the street layout, traffic patterns, lot size or shape, preservation of natural features or other matters and suggest redesign to comply with zoning requirements or to reduce the need for variances which, in the Board's opinion, would improve the layout in keeping with the best interests of the Town.
- C. The Planning Board shall provide the applicant with comments on the concept site plan within 60 days of the meeting at which time the concept plan was initially presented.
- D. The Planning Board shall inform the applicant of the State Environmental Quality Review (SEQR) procedural requirements that must be resolved prior to any action on a preliminary site plan application.

**§165-96 Application for Preliminary Site Plan Approval**

- A. Application for preliminary site plan approval shall be made in writing to the CEO and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the concept plan review:
  - 1. Preliminary site plan checklist (prepared by New York State registered architect, engineer or surveyor):
    - i. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
    - ii. North arrow, scale (i.e., one inch equals 50 feet) and date.
    - iii. Boundaries of the property plotted to scale.
    - iv. Existing watercourses.
    - v. Grading and drainage plan, showing existing and proposed contours.
    - vi. Location, proposed use and height of all buildings.
    - vii. Location, design and construction materials of all parking and truck loading areas, showing access and egress.
    - viii. Provision for pedestrian access.
    - ix. Location of outdoor storage, if any.

- x. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- xi. All construction plans shall include consideration of stormwater drainage needs. Whenever possible, site grading shall direct water away from buildings and structures to the natural drainageway.
- xii. Description of the method of sewage disposal and location, design and construction materials of such facilities.
- xiii. Description of the method of securing public water, and location, design and construction materials of such facilities.
- xiv. Location of fire and other emergency zones, including the location of fire hydrants.
- xv. Location, design and construction materials of all energy distribution facilities, including electrical, oil, gas and solar energy.
- xvi. Location, size, design and construction materials of all proposed signs.
- xvii. Location and proposed development of all buffer areas, including existing vegetative cover.
- xviii. Location and design of outdoor lighting facilities.
- xix. Designation of the amount of building area proposed for retail sales or similar commercial activity.
- xx. General landscaping plan and planting schedule.
- xxi. Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permits required for the project's execution, and SEQR documents.
- xxii. A map or tracing overlay showing all soil areas and their classifications and those areas, if any, with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion. The overlay shall also include an outline and description of existing vegetation for areas with potential erosion problems.
- xxiii. A map indicating the location of any EPOD's within 500 feet of the boundary of the property.
- xxiv. A map detailing the proposed stormwater drainage system.
- xxv. Appropriate fees shall be submitted with the application.

## **§165-97 Planning Board Considerations for Preliminary Site Plan Approval**

- A. The Planning Board's review and approval of a preliminary site plan shall include, as appropriate, but is not limited to, the following:
  - 1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  - 2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  - 3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - 4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
  - 5. Adequacy of stormwater and drainage facilities.
  - 6. Adequacy of water supply and sewage disposal facilities.

7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
  8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
  9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
  10. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- B. In its review, the Planning Board may consult with the Town Engineer, the fire chief of any fire department serving the site involved, Monroe County Department of Planning and Development and other Town and county officials, as well as with representatives of federal and state agencies.
  - C. The Planning Board may require that the exterior design of all structures shall be prepared by, or under the direction of, a registered architect, whose seal shall be affixed to the plans, and to submit landscape plans prepared by, or under the direction of, a registered landscape architect, together with an estimate of the cost of installing same.
  - D. Public hearing. If the Planning Board determines that a public hearing on a preliminary site plan is in the public's best interests, said public hearing shall be conducted within 62 days of the receipt of the complete application for preliminary site plan approval and shall be advertised in the official newspaper of the Town at least 10 days before the public hearing. The Planning Board, by resolution, can waive the need to conduct a public hearing on final plans if changes are not substantial. All landowners within a five-hundred-foot radius of the proposed project shall be notified by the CEO by mail at least 10 days before the public hearing

### **§165-98 Planning Board Action on Preliminary Site Plan**

- A. Within 62 days of the Planning Board's determination of a complete application for preliminary site plan approval, or, if a public hearing is held, within 62 days of the adjournment of the hearing, the Planning Board shall act on the request. If no decision is made within said timeframe, the preliminary site plan shall be considered approved and the applicant so notified. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, approved with modifications or approved by default.
- B. The Planning Board's statement may include recommendations or modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such a finding. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.
- C. If the preliminary site plan identifies the need for dimensional variances, the Planning Board shall notify the Zoning Board of Appeals and the applicant of the variance(s) the Board believes would be appropriate based on its review of the preliminary site plan. The Planning Board report shall be considered by the Zoning Board of Appeals in its deliberation on any variance request(s).
- D. No modifications of existing stream channels, filling of lands, grading or removal of vegetation in areas with a moderate to high susceptibility to erosion, or excavation for construction of site improvements, shall begin until the developer has received final site plan approval. Failure to comply shall be construed as a violation of this chapter. Where necessary, final site plan approval may require the modification, restoration or removal of unapproved site changes.

## **§165-99 Application for Final Detailed Site Plan Approval**

- A. After receiving approval from the Planning Board on a preliminary site plan, the applicant may prepare the final detailed site plan and submit it to the Planning Board for approval. If more than six months has elapsed between the time of the Planning Board's report on the preliminary site plan, and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
- B. The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site approval. It should incorporate any revisions or other features that may have been recommended by the Planning Board during the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
- C. The following additional information shall accompany an application for final site plan approval:
  - 1. Detailed sizing and final material specification of all required improvements.
  - 2. An estimated project construction schedule.
  - 3. A detailed plan identifying all lands, easements and rights-of-way which shall be commonly owned with the identification of the association responsible for said ownership, the method of managing commonly owned properties and requiring that the officers of said association shall be identified to the CEO in writing on an annual basis.
  - 4. Information specifying the materials to be used and information as to the character of the exterior design.

## **§165-100 Action on Detailed Final Site Plan Application**

- A. Within 62 days of the receipt of a complete application for final site plan approval, the Planning Board shall render a decision to the applicant and the CEO.
- B. Upon approval by all involved agencies of an application for site plan approval, the Planning Board shall direct the Planning Board Chairman to endorse its approval on the original Mylar and one copy of the final site plan. Once signed, the Planning Board shall forward the Mylar and site plan to the CEO. The CEO shall issue a zoning permit to the applicant if the project conforms with all other applicable requirements and permits.
- C. Upon disapproving an application, the Planning Board shall so inform the CEO and the applicant. The Code Enforcement Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

## **§165-101 Supplemental Regulations Pertaining to Site Plan Approval**

- A. Expiration of site plan approval. Such site plan approval shall automatically terminate two years after the same is granted unless significant work has been undertaken on the project. However, the Planning Board may authorize one or more extensions for additional two-year periods.
- B. Reimbursable costs. Costs incurred by the Town for consultation fees or other extraordinary expenses associated with the review of a proposed site plan shall be charged to the applicant in accordance with the fee schedule established by the Town Board.
- C. Performance guarantee. No building permit shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee, approved by the Town Board, has been posted for improvements. The sufficiency of such performance guarantee shall be determined by the Town Board after consultation with the CEO, Town Engineer, Planning Board and Town Attorney.
- D. Inspection of improvements and development. The CEO shall be responsible for the overall inspection of site improvements, including coordination with Town officials and agencies, as appropriate. No certificate of occupancy shall be granted prior to a final inspection and determination of conformity to the site plan and the New York State Uniform Fire Prevention and Building Code.
- E. Integration of site plan approval procedure with other Planning Board approvals. Whenever the particular circumstances of a proposed development require compliance with either the special permitted use permit procedure or the requirements of the Town of Parma Development Regulations, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliances. In any case, all state permits and local land use control approvals shall be procured prior to the issuance of a building permit for a development project.
- F. Conflicts. If any conflicts exist between this site development plan review procedure and other land use controls of the Town, this section shall apply.

## **§165-102 Cutting and Filling Permit Approval and Site Plan**

- A. No filling of earth or other materials to establish grades shall be allowed without a permit issued by the Planning Board.
- B. All requests for a filling permit shall be supported by a site plan of action, complete with appropriate documentation to describe the size and type of the proposed operation. Four copies of the plan shall be submitted with the application to the Planning Board.
- C. The following information shall be identified on the site plan, drawn to scale, preferably one inch equals 50 feet, but no smaller than one inch equals 100 feet:
  - 1. North arrow.
  - 2. Property owner's name and address.
  - 3. Operator's name and address, if different from property owner.
  - 4. Property lines and dimensions and highway boundary lines.
  - 5. Existing grades based on USGS datum.
  - 6. Existing topography (woods, large trees, streams, ditches, swales, roads, structures, etc.) on the site to be filled, and on adjacent properties if within 20 feet of the property line.
  - 7. Proposed finished grades after filling is completed.
  - 8. Proposed entrance to dumping site, and method of controlling access, such as a fence and gate, to prevent unauthorized dumping.
  - 9. Estimate of the volume (cubic yards) of fill to be placed.



10. Approximate timetable for the operation.
  11. Statement as to the type of materials to be placed.
  12. Type and thickness of final cover material and topsoil and seeding mixture.
  13. Reasons for filling.
  14. Show typical cross section of fill area.
  15. Show on plan and notes how erosion is to be controlled.
  16. All maps and supporting documentation shall be prepared by a licensed surveyor or engineer.
- D. The owner of the site and/or the operator of the fill shall be present at the Planning Board meeting to present the application and to respond to questions.
- E. The Planning Board may consult with other Town boards, agencies and consultants prior to reaching a decision on the proposed action.

## ARTICLE IX. Administration and Enforcement

### §165-103 Zoning Board of Appeals

- A. Creation, Appointment and Organization of the Zoning Board of Appeals
1. A Zoning Board of Appeals is hereby created. Said Board shall consist of five members and one alternate member appointed by the Town Board, which shall also designate a Chairperson. No person who is a member of the Town Board shall be eligible for membership on such Zoning Board of Appeals. Of the members of the Board, the first appointed one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years from and after his appointment. Their successors shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Town Board by appointment for the length of the unexpired term. The alternate member shall be appointed to a term of one year. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Town Board by appointment for the length of the unexpired term.
  2. In making such appointments, the Town Board may require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members.
  3. The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause and may provide by local law for removal, after public hearing, of any Zoning Board of Appeals member for noncompliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law.
  4. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson or, in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses.
  5. The Zoning Board of Appeals shall establish such rules and regulations as are required by state and local laws for the transaction of its business and may amend, modify and repeal the same from time to time.
  6. Whenever the Zoning Board of Appeals, after hearing all the evidence presented upon an application for appeals under the provisions of this chapter, denies or rejects same, said Board may upon motion by any member of the Board hold a rehearing to review any order, decision or determination of the Board not previously reviewed. A unanimous vote of all members of the Board then present shall be required for such rehearing to occur. Such rehearing shall be subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.
- B. Powers and duties of the Zoning Board of Appeals
1. The Zoning Board of Appeals shall have all the powers and duties prescribed by Chapter 62 § 267, of the Town Law of the State of New York and by this chapter which are more particularly specified in this section.
  2. Review applications for special permitted use permits.
    - i. The Zoning Board of Appeals shall have the authority to review and approve, approve with modifications or disapprove special permitted use permits as specified in this chapter.
  3. Administrative Review

- i. The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer or body in the enforcement of this chapter.
  - ii. The Zoning Board of Appeals may reverse or affirm wholly, partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
  - iii. The Zoning Board of Appeals shall hear and decide on interpretive matters where the provisions of this chapter, including the determination of exact district boundaries, are not clear.
4. Variances
- i. The Zoning Board of Appeals is empowered to authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the provisions herein would result in unnecessary hardship or practical difficulties.
  - ii. As used herein, a variance may be authorized for height, area, size of structure, size of yards and open spaces or establishment or expansion of a use otherwise prohibited.
  - iii. A variance shall not be granted solely because of the presence of nonconformities in the zoning district or uses in other zoning districts.
  - iv. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.
  - v. Variances granted shall be the minimum which would accomplish the purpose of providing for reasonable use of land or buildings.
  - vi. Variances granted shall be in harmony with the general purpose and intent of this chapter and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- C. Zoning Board of Appeals Office
- 1. The office of the Town Clerk shall be the office of the Zoning Board of Appeals. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by § 267 of the Town Law of the State of New York. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official action.
- D. Lapse of Authorization
- 1. Any variance or modification of this chapter authorized by the Zoning Board of Appeals shall be automatically revoked unless a building permit conforming to all the conditions and requirements established by the Zoning Board of Appeals is obtained within nine months of the date of approval by the Zoning Board of Appeals and construction commenced within 15 months of such date of approval. A site plan approved by the Planning Board conforming to all of the conditions and requirements established by the Zoning Board of Appeals shall be obtained within 12 months of the date of the approval by the Zoning Board of Appeals and construction commenced within 18 months of such date of approval.
- E. Violation of Conditions or Restrictions
- 1. Failure to comply with any condition or restriction prescribed by the Zoning Board of Appeals in approving any appeal for a variance or a modification of regulations shall constitute a violation.

Such violation may constitute the basis for revocation of a variance or modification or for imposing penalties and other applicable remedies.

## **§165-104 Variance and Appeals Procedure**

### A. Variance Procedure

1. The applicant may arrange an informal discussion with the Zoning Board of Appeals to determine any and all of the data to be included in the application.
2. All applications for variances shall be made to the Code Enforcement Officer (CEO) on forms provided by the CEO and shall be accompanied by plans and supporting documents to sufficiently describe the proposal. The Zoning Board of Appeals may request additional information it deems necessary in order to act on the application.
3. The CEO, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Zoning Board of Appeals for action thereon.
4. Any request for a use variance, or variances to parking or sign provisions, shall be referred to the Town Planning Board for its recommendations concurrent with the submission to the Zoning Board of Appeals. The Planning Board shall have 30 days from the receipt of said variance application to provide the Zoning Board of Appeals with an advisory opinion on the application. The Zoning Board of Appeals shall not act on the application until it receives an advisory opinion from the Planning Board, provided that such opinion is received within a period of 30 days of its receipt of an application.
5. A copy of the complete variance application and supporting documents shall also be transmitted to the Monroe County Department of Planning and Development for review when required either under Article 12-B, §§ 239-l and 239-m of the General Municipal Law, or § 283-a of the New York State Town Law.
6. Where an application for a use variance involves land lying within certain distances prescribed in § 283-a of Town Law, an agricultural data statement shall be prepared and proper notice thereof given to all affected property owners.
7. No action shall be taken by the Zoning Board of Appeals on a request for a variance until after public hearing and notice. The Board shall fix a reasonable time for the hearing of a request for a variance and shall give due notice of the time set for the hearing to the applicant. Public notice shall be established by the publication of a notice in the official newspaper of the Town in accord with the provisions of Town Law. Said notice shall briefly describe the nature of the appeal and the time and place of the hearing. In addition, the applicant shall, at least seven days prior to the date of the hearing, give notice in writing to all property owners within 500 feet of the property to be affected by said variance request or to all property owners of contiguous land or properties adjoining said property. Such notice shall be by certified mail, or shall be documented with a certificate of mailing provided by the post office.
8. In its review, the Zoning Board of Appeals may consult with any other Town, county and state officials or boards.
9. The Board shall approve, with or without conditions, or disapprove the application within 62 days of the close of the public hearing on said matter. The Board shall communicate its action, in writing, to the applicant, the Town Clerk, the CEO and other appropriate boards within five business days of the meeting at which it decided the application. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
10. The Town Clerk or CEO shall provide the Town Board with a monthly report of the actions taken by the Zoning Board of Appeals.

11. The CEO shall, upon receipt of the notice of approval and upon application by the applicant, issue the appropriate permit or such other approval permitting the variance, subject to all conditions imposed by such approval.
- B. Appeals Procedure
1. An appeal, specifying the grounds for the appeal, shall be filed with the officer, or body, from whom the appeal is taken and with the Zoning Board of Appeals. All appeals and applications shall be made to the Zoning Board of Appeals within 60 days of the date on which the order, requirement, decision or determination appealed from was rendered and shall be on forms prescribed by the Board.
  2. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town.
  3. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official.
  4. The officer from whom the appeal is taken shall, within 30 days of the filing of the appeal, transmit all papers constituting the record upon which the appeal is taken to the Zoning Board of Appeals.
  5. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal shall have been filed, that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In this case the proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record, on application, on notice to the officer from whom the appeal is taken and by showing due cause.
  6. If the Zoning Board of Appeals determines that a public hearing is necessary, the Zoning Board of Appeals shall fix a time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable length of time thereafter. At the time of the hearing, any party may appear in person, by agent or by attorney.
  7. The Zoning Board of Appeals shall render a decision on each appeal within 62 days of the close of the public hearing on said matter. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
  8. Any action by the Zoning Board of Appeals shall be stated in writing and communicated to the person bringing the appeal within five business days after the decision has been made.
- C. Use Variances
1. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.
  2. No such use variance shall be granted by the Zoning Board of Appeals without showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate the following to the Zoning Board of Appeals for each and every permitted use under the zoning regulations for the particular district in which the property is located:
    - i. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - ii. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - iii. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - iv. That the alleged hardship has not been self-created.

3. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- D. Area Variances
1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.
  2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
    - i. 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;
    - ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    - iii. Whether the requested area variance is substantial;
    - iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
    - v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  3. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- E. Imposition of Conditions
1. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, 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 consistent with the spirit and intent of this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

## §165-105 Planning Board

- A. Creation, Appointment and Organization of the Planning Board
  - 1. Pursuant to the provisions of the Town Law applicable thereto, the Town Board shall appoint a Planning Board consisting of the number of members and for the term of years set forth in § 271 of the Town Law.
  - 2. The Planning Board shall establish such rules and regulations as are required by law and the provisions herein for the transaction of its business, and may amend, modify and repeal the same from time to time.
- B. Powers and Duties of the Planning Board
  - 1. The Planning Board shall have the following powers and duties:
    - i. Said members are hereby vested with the powers and duties and made subject to the limitations set forth in Town Law, as the same may be amended, modified or changed from time to time, or any sections subsequently adopted pertaining to Planning Boards.
    - ii. To review and, from time to time, propose modifications to the Comprehensive Plan for consideration by the Town Board.
    - iii. To review development proposals, to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Town Board.
    - iv. To make investigations and reports relating to the planning and development of the Town, including changes in boundaries of districts, recommended changes in the provisions of this chapter, and to act on any matter lawfully referred to it by the Town Board.
    - v. To review, act on or provide advisory reports or applications as specified by this chapter.
    - vi. To review and approve, approve with modifications or disapprove site plans, prepared to specifications set forth in this chapter, showing the arrangement, layout and design of proposed uses, buildings and/or structures shown on such plan.
    - vii. To review and approve, approve with modifications or disapprove subdivisions showing lots, blocks or sites, with or without streets or highways in accordance with the provisions of this chapter and §§ 276, 277 and 278 of Town Law.
- C. Planning Board Office
  - 1. The office of the Town Clerk shall be the office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by the Town Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determinations, its examinations and other official actions.

## §165-106 Code Enforcement Officer

- A. The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Code Enforcement Officer (hereinafter referred to as CEO) who shall have such powers as are conferred upon him by this chapter. He shall be appointed by the Town Board and shall carry out any directives from the Board relative to the duties of the position set forth below. The CEO shall receive such compensation as the Town Board shall determine.
- B. Duties of the Code Enforcement Officer
  - 1. It shall be the duty of the CEO or any duly authorized assistants to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions

of this chapter. In the fulfillment of their duties, the CEO or any authorized assistants may enter any premises or building during reasonable hours in the course of their duties in accordance with state law after due written notice has been given.

2. If the CEO shall find that any of the provisions of this chapter are being violated, the officer shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering corrective action. In an effort to attain compliance, the CEO shall have the authority to order the discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or illegal additions, alterations or structural changes; stop work; or the discontinuance of any illegal work in process. On the serving of notice by the CEO to the owner of any property violating any of the provisions of this chapter, the certificate of occupancy or certificate of compliance, as appropriate, for such building or use shall be held null and void. New certificates of occupancy and/or compliance shall be required for any further use of such building or premises.
3. It shall be the duty of the CEO to issue permits and certificates to applicants who fully comply with the provisions of this chapter.
4. The CEO shall maintain a permanent and current record of all applications for permits and certificates, the CEO's action upon same, any conditions relating thereto, and any other matters considered and action taken by the CEO. Such records shall form a part of the records of the CEO's office and shall be available for use by Town officials and for inspection by the public. The records to be maintained shall include the following:
  - i. An individual permanent file for each application for a permit or certificate provided for by this chapter shall be established at the time the application is made. Said file shall contain one copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees and the like; as appropriate, one copy of any resolutions or actions of the Town Board, Planning Board or Zoning Board of Appeals in acting on the application; and the date the permit or certificate applied for was issued or denied.
  - ii. The CEO shall prepare a monthly report for the Town Board. Said report shall cite all actions taken by the CEO, including all referrals made; all permits and certificates issued and denied; all complaints of violation received and all violations found; and the action taken consequent thereon; and the time spent and mileage used. A copy of this monthly report shall also be transmitted by the CEO to the Tax Assessor, Planning Board and Zoning Board of Appeals at the same time it is transmitted to the Town Board.
5. Whenever the CEO denies a permit or certificate the CEO shall, in writing, inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.
6. The CEO shall maintain a current list and a map of nonconforming uses to determine if discontinuance or destruction, or change in use or vacancy, has taken place.
7. The CEO shall maintain a current list and a map showing the variances and special permitted use permits to determine if the conditions and safeguards placed on variances and special permitted use permits are being complied with.
8. Upon written direction from the Town Zoning Board of Appeals, the CEO shall issue special permitted use permits. Upon approval of a variance by the Zoning Board of Appeals, the CEO shall be empowered to issue the necessary permits with the specific conditions to be imposed.
9. The CEO shall be authorized and empowered to issue appearance tickets pursuant to § 150.20 of the New York State Criminal Procedure Law.



## §165-107 Issuance of Certificates and Permits

- A. The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this chapter. A zoning permit shall be a prerequisite for the erection or alteration of a building, structure or use thereof or for the change in the use of any land area or existing building. Permits issued pursuant to this section shall expire in 12 months. The CEO may grant an extension for time of completion and include any conditions or requirements deemed necessary or desirable. Applicants shall justify the need for the proposed extension. Unless such an extension is requested and approved, further work as described in the canceled permit shall not proceed until a new permit has been obtained. If a project is not initiated within six months of the issuance of the permit, the permit issued shall be considered null and void.
- B. Zoning permit.
1. The Code Enforcement Officer is hereby empowered under the procedures and requirements specified in Article 13 to issue a zoning permit for any plans regarding the construction or alteration or demolition of any building or part of any building, or the change in the use of any land area or part thereof, or for the change in use of any existing building, where he shall determine that such plans are not in violation of the provisions of this chapter.
  2. No development activities shall commence, nor shall any building or structure be erected, moved, added to or structurally altered or changed in use, nor shall any land area or part thereof be changed in use without a zoning permit therefor issued by the Code Enforcement Officer. No zoning permit shall be issued by the Code Enforcement Officer except in conformity with the provisions of this chapter, unless he receives a written order from the Zoning Board of Appeals in the form of an administrative review or variance as provided by this chapter.
- C. Special permitted use permit.
1. Upon written direction of the Zoning Board of Appeals, the Code Enforcement Officer is hereby empowered to issue a special permitted use permit as provided for by this chapter.
  2. Uses permitted by special permit shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in Article IV in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
  3. A special permitted use permit shall authorize only one particular special permitted use. The special permitted use permit shall expire if the use shall cease for more than one year for any reason.
  4. No person shall be issued a special permitted use permit for a property where there is an existing violation of this chapter.
  5. Before any special permitted use permit shall be issued, the Zoning Board of Appeals shall make written findings certifying compliance with the specific rules governing individual special permitted uses and that satisfactory provision and arrangement has been made relative to the following additional concerns:
    - i. Ingress and egress to the property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
    - ii. Off-street parking and loading areas where required, with particular attention to the items in Subsection C.5.i above, and the noise, glare or odor effects of the special permitted use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special permitted use.
    - iii. Refuse and service areas, with particular reference to the items in Subsection C.5.i-ii above.

- iv. Utilities as appropriate, with reference to locations, availability and compatibility.
  - v. Storm drainage, including potential impact on downstream properties.
  - vi. Screening and buffering, with reference to type, dimensions and character.
  - vii. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
  - viii. Required yards and other open space.
  - ix. General compatibility with adjacent properties and other properties in the zone district.
6. An original and seven copies of all applications for special permitted use permits shall be submitted to the Building Department on forms provided by the Building Department.
  7. The application shall include a site plan of the special permitted use and subject parcel drawn to scale which includes all of the data specified herein.
  8. The Code Enforcement Officer, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Zoning Board of Appeals for approval in accordance with the procedures specified below.
  9. The Code Enforcement Officer shall transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, § 239-m, of the General Municipal Law.
  10. Prior to taking action on an application for a special permitted use, the Zoning Board of Appeals shall conduct a public hearing on the proposed request. Said hearing shall be conducted within 62 days following the receipt of a complete application and supporting documents from the Code Enforcement Officer. Public notice of the hearing shall be established by the publication of a notice in the official newspaper of the Town in accord with the provisions of Town Law. Said notice shall briefly describe the nature of the application and the time and place of the hearing. In addition, the applicant shall, at least seven days prior to the date of the hearing, give notice in writing by certified mail to all property owners within 500 feet of the property to be affected by said application or to all property owners of contiguous land or properties adjoining said property.
  11. Within 62 days from the date of such public hearing, the Zoning Board of Appeals shall, by resolution, either approve, approve with conditions or disapprove the application so heard. The sixty-two-day period available to make a determination may be extended by mutual agreement of the applicant and the Zoning Board of Appeals.
  12. If the application was transmitted to the County Planning Board under Article 12-B, § 239-m, of the General Municipal Law, the Zoning Board of Appeals cannot act within the first 30 days following the referral of the application to the County Planning Board unless said Board provides a written reply to the Town within the thirty-day period.
  13. In approving an application, the Zoning Board of Appeals may impose any modifications or conditions it deems necessary to conform with the goals and objectives of the Town's Comprehensive Plan, and its principles of land use and development and to protect the health, safety or general welfare of the public.
  14. If an application is approved by the Zoning Board of Appeals, the Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Zoning Board of Appeals and he shall issue the permit applied for in accordance with the conditions imposed by the Board.
  15. If any application is disapproved by the Zoning Board of Appeals, the reasons for such denial shall be set forth in the Board resolution and a copy of such resolution shall be transmitted to the Code Enforcement Officer. The Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.

16. The Code Enforcement Officer shall inspect the premises of a use authorized and approved with a special permitted use permit not less than one time each calendar year. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the Zoning Board of Appeals in approving the permit. If the Code Enforcement Officer shall determine that the conditions are not in compliance with the permit, the Code Enforcement Officer shall nullify the special permitted use permit and set forth the procedures and requirements for reestablishing the use. The use may not be operated until a new application is submitted and approved.
- D. Temporary use permits.
1. Upon written direction of the Town Board, the CEO is hereby empowered to issue temporary use permits as specified herein.
  2. All temporary use permit(s) approved by the Town Board shall be in effect for a period of one year. Said permit(s) may be extended by the Town Board for additional periods not to exceed 12 months, and only if the applicant demonstrates that the use shall not continue indefinitely.
  3. In the event that a permanent residence is destroyed by fire or another means, a temporary use permit may be approved to enable the placement of a temporary residence on a lot in a residential district, provided that the owner of the property obtains a building permit to erect a dwelling unit on said lot in accordance with Town regulations.
  4. All fees associated with the granting or renewal of a temporary use permit shall be established in the manner provided for in §165-112 of this chapter.
- E. Certificates of compliance/occupancy
1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance or certificate of occupancy, as appropriate, has been issued by the Code Enforcement Officer stating that the proposed use of the building or land conforms to the requirements of this chapter.
  2. Failure to obtain either a certificate of occupancy or compliance shall be a violation of this chapter and punishable as provided for herein.
  3. Within seven days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the Code Enforcement Officer stating that such action has been completed in compliance with this chapter. The applicant shall provide the Code Enforcement Officer with suitable evidence to document compliance. This evidence shall be in the form of an instrument survey or comparable documentation. Within seven days of the receipt of this notification, the Code Enforcement Officer shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this chapter. If the Code Enforcement Officer determines that said building or use complies with the provisions herein, he shall issue a certificate of compliance. If it is determined that the provisions specified herein are not fully complied with, the Code Enforcement Officer shall specify the violations and the terms and conditions for remedying these violations. A certificate of compliance shall not be issued until such violations are corrected.
  4. No nonconforming building or use shall be maintained, renewed, changed or extended without a certificate of compliance having first been issued by the Code Enforcement Officer. The certificate of compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter.
- F. Temporary special events.
1. Purpose and intent. The purpose and intent of this subsection is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this subsection to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious,

unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, and the nature of the proposed use. Finally, it is the intent of this subsection to preserve the public health, safety and convenience.

2. The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these regulations, for one or more of the following types of activities:
    - i. Type 1: fund-raising or noncommercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
    - ii. Type 2: temporary banners attached to the wall of a building or placed across street rights-of-way.
    - iii. Type 3: promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
    - iv. Type 4: commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration.
    - v. Type 5: public events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades; or large private events such as film production. In addition, the temporary placement of a portable asphalt plant during construction work on any public road when such placement is not adjacent to said construction but will be placed within 1 and 1/4 miles of said construction.
  3. The term "special event" shall not include amusement enterprises or garage sales at an individual residence, transient merchants, or off-site promotional signs.
- G. Special events not requiring a permit.
1. Special events meeting the Type 1 definition are allowed without a special event permit, provided all of the following performance standards are met:
    - i. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
    - ii. Any structure used in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid zoning certificate, and shall be promptly removed upon cessation of the event.
    - iii. The special event shall be restricted to hours of operation between 6:00 a.m. and 10:00 p.m., to a maximum duration of four days, and to a maximum frequency for similar events of two times per calendar year.
- H. Special events subject to an administrative permit.
1. Special events meeting the following standards may be issued a special event permit administratively by the Code Enforcement Officer. In administering the provisions of this section, the Code Enforcement Officer shall be guided by applicable Town policies as adopted by the Town Board. Any applicant denied a special event permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Town Board.
  2. Special events meeting the Type 2 definition may be permitted administratively by the Code Enforcement Officer, provided that all of the following performance standards are met:
    - i. An application is made and a fee paid in accordance with this section.
    - ii. No more than one banner will be displayed when attached to the wall of a building.
    - iii. The size and design of the banners will be appropriate, given the size of the building to which they are attached and the character of the surrounding neighborhood.

- iv. The banner will be displayed for a maximum duration of 15 days per permit.
3. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of this section may be permitted administratively by the Code Enforcement Officer subject to the prior review and approval of special arrangements for traffic and crowd control, as appropriate, by the Sheriff, Fire Chief of the appropriate fire district, and Town Engineer. No such administrative permit shall be issued unless all of the following performance standards are met:
    - i. An application is made and a fee paid in accordance with this section.
    - ii. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
    - iii. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
    - iv. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
    - v. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
    - vi. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
    - vii. The special event shall be conducted on private property where the property owner has granted the appropriate permission.
    - viii. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed 10 days.
- I. Special events subject to Town Board approval.
    1. Any special event not meeting the criteria of Subsection G and H above may be granted a special event permit by the Town Board. Such permit may be subject to such conditions and safeguards as the Town Board may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:
      - i. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
      - ii. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to Town Board expectations.
      - iii. The provision of traffic control or security personnel to increase the public safety and convenience.
      - iv. Obtaining liability and personal injury insurance in such form and amount as the Town Board may find necessary to protect the safety and general welfare of the community.
- J. Application and fee.
    1. No special event permit shall be issued until an application has been submitted to the Code Enforcement Officer and the appropriate fee paid. The application shall be made on forms provided by the Code Enforcement Officer, and shall be accompanied by the following items as applicable:

- i. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs or attention-attracting devices used in conjunction with the event.
    - ii. A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
    - iii. A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
  2. Each application for a special event permit shall be accompanied by an application fee, except that such fee shall be waived for any applicant registered with the State of New York as a nonprofit organization. The fees shall be as established by the Town Board by separate resolution.
  3. The special event permit shall be posted on the site for the duration of the event.
- K. Administrative adjustment.
  1. Authority. The Building Inspector shall have authority to issue administrative adjustments, but only in accordance with the provisions of this section.
  2. Purpose. For purposes of this section, carrying out the strict letter of a provision of this chapter may cause a practical difficulty, and an administrative adjustment is permitted to alleviate these practical difficulties in cases where all reasonable attempts were made to comply with the setback requirements, but, because of errors made, the structure was located within the required setback. This procedure can only be applied to new structures that obtained building permits in accordance with state and Town regulations.
  3. Administrative adjustment standards. To approve an application for an administrative adjustment, the Building Inspector shall make an affirmative finding that the following standards are met:
    - i. The benefits to the applicant of the approval of the administrative adjustment outweigh any detriments to the health, safety and welfare of the neighborhood or community by such approval.
    - ii. There is no means other than the requested administrative adjustment by which the difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot or parcel.
- L. Procedures.
  1. Application. An application for an administrative adjustment shall include a brief description of the requirement to be varied and any other material necessary to ensure the criteria in this section.
  2. Action by Building Inspector. Within 45 days, the Building Inspector shall review the application and approve, approve with conditions or deny the application based upon the criteria below. A written decision including affirmative findings on the criteria set forth below shall be mailed to the applicant.
  3. Approval or denial. The Building Inspector shall have the authority to approve an administrative adjustment of up to one foot from any numerical standard set forth in this chapter. Any request greater than one foot shall be treated as a variance and reviewed by the Zoning Board of Appeals subject to the requirements of §165-103.
- M. Appeals.
  1. Appeal of a decision by the Building Inspector on an administrative adjustment shall be taken to the Zoning Board of Appeals within 60 days of the date of the Director of Zoning's decision in accordance with the procedures outlined in §165-103.

2. An appeal from any final decision of the Zoning Board of Appeals as to any matter regarding the administrative adjustment may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board or commission of the City in accordance with Article 78 of the New York Civil Practice Law and Rules.

### **§165-108 Application Details**

- A. Each application for a site plan review, temporary use or special permitted use shall be accompanied with a proposed site plan. All site plans submitted to the Town for review and approval shall be prepared by a licensed professional engineer, architect, land surveyor or landscape architect as per New York State Education Law. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building, and the appearance and function of the proposed use or building. The application shall include the following information and specify both "before" and "after" conditions:
  1. The location, design, dimensions, use and height of each proposed building and yard area.
  2. Property boundaries, as shown on an accurate map drawn to scale, including the precise location of the center line of the road, dimensions, North arrow and date.
  3. A general location map showing the location of the property in relation to adjacent parcels.
  4. The location and arrangement of vehicular accessways and the location, size and capacity of all areas to be used for off-street parking.
  5. Information to describe topography and natural grades.
  6. Provisions for water supply, sewage disposal electric and gas service, and storm drainage.
  7. The location of fire hydrants.
  8. The location and design of outdoor lighting facilities.
  9. The location and design of construction materials of all proposed signs.
  10. The location and capacity of all areas to be used for loading and unloading and the distance to the nearest intersection.
  11. The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.
  12. The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.
  13. The location of fire and other emergency zones.
  14. Other elements integral to the proposed development as considered necessary by the Code Enforcement Officer, Town Engineer or Planning Board, including a property survey, any and all requirements to comply with the State Environmental Quality Review (SEQR) procedures, other community impacts and the identification of any state or county permits required for the execution of the project.

### **§165-109 Nonconforming Uses**

- A. Continuance
  1. Except as otherwise provided in this article, the lawful use of land or buildings existing at the date of the adoption or amendment of this chapter may be continued, although such use or building does not conform to the regulations specified by this chapter for the zone district in which such land or building is located. The provisions in this section, however, apply to all nonconforming uses.



2. A nonconforming lot shall not be further reduced in size.
  3. A nonconforming building shall not be enlarged, extended or increased, unless such enlargement would tend to reduce the degree of nonconformance.
  4. A nonconforming use shall not be expanded, except as may be authorized by §165-109 C of this article.
  5. A nonconforming use existing at the date of adoption of this chapter may not be changed to another nonconforming use.
  6. A nonconforming use may be changed into a conforming use. When a nonconforming use is changed to conform to the requirements of this chapter, the use of the building or tract of land shall not be changed again, except in accordance with these regulations.
- B. Certification of nonconformance
1. After the effective date of this chapter, upon the written request of the user of any structure or premises, or at the instance of the Code Enforcement Officer (CEO), an examination by the CEO of any existing use shall be made. A report of the findings made upon such examination shall thereafter be filed with the Zoning Board of Appeals, together with a certificate of existing nonconforming use, which shall clearly describe the premises and structure, if any, referred to, and shall specify the nature and extent of such existing use. Such certificate shall be prepared in triplicate, one copy of which shall be maintained by the CEO, one copy of which shall be furnished to the Zoning Board of Appeals and one copy to be furnished to the owner or user.
- C. Expansion of nonconforming uses and/or structures
1. A nonconforming use and/or structure shall not be expanded, except in conformance with the procedures and regulations specified in this section. In no case shall such expansion extend beyond the lot occupied by such nonconforming use or structure. The expansion of a nonconforming use or structure hereunder shall be subject to approval by the Zoning Board of Appeals and each case shall be considered on an individual basis. Application forms for the expansion of a nonconforming use and/or structure shall be obtained from the CEO. The CEO shall issue a permit to allow the expansion of a preexisting nonconforming use and/or structure only upon written authorization of the Zoning Board of Appeals. The Zoning Board of Appeals, in considering such special requests, shall, at a minimum, address the following potential concerns:
    - i. The location and size of the nonconforming use and/or structure, the nature and intensity of the operations involved in or conducted in connection with it, the size and site in relation to it, and the location of the site in relation to it, and the location of the site with respect to streets providing access thereto. Conditions shall be in place such that the expansion will not be inconsistent with the orderly development of the district in which the use is located.
    - ii. Screening or other protective measures shall be adequate to protect any adjacent properties from objectionable aspects of any such expansion of the nonconforming use.
    - iii. Off-street parking areas shall be of adequate size for the particular use, and access drives shall be laid out so as to achieve maximum safety and minimum inconvenience to adjacent properties.
    - iv. The Zoning Board of Appeals may prescribe any condition that it deems necessary or desirable to aid it in making a determination on the application and to protect the interests of the community and adjacent properties.
  2. Standards applicable to authorizing the expansion of a nonconforming use and/or structure
    - i. The location and size of the nonconforming use and/or structure, the nature and intensity of the operations involved in or conducted in connection with it, the size and site in relation to it, and the location of the site in relation to it, and the location of the site with respect to streets providing access thereto. Conditions shall be in place such that the expansion will not be inconsistent with the orderly development of the district in which the use is located.
    - ii. Screening or other protective measures shall be adequate to protect any adjacent properties from objectionable aspects of any such expansion of the nonconforming use.
    - iii. Off-street parking areas shall be of adequate size for the particular use, and access drives shall be laid out so as to achieve maximum safety and minimum inconvenience to adjacent properties.
    - iv. The Zoning Board of Appeals may prescribe any condition that it deems necessary or desirable to aid it in making a determination on the application and to protect the interests of the community and adjacent properties.
  3. Public Hearing
    - i. Before authorizing the expansion of a nonconforming use and/or structure, the Zoning Board of Appeals shall give public notice and hold a public hearing on the application in the same manner as required by law for amendments to this chapter.



- ii. Prior to such public hearing, the application shall be referred to the Town Planning Board for report and recommendation. The Planning Board shall have 30 days after said referral to state its position relative to the proposed application. The Zoning Board of Appeals shall hold such public hearing at the earliest possible date following the thirty-day referral period and may take action on the proposal as it deems appropriate.
  - 4. Limitations
    - i. An authorization to permit the expansion of a nonconforming use and/or structure shall be deemed to authorize only the particular use or structure specified in the application and shall apply only to the area specified in the permit. A permit authorizing an expansion under this section shall expire within six months from the date of issuance if the nonconforming use and/or structure is not expanded or enlarged.
- D. Abandonment
1. In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this chapter. If actual abandonment, in fact, is evidenced by the CEO in the form of removal of buildings, structures, machinery, equipment and other evidences of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed as of the date observed and all rights to reestablish or continue such nonconforming use shall thereupon terminate. The CEO shall prepare written notice of such abandonment and file copies with the Zoning Board of Appeals, the Town Clerk and the property owner(s).
- E. Restoration
1. Any building damaged by fire or other unintentional causes may be repaired or rebuilt at its same location and setback prior to being damaged. In no case, however, shall any new construction increase the degree of nonconformance. The failure to exercise any nonconforming use, including the failure to rebuild or repair a building containing a nonconforming use which shall be wholly or partially destroyed by fire or other casualty, for a period of one year, shall terminate the right to such nonconforming use and shall automatically revoke any permit issued hereunder.
  2. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall or roof which has been declared unsafe by the CEO.
  3. Normal maintenance repairs and incidental alteration of a building or other structure containing a nonconforming use shall be permitted, provided that it does not extend the area or volume of space occupied by the nonconforming use.
  4. Any building which is nonconforming due to insufficient yard distances or lot area shall not be considered a nonconforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this chapter.
  5. Any structure damaged by fire or other natural disaster shall require a new zoning permit before any reconstruction is started. A new certificate of compliance shall also be required.
  6. Any structure partially destroyed by fire or other natural disaster shall be rebuilt in accordance with this chapter and the following additional provisions:
    - i. Any structural damage resulting from a fire, including but not limited to size of building, bearing walls, entranceways and building materials, shall require a new building permit and said reconstruction shall meet or exceed the requirements of applicable codes and the provisions of this chapter.
- F. District Changes

1. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein or created thereby.
- G. Construction Approval Prior to Adoption of Chapter
1. Nothing herein contained shall require any change in plans, construction or designated use of a building or site complying with existing laws, a permit for which had been duly granted before the date of adoption of this chapter or any applicable amendment thereto.

## **§165-110 Incentive Zoning**

- A. Purpose. The purpose of these provisions is to offer incentives to applicants who provide amenities that assist the Town in achieving specific physical, cultural and social policies described in the Town of Parma Comprehensive Plan and as may be further supplemented by local laws and ordinances adopted by the Town Board.
- B. Districts designated for incentives. Land within any zone district may be eligible for zoning incentives. Incentives may be offered to applicants who offer an acceptable amenity to the Town in exchange for the incentive.
- C. Amenities for which incentives may be offered.
1. The following amenities may be either on or off the site of the subject application:
    - i. Preservation, to the greatest extent possible, of viable agricultural land for farm operations.
    - ii. Passive and active open space and related improvements.
    - iii. Road and/or utility improvements.
    - iv. Cultural or historic facilities.
    - v. Provision of senior citizen or "elderly" housing facilities, provided that such uses shall be located in areas which are zoned as RR Rural Residential, NR Neighborhood Residential or MR Multifamily Residential.
    - vi. Other amenities to residents of the Town which help to implement specific physical, cultural and social policies in the Comprehensive Plan.
    - vii. Cash in lieu of any amenity(ies).
- D. These amenities shall be in addition to any mandated requirements pursuant to other provisions of Chapter 130, Subdivision of Land, and this chapter.
- E. Incentives permitted. The following incentives may be granted by the Town Board to the applicant on a specific site:
1. Changes in residential/nonresidential unit density.
  2. Changes in lot coverage.
  3. Changes in setbacks or height.
  4. Changes in floor area.
  5. Other changes to specific regulations set forth in Chapter 130, Subdivision of Land, and this chapter.
- F. Applications for incentives in exchange for amenities shall be submitted to the Town Board. In order for the Town to evaluate the adequacy of amenities proposed in exchange for the incentive requested, the applicant shall provide the following information:
1. The proposed amenity.
  2. The cash value of the proposed amenity.

3. A narrative which:
    - i. Describes the benefits to be provided to the community by the proposed amenity.
    - ii. Indicates that there are adequate sewage disposal, drainage, water, transportation, trash disposal and fire protection facilities in the zoning district in which the proposal is located to accommodate the demands generated by the incentive and amenity which are beyond the demands that would be placed on the existing facilities if the district were developed to its fullest potential.
    - iii. Explains how the amenity helps implement the physical, social or cultural policies of the Town of Parma Comprehensive Plan and as may be supplemented by local laws and ordinances adopted by the Town Board.
  4. The requested incentive.
- G. The Town Board shall review the proposal and inform the applicant as to whether or not the proposal is worthy of further consideration. If it is deemed worthy of further consideration, the applicant may then submit two sketch plans to the Planning Board in accord with the following procedures and requirements:
1. The first sketch plan.
    - i. The first sketch plan shall show how the site will be developed, with the amenity, if it is on-site, and the incentive. In addition to meeting the requirements of Chapter 130, Subdivision of Land, and this chapter, the sketch plan shall also show existing development, property owners' names and tax account numbers for all properties within 500 feet of the property lines of the proposed project or such other distance as specified by the Town Board.
    - ii. If the incentive will result in an increase in the height of a structure, the applicant shall submit an elevation drawing, at a scale of 1/4 inch equals one foot, which shows the height permitted by district regulations, the proposed additional height, the distance to other principal structures on-site and on adjacent properties and their heights, as well as the locations of all property lines.
    - iii. If the incentive will result in a reduction of the setback requirement, the drawing shall show this reduction in relation to the principal structures on-site and on adjacent properties, as well as the locations of all property lines.
    - iv. If the incentive will result in a change to the floor area requirements, the drawing shall note the change in relation to each site.
  2. The second sketch plan shall show existing development, the names of property owners and tax account numbers for all properties within 500 feet of the property line of the project site or such other distances as specified by the Town Board. This sketch plan shall show how the site would be developed exclusive of any amenity or incentive.
  3. The applicant shall also submit such additional information and plans as may be required by the Planning Board which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.
- H. The Planning Board shall review the proposal and report to the Town Board with its evaluation of the adequacy with which the amenity(ies)/incentive(s) fit the site and how they relate to adjacent uses and structures. The Planning Board's review shall be limited to the planning design and layout considerations involved with project review or such other issues as may be specifically requested by the Town Board. The Planning Board's report shall be submitted to the Town Board within 70 days from the date of the Planning Board meeting at which the proposal is first placed on the agenda. This time period may be extended/suspended for good cause by the Town Board.
- I. The Town Board shall review the Planning Board's report and notify the applicant as to whether it is willing to further consider the proposal. All requests submitted subject to the incentive provisions of this chapter shall require a public hearing by the Town Board. The Town Clerk shall give notice of all

- public hearings on incentive zoning requests in the official newspaper of the Town at least five days prior to the date of the hearing.
- J. All applicable requirements of the State Environmental Quality Review (SEQR) Act shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of an environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has sufficient sewage disposal, water, transportation, waste disposal and fire protection facilities to:
    1. Serve the remaining vacant land in the district as though it were developed to its fullest potential under the district regulations in effect at the time of the amenity/incentive proposal; and
    2. Serve the on-site amenity and incentive, given the development scenario in J.1 above.
  - K. Following the hearing and in addition to compliance with all SEQR requirements, the Town Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to the Planning Board and other Town boards and officials for review and comment. In order to approve an amenity/incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. Thereafter, the Planning Board is authorized to act on an application for preliminary approval pursuant to Chapter 130, Subdivision of Land, and this chapter.
  - L. Following preliminary plan approval and subject to meeting all conditions established in conjunction with the approval of the preliminary plan, including all documentation required by the Town Attorney and Town Board on the amenity, the applicant may submit a final plan for review and approval.
  - M. Upon final plan approval, the Town Clerk shall affix a reference to the Official Zoning Map that this site was developed under the Town's incentive zoning provisions and include a reference to the date such action was taken.
  - N. Cash payment in lieu of amenity. If the Town Board finds that an on-site amenity is not suitable or cannot be reasonably provided, the Town Board may require a cash payment in lieu of the provision of the amenity. These funds shall be placed in a trust fund to be used by the Town Board exclusively for specific amenities to be described prior to the acceptance of funds. Cash payments shall be made prior to the issuance of a building permit. Cash payments in lieu of amenities are not to be used to pay general and ordinary Town expenses.

## **§165-111 Violations and Penalties**

- A. Any person, corporation or other entity who violates the provisions of this chapter shall be guilty of a violation of the Town Code and shall be subject to a civil penalty of a fine not to exceed \$250. Each day of continued violation shall constitute a separate offense which shall also be subject to a fine not to exceed \$250.
- B. In case of any new violation or any of the provisions of this chapter or conditions imposed by the Town Board, Planning Board or Zoning Board of Appeals in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises

## §165-112 Fees and Reimbursable Costs

### A. Application Fees

1. Each application for a permit provided for by this chapter, or for an action requiring Town approval, including but not limited to inspection of project improvements, shall be accompanied by a fee, payable in cash or other form of security approved by the Town Attorney. Fees shall be established annually by resolution of the Town Board.

### B. Fees for Recreation Purposes

1. In accordance with the authority of New York Town Law § 277, Subdivision 4, the Town Board shall establish a fee for recreation purposes. Said fee is to be imposed and collected subsequent to the adoption of this chapter with respect to any dwelling unit that is built upon land shown on an approved plat. Said fee shall be authorized by the Planning Board if the Board determines that a suitable park or playground of adequate size cannot be properly located in such plat or is otherwise not practical. Such fee shall only be imposed once with respect to each dwelling unit and shall be collected at the time that the initial permit application is filed with respect to each dwelling unit. The moneys collected are to be deposited in a Town park fund. The use of these funds shall be determined by resolution of the Town Board.

## ARTICLE X. Definitions

### §165-113 Word Usage

- A. For the purpose of this chapter, certain words and terms used herein shall be defined within this section and shall be used as directed in this article.
- B. All words used in the present tense include the future tense.
- C. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- D. Unless otherwise specified, all distances shall be measured horizontally.
- E. The word "building" includes the word "structure."
- F. "Lot" includes the words "plot," "parcel," "tract" or "site."
- G. The word "premises" includes a lot and all buildings or structures thereon.
- H. To "erect," "to construct" and "to build" a building or structure each have the same meaning and also include "to excavate" for a building and "to relocate" a building by moving it from one location to another.
- I. "Used" shall be deemed also to include "designated, intended or arranged to be used or occupied."
- J. "Shall" is mandatory and not discretionary; "may" is discretionary and not mandatory.
- K. "He" shall include the feminine gender "she" as well.

### §165-114 Definitions

#### ABANDONED

A dwelling, motor vehicle, household or business appliance or equipment, including parts thereof, if left unattended in a wholly or partially dismantled condition and not capable of being used, or licensed or permitted for its intended purpose, without substantial repairs.<sup>[a]</sup>

#### ACCESSORY APARTMENT

A self-contained dwelling unit which is attached to a single-unit home. Accessory apartments may be no larger than 650 square feet.

#### ACCESSORY BUILDING OR STRUCTURE

The term applied to a building which:

1. Is customarily incidental and subordinate to and serves a principal building;
2. Is subordinate in area, extent and purpose to the principal building served;
3. Contributes to the comfort, convenience or necessity of occupants of the principal building use; and
4. Is located on the same parcel as the principal building.

**ACCESSORY USE**

A use incidental and subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building. In residential zones accessory use is limited to the occupant of the premises.

**ACTION**

Any project or physical activity, such as construction or other activity that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that requires a permit or approval from any board or official of the Town of Parma.

**ADULT BOOKSTORE**

A business enterprise, whether retail or wholesale, having more than 5% of its net floor space set aside or more than 5% of the value of its stock in trade allocated to recordings, books, magazines, pamphlets, pictures, drawings, photographs, periodicals, films, video tapes/cassettes or other viewing materials for sale or viewing on or off the premises, which are distinguished or characterized by their emphasis on matters depicting or describing human males and/or females in full or partial nudity, including but not limited to displaying male or female genitals, pubic areas or buttocks, with less than a full opaque covering or related to sexual activities.

**ADULT CABARET**

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

Persons who appear in a state of nudity; or

Live performances which are characterized by the exposure of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or which are characterized by performers that carry out or simulate sexual activities; or

Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or which are characterized by performers that carry out or simulate sexual activities.

**ADULT-CARE FACILITY**

A facility which is authorized in accordance with the rules and regulations of the New York State Department of Social Services to provide residential services, supervision and care to adults who do not require continual medical or nursing care from a hospital, health-related facility or nursing home, but who, by reason of limitations associated with age, physical or mental disabilities or other factors, may not be able to live independently.

**ADULT ENTERTAINMENT ESTABLISHMENT**

Any business enterprise having as more than 5% of its net floor space set aside for the presentation of live shows, motion-picture films or sound recordings, or similar visual or audio material, which are characterized by their emphasis on the description or depiction of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or specified sexual activities; or any business enterprise at which entertainers or waiters and waitresses appear in a state of nudity or display male or female genitals, pubic areas or

buttocks; or any business enterprise that offers services requiring the client or customer to appear in a state of nudity or to display male or female genitals, pubic areas or buttocks, except medical and health service establishments.

#### **ADULT MOTION-PICTURE THEATER**

An enclosed structure, or portion thereof, used for presenting materials distinguished or characterized by an emphasis on matters depicting, describing or relating to human male or female nudity or depicting human male or female genitals, pubic areas or buttocks, for observation by patrons.

#### **ADULT THEATER**

A theater, concert hall, auditorium or similar establishment which features persons who appear in a state of nudity or provide live performances which are characterized by the exposure of human male or female genitals, pubic areas or buttocks by performers or performers that carry out or simulate sexual activities.

#### **AGRICULTURAL ADVISORY COMMITTEE**

The Committee appointed by the Town Board to advise the Town on matters that impact on agriculture within the Town.

#### **AGRICULTURAL OR FARMING ACTIVITIES**

The use of the land for agricultural purposes, including but not limited to: dairying, field cash crops, pasturage, fruit and vegetable farms, nurseries, animal and poultry husbandry, and the necessary accessory uses for storage; provided, however, that the operation of any such accessory use shall be incidental to that of the principal agricultural activities.

#### **AIRSTRIP**

Any area of land designed for the operation of general aviation aircraft, including hangars for storage and servicing, taxiways, landing strips and accessory uses.

#### **AIRSTRIP, PRIVATE**

An airstrip, as defined above, used solely for the benefit of the landowner and for emergency landing when necessary.



**ALLEY**

A public or private way not more than 40 feet wide affording only secondary means of access to abutting property.

**ALTERATIONS**

As applied to a building or structure:

The change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities;

An enlargement of a building or structure, whether by extending on a side or by increasing in height;

The moving from one location or position to another; and

Any alteration whereby a structure is adapted to another or different use, including any separation into rooms or spaces by the installation of nonbearing partitions.

**ANIMAL CARE ESTABLISHMENT**

Any facility maintained for the treatment, care, grooming, or boarding of domestic animals. This includes kennels, animal hospitals, animal shelters and other similar uses which are further defined herein.

**ANIMAL HOSPITAL OR VETERINARY CARE**

Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal disease and injury wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

**ANTENNA**

A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, personal communication service (PSC) and microwave communications

**APARTMENT**

A dwelling unit that is intended to be leased or rented. This term shall not be deemed to include a motel, hotel, boardinghouse or travel trailer.

**APARTMENT BUILDING**

A building arranged, intended or designed to provide three or more dwelling units independent of each other, but having common hallways and entrances.

**APPEAL**

A request for a review of the Code Enforcement Officer's interpretation of any provision of this chapter or a request for a variance.

**AREA**

The extent of horizontal surface contained within the boundaries or extremities of land or building. Also see "lot area."

**AREA OF SHALLOW FLOODING**

A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**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, A1-30, Agg, 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. This term is also currently known and referred to as the "one-hundred-year flood."

**BASEMENT**

The space of a building that is partly below grade, which has more than half of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building. For purposes of defining a basement, as further required under the National Flood Insurance Program (NFIP), the term shall mean that portion of a building having its floor subgrade (below ground level) on all sides. In addition to the above, a crawlspace that exists (or is proposed) below subgrade on all sides is also considered to be a basement under the NFIP.

**BED-AND-BREAKFAST (B&B)**

A single-family dwelling occupied and used by the owner of such dwelling as his principal residence and within such dwelling unit there are accessory guest rooms provided for compensation wherein a morning meal to not more than 10 lodgers is provided and 5 bedrooms are provided for such lodgers.

**BLOCK**

The length of a street between two intersections.

**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 AREA**

A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms, and designed to provide a physical screen preventing visual access from one use to another and to reduce the escape and/or intrusion of litter, fumes, dust, noise or other noxious or objectionable elements.

**BUILDING**

A structure with a roof supported by columns, walls, trees or inflated air, or a roof supported by any other means and having a horizontal area of more than 50 feet that is intended for the shelter, housing or enclosure of persons, animals or property.

**BUILDING COVERAGE, PERCENT OF**

The percent of building coverage of any lot shall be equal to 100 times the ratio of the gross horizontal area of all principal and accessory buildings that have roofs on them (including covered breezeways, covered porches, covered cantilevered structures, etc.) measured from the exterior faces of the exterior walls but shall not include any structure (such as a patio or deck) that does not have a roof, divided by the horizontal area of the lot.

**BUILDING GROUP**

Any building, such as a store group, which is divided into separate parts by one or more unpierced walls, extending from the ground up.

**BUILDING HEIGHT**

The vertical dimension measured from the average elevation of the finished grade level, touching the exterior walls of the building, to the height of a pitched, gabled, hip or gambrel roof, excluding bulkheads and other roof construction.

**BUILDING LINE**

A line formed by the intersection of a horizontal plane at an average grade level and a vertical plane that coincides with the exterior surface of the building or a projected roof or porch. The vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two feet in width. All yard and setback requirements are measured to the building lines.

**BUILDING PERMIT**

A written permit issued by the Code Enforcement Officer documenting compliance with the Uniform Code.

**BUILDING, PRINCIPAL**

A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUSINESS**

Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes offices, recreational and amusement enterprises and any operation where the above-described activities are conducted in return for remuneration of any type. For the purpose of this chapter, "business" shall have the same meaning as commercial, and reference to commercial districts or zones shall be interpreted as referring to business districts.

**CAMPING GROUND**

A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, A-frames and the motor vehicles propelling or carrying the same, but excluding mobile homes, A-frames or other structures designed for year-around occupancy or as a place of residence.

**CANTILEVER**

The free part of a horizontal member of a structure projecting beyond a support.

**CAR WASH**

A structure or building designed for the washing, waxing or similar treatment of automotive vehicles as its principal function. A filling station having portable washing equipment shall not be deemed to be a car wash where such is an accessory service to the principal service of the filling station.

**CELLAR**

That portion of a building that is partially or entirely below grade and has more than 1/2 of its height (measured from floor to ceiling) located below the average finished grade of the ground adjoining the building.

**CERTIFICATE OF COMPLIANCE**

A certificate issued by the Code Enforcement Officer upon completion of a change in use of an existing building or upon the completion of a project that requires a building permit. Said certificate shall acknowledge compliance with all requirements of the Town's Code, local laws, variances and special permits in existence as of the date of the issuance of the certificate of compliance and applicable New York State codes.

**CERTIFICATE OF OCCUPANCY**

A certificate issued by the Code Enforcement Officer upon completion of construction or alteration of a building. Said certificate shall acknowledge compliance with all of the requirements of the Uniform Code.

**CLEAR SIGHT TRIANGLE**

An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street right-of-way lines.

**CLUSTER DEVELOPMENT**

A development of residential lots, some of which may contain less area than the minimum lot area required for the zone within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

**COASTAL HIGH-HAZARD AREA**

An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-30, VE, VO or V.

**CODE ENFORCEMENT OFFICER**

Any official designated by the Town Board of the Town of Parma to enforce the provisions of this chapter. Such official shall also be designated to enforce the provisions of other local laws.

**COMMON AREA**

Space reserved for use by any and all residents of a housing development, including but not limited to halls, stairways and landings in apartment houses.

**COMMUNICATION TOWER**

See "tower."

**CONDOMINIUM**

An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. The owner has title to the interior individual dwelling and a shared interest in the common elements.

**CORNER LOT**

A piece of property that abuts two intersecting roads, or proposed road.

**COUNTY PLANNING BOARD**

The Planning Board of the County of Monroe.

**COUNTY PLANNING DEPARTMENT**

The Monroe County Department of Planning and Development, the County Planning Agency identified under §§ 239-l, 239-m and 239-n of the General Municipal Law, for Monroe County.

**CUL-DE-SAC**

A minor street intersecting another street at one end and terminated at the other end by a circular vehicular turnaround.

**CURB LEVEL**

The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line. Where a building is on a corner lot, the curb level is the average of the mean levels of the curb on the two intersecting streets. Where no such grade has been established, the Superintendent of Highways shall establish same.

**DAY-CARE CENTER**

A facility duly permitted by the New York State Department of Social Welfare, for the care of either six or more children, or six or more adults, for less than 24 hours a day on a regular basis.

**DEDICATION**

The deliberate appropriation of land by its owner for any general public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public use to which the property has been devoted.

**DEPARTMENT OF HEALTH**

The New York State Department of Health and any other health board or department established pursuant to the laws of the State of New York or Monroe County and having authority for the regulation of matters pertaining to the public health of the Town.

**DEVELOPMENT**

Any storage of equipment and materials, or man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations.

**DISTRICT**

A portion of the territory of the Town of Parma within which certain uniform regulations and requirements, or various combinations thereof, shall apply under this chapter and other Town of Parma local laws or regulations.

**DOCK**

A structure designed to provide access from the shore to a water body for swimming, boating or other recreational use.

**DRIVE-THROUGH FACILITY**

A facility providing service or delivery of goods to persons in a vehicle, the vehicle being driven to a position designed to provide that service or goods from inside a building.

**DRIVEWAY**

A roadway providing a means of access from a street to a property or off-street parking area. An accessway may also be deemed a driveway.

**DWELLING**

A building or portion thereof designed or used as the living quarters for one or more families or for individuals. The term "dwelling" shall not be deemed to include a motel, hotel, boardinghouse or recreational vehicle. See also "building" and "structure."

**DWELLING, MANUFACTURED**

A factory-built residential dwelling unit designed to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations and placement on a permanent foundation and connections to utilities. Manufactured housing built after June 15, 1976, shall meet the National Manufactured Home Construction and Safety Standards as set forth by the United States Department of Housing and Urban Development and applicable New York State codes. A recreational vehicle shall not be considered as a manufactured dwelling, nor may be it used as such.

**DWELLING, MULTIFAMILY OR MULTI-UNIT**

A residential building designed for, or occupied by, three or more families living independently of each other with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-UNIT**

A detached residential dwelling unit designed for and occupied exclusively by one or more persons living as a single nonprofit housekeeping unit.

**DWELLING, TWO-UNIT**

A detached residential building, containing two dwelling units, designed and used for occupancy by two families living independently of each other as nonprofit housekeeping units. A duplex is a two-family dwelling which is designed with a common wall.

**DWELLING UNIT**

A building or portion thereof providing complete living facilities and used for occupancy by a single family or persons living as a single nonprofit housekeeping unit.

**EASEMENT**

A specified (limited) use of private land for a public or quasi-public purpose.

**ELEVATED BUILDING**

A nonbasement building; built, in the case of a building in Zones A1-30, AE, A, Agg, AO, AH, B, C, X or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, Agg, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**ENVIRONMENTAL ASSESSMENT FORM (EAF)**

The form required by Town agencies to assess the potential environmental impacts of a proposed action and to determine the environmental significance of a proposal.

**ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance by public utilities, or any government department or commission, of underground or overhead gas, electrical, telecommunications or water transmission and/or distribution systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or to the public health or safety or general facilities or sites for the disposal of waste materials associated with the provision of such services. Maintenance facilities, including storage yards and buildings, associated with the operation of essential services are also included within the definition of this term.



**EXCAVATION**

The process of the removal or stockpiling of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means.

**EXCAVATION SITE**

A parcel of land used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial or commercial operation. See also "mining permit."

**FAÇADE**

An exterior wall of a building that is adjacent to or fronts on a public street, park, or plaza.

**FAMILY**

One or more persons, whether related or not by birth, blood, marriage or adoption, living together as a single nonprofit housekeeping unit in a dwelling unit.

**FARM**

Any parcel containing at least five acres of land which is used for agricultural or farming activities. It includes necessary farm structures and the storage of equipment used.

**FARM BUILDING**

Any building used for the housing of agricultural equipment, produce, livestock or poultry or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with and necessary to the operation of the farm.

**FARMER'S MARKET**

Any building, structure or place, the property of a municipal corporation or under lease to or in possession of a public or private agency, used or intended to be used by two or more producers for the direct sale of farm and food products from producers to consumers and food buyers. Such market may also include facilities for the packing, shipping, first-instance processing or storage of farm and food products, and shall include all equipment used or intended to be used in connection with such facilities. Such market may also include other businesses which reasonably serve the public or make the market more convenient, efficient, profitable or successful, including, but not limited to, food service, baking, and non-food retailing.

**FARM STAND**

See "roadside stand."

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

The federal agency that administers the National Flood Insurance Program.

**FENCE**

A structure of wood, masonry, wire mesh or other material, which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

**FILLING STATION**

A building or lot or part thereof supplying and selling gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks. A filling station may include accessory facilities for rendering service for motor vehicles, such as lubricating, washing and minor repairs.

**FINISHED GRADE LEVEL**

The level where the finished grade of the ground intersects the foundation walls. Height measurements shall be based from the average elevation of the finished grade level, along the wall to which the setback applies.

**FLEA MARKET**

The sale of goods or services by one or more vendors on a site and primarily out-of-doors but from within stalls, booths or other specified sales locations. The term as defined excludes yard sales and garage sales at a private residence.

**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 ELEVATION STUDY**

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**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 designated as Zone A but no flood elevations are 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**

See "flood elevation study."

**FLOOD or FLOODING**

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

The overflow of inland or tidal waters.

The unusual and rapid accumulation or runoff of surface waters from any source.

The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) above.

**FLOODPLAIN or FLOOD-PRONE AREA**

Any land area susceptible to being inundated by water from any source. (See definition of "flooding.")

**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., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

**FLOOR AREA**

For the purposes of applying the requirements for off-street parking and loading, "floor area," in the case of offices, merchandising or service types of uses, shall mean the floor area used or intended to be used by tenants or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for the display or sale of merchandise. It shall not include areas used principally for nonpublic purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incidental to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting rooms or alteration rooms.

**FLOOR AREA, GROSS**

The sum of the gross horizontal areas of all of the floors of a building or buildings, measured from the outside faces of exterior walls or from the center line of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, gross floor area shall not include areas used principally for nonpublic purposes such as storage, rest rooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

**FLOOR AREA, HABITABLE**

The horizontal area of any floor of a building designed and intended for living purposes, which includes working, sleeping, eating, cooking or recreation or combination thereof. A floor used only for storage purposes is not a habitable floor. All dimensions shall be measured from the exterior faces of exterior walls or from the center line of the base of walls separating two dwelling units.

**FOOT CANDLE**

A measure of illumination on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

**GARAGE, PRIVATE**

An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot on which it is erected, with no provision for repairing or servicing such vehicles for profit.

**GARAGE SALE**

The periodic sale on a residential lot of household items or other tangible personal property which is advertised to the public at large. Also known as yard, household, or tag sale.

**GLARE**

The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

**GROUND FLOOR AREA**

The maximum horizontal area of a building at the ground level. The minimum ground floor area refers to the principal residence within the exterior limits of the principal foundation walls, excluding all accessory buildings, private garages, porches, patios or other accessory structures.<sup>[3]</sup>

**HIGHEST ADJACENT GRADE**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE**

Any structure that is:

Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

By an approved state program as determined by the Secretary of the Interior; or

Directly by the Secretary of the Interior in states without approved programs.

### **HOME BUSINESS**

An accessory use conducted within a single-family, occupied dwelling or an attached or detached accessory structure for gainful employment involving the manufacture, provision or sale of goods and services principally on the premises, and which is not included within the definition of "home occupation."

### **HOME OCCUPATION**

Any occupation or profession, including family home day care, conducted entirely within a dwelling or a building accessory to the dwelling by the inhabitants thereof, and not more than one nonresident, which is clearly incidental and secondary to the use of the dwelling for residential purposes, does not change the character thereof. Except for family home day care, a home occupation for the purpose of these regulations shall not involve client or customer visits to the home.

### **HOTEL**

See "motel."

**INTERIOR WALK**

A right-of-way for pedestrian use extending from a street into a block or across a block to another street.

**JUNK**

Includes scrap metals and their alloys, bones, used materials and products, such as rags and cloth, rubber, rope, tinfoil, bottles, plastic, old tools and machinery, motor vehicles or other motorized vehicles and their parts, fixtures and appliances, lumber, boxes or crates, pipe and pipe fittings, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

**JUNKYARD**

A lot, land or structure, or part thereof, where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including: motor vehicles or other motorized vehicles and their parts; machinery, wrecking or dismantling yards; house wrecking yards; used lumber yards; places or yards for storage of salvaged house wrecking and structural steel materials and equipment; or where any unregistered motor vehicle is held outside of a completely enclosed building, whether for the purpose of reclaiming for use some or all the materials therein, or for the purpose of storage or disposing of the same for any other purpose. The term "junkyard" shall not include pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, or for processing of used, discarded or salvaged materials as part of manufacturing operations.

The following exceptions shall not be considered junkyards:

New and/or used motor vehicles which are operable, qualify for a current New York State motor vehicle inspection sticker under Article 5 of the New York Vehicle and Traffic Law and are offered for sale to the public may be stored on premises on which new or used car sales may be conducted in accordance with the provisions of this chapter.

The storage of vehicles subject to seasonal use such as recreational vehicles and snowmobiles, even though such vehicles may be unlicensed during the part of the year they are not in use.

The storage of agricultural equipment, machinery and vehicles which are being used in bona fide farm operation.

**KILOWATT (kW)**

A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

**KITCHEN**

Any part of a space, room or dwelling unit which is used for the preparation of food, including, at least, a refrigerator, sink and cooking device.

**LANDSCAPED AREA**

The area required or permitted to be devoted to landscaping and environmental improvement, which may include existing and new vegetation, berms, lighting, street furnishings, and ornamental features which are integrated with the vegetation.

**LAUNDROMAT**

A business that provides washing, drying, and/or ironing machines for hire to be used by customers in a single building.

**LIVERY**

The rental of horses or carriages for gain or commercial purposes.

**LOADING SPACE, OFF-STREET**

Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

**LOCAL ADMINISTRATOR**

The person appointed by the Town Board to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person shall be the Code Enforcement Officer.

**LODGING ROOM**

A room rented as sleeping and living quarters, but without cooking facilities, with or without an individual bathroom.

**LOT**

A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by a common interest or use, and the customary accessory uses and open space belonging to same.

**LOT AREA**

The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way shall not be included in calculating lot area.

**LOT, CORNER**

A parcel of land at the junction of, and fronting on, two or more intersecting streets. For determination of minimum setbacks, all corner lots shall be deemed to have two front yards, a side yard, and a rear yard. Rear yard shall be determined as the area behind the house, opposite of the main entrance door to the structure.

**LOT DEPTH**

The minimum horizontal distance from the front lot line of a lot to the rear line, measured at right angles (90°) to the front lot line.

**LOT, FLAG**

An approved lot having less lot width than otherwise normally required for the zone district. The portion of the lot that provides access to the interior portion of the lot shall not be less

than 20 feet in width, shall not be considered buildable and shall not be used in the calculation of the minimum lot area requirements for the zone district. The interior portion of the lot shall meet the minimum lot area requirements for the zone district.

**FLAG LOT ACCESS**

The panhandle portion of a flag lot having at least 20 feet in lot width and which provides an access corridor between a public road, street or highway right-of-way to the interior portion of a flag lot.

**FLAG LOT, INTERIOR**

That portion of a flag lot having sufficient lot area, width and depth to meet the minimum requirements of the zone district.

**LOT FRONTAGE**

The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered front yards.

**LOT LINE, FRONT**

The line separating the lot from the boundary of the highway or right-of-way upon which the lot abuts.

**LOT LINE, REAR**

The lot line opposite and most distant from the front lot line.

**LOT LINE, SIDE**

The lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."

**LOT LINE, STREET OR ALLEY**

A lot line separating the lot from a street or alley.



**LOT OF RECORD**

A lot which is part of an approved subdivision recorded in the office of the County Clerk or a lot described by metes and bounds, the description of which has been so recorded.

**LOT, THROUGH**

A lot which is not a corner lot and which has frontage on two streets.

**LOT WIDTH**

The horizontal distance between the side lot lines measured parallel to the street line at the front setback line.

**LOWEST FLOOR**

The lowest floor of the lowest enclosed area (including crawl space, basement or cellar). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area 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.

**MANUFACTURED AND MOBILE HOME**

A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code; and except that such term shall not include any self-propelled recreational vehicle.

**MEAN SEA LEVEL**

For the 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.

**MEGAWATT (MW)**

A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

**MEMBERSHIP CLUB**

An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that they are not conducting any vending stands, merchandising or commercial activities, except as required generally for the membership and purposes of such club or as permitted by separate ordinance or local law.

**MINERAL SOIL GROUPS 1-4 (MSG 1-4)**

Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

**MINING PERMIT**

A valid permit from the New York State Department of Environmental Conservation issued pursuant to Title 27, Article 23, of the Environmental Conservation Law. See also "excavation."<sup>151</sup>

**MIXED-USE BUILDING**

A building within which residential as well as nonresidential uses occur. All mixed-use buildings shall have all residential uses on a second and/or third story of the building.

**MOBILE HOME LOT**

A parcel of land within a mobile home park reserved for the placement of a mobile home and the exclusive use of its occupants.

**MOBILE HOME PARK**

A parcel of land under single ownership which has been planned and/or improved for the placement of two or more mobile homes for nontransient use.

**MOBILE HOME STAND**

That part of the mobile home lot which has been reserved for the placement of a mobile home, appurtenant structure or additions, including driveway apron and patio. The mobile home stand is derived from the area of the lot which remains after all setbacks are met.

**MOTEL**

A building or buildings containing sleeping units for transient guests and providing accessory off-street parking facilities; and which may include restaurant facilities, and a dwelling unit for a bona fide caretaker or operator. The term motel includes: hotels, auto courts, motor lodges and similar terms. Each sleeping unit shall contain not less than 240 square feet of living space.

**MOTOR VEHICLE**

Any vehicle which is propelled by a power other than muscular power, except electrically driven invalid chairs being operated or driven by an invalid. Motor vehicles shall include, but not be limited to, motor vehicles, race cars, trucks, motorcycles, motor bikes, boats, all terrain

vehicles, snowmobiles, recreational vehicles, trailers and tractors, including farm type tractors, etc.

#### **MOTOR VEHICLE SALES FACILITY**

The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new motor vehicles, or used motor vehicles as an ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an accessory use.

#### **MOTOR VEHICLE SERVICE STATION**

Any area of land, including structures therein, which may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work or the dismantling or replacing of engines.

#### **NAMEPLATE CAPACITY**

A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

#### **NATIONAL GEODETIC VERTICAL DATUM (NGVD)**

As corrected in 1929, is 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 a floodplain management regulation and includes any subsequent improvements to such structure.

#### **NEW MOBILE HOME PARK OR SUBDIVISION**

A mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**NONCONFORMING BUILDING OR STRUCTURE**

Any building or structure lawfully existing at the date of enactment or amendment of this chapter, local laws or regulations which in its design or location upon a lot does not conform to the regulations specified in this chapter for the zone district in which it is located.

**NONCONFORMING LOT**

A lot of record lawfully existing at the date of the enactment or amendment of this chapter, local laws or regulations which does not have either the minimum width, depth or area specified in this chapter for the zone district in which it is located.

**NONCONFORMING USE**

Any use of land, buildings or structures lawfully existing on the date of enactment or amendment of this chapter, local laws or regulations which does not conform to the use regulations specified in this chapter for the zone district in which it is situated.

**NOTICE**

Written or oral information relating to the purpose, date, time and place where a meeting is to be held.

**NURSERY SCHOOL**

A place provided or designed to provide daytime care or instruction for three or more children from two to five years of age away from their home for up to five hours per day.

**NURSING CARE HOME**

Any place or institution for the aged, infirm, senile, chronic or convalescent, established to render, for compensation, domiciliary care, custody, treatment and/or lodging of two or more persons who require or receive special diet; assistance in feeding, dressing, walking, administering medicines or carrying out the treatment of a doctor licensed by the State of New York in any other ordinary daily activities of life; or are confined to a bed or a chair. This item does not include institutions for the treatment of the mentally ill, hospitals, sanitariums, boardinghouses and the like.

**OPEN SPACE**

Area unoccupied by any building, structure or parking area, whether paved or unpaved.

**OUTDOOR DISPLAY AND SALES**

Includes uses which sell, rent or display merchandise or equipment predominantly outside of an enclosed building. Such uses do not include storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard.

**OUTDOOR STORAGE**

The location of any goods, wares, merchandise, commodities, junk, debris, or any other item outside of a completely enclosed building for a continuous period longer than 24 hours.

**OUTPARCEL**

A parcel of land, generally located on the perimeter of a larger parcel of commercial land, that is subordinate to the larger parcel.

**PARKING AREA, PRIVATE**

An area for the same use as a private garage and subject to the same conditions.

**PARKING AREA, PUBLIC**

An area, other than a street or other public way, used for the parking of motor vehicles and available to the public.

**PARKING SPACE, OFF-STREET**

A space adequate for parking a motor vehicle, other than motor vehicles offered for sale on the site, and having an area of not less than 162 square feet per vehicle, exclusive of passageways and driveways appurtenant thereto.

**PERMITTED USE**

Any use listed in any zoning district as permitted.

**PERSON**

Any individual, firm, partnership, corporation, association, trustee, receiver or assignee or person acting in any other representative capacity.

**PLAN**

A drawing on a flat surface showing the requirements as specified by the Town of Parma Code. This may be supported with written information where necessary for clarification.

**PLAN, FINAL**

A complete and exact subdivision or site plan, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

**PLANNING BOARD**

The Planning Board of the Town of Parma.

**PLAN, PRELIMINARY**

A tentative subdivision or site plan, in lesser detail than a final plan, showing approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plan.

**PLAN, SKETCH**

An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings, and the general layout of the proposed subdivision or site.<sup>171</sup>

**PORTABLE ON-DEMAND STORAGE STRUCTURES**

Any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located outside an enclosed building and which is not part of a motor vehicle.

**PRINCIPALLY ABOVE GROUND**

At least 51% of the actual cash value of the structure, excluding land value, is above ground.

**PRINCIPAL USE**

The main or primary purpose for which a building, structure or lot is to be used.

**PROFESSIONAL OFFICE**

Professional or government offices including those for a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists, and the like.

**PROHIBITED USE**

A use of a building, structure, lot or land, or part thereof, which is not listed as a permitted use, accessory use or special permitted use.

**PUBLIC AND SEMIPUBLIC BUILDINGS AND USES**

Any one or more of the following uses, including grounds and accessory buildings necessary for their use:

Church, places of worship, parish houses and convents.

Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.

Nursery schools, elementary schools, secondary schools, colleges or universities having a curriculum approved by the Board of Regents of the State of New York.

Golf courses and country clubs when occupying not less than 50 acres, not including, however, clubs whose activities includes the maintenance, storage or takeoff or landing of aircraft.

Public libraries and museums.

Fire, ambulance and public safety buildings.

Hospitals for the care of human beings, nursing homes, convalescent homes, homes for the adults, homes for the aged or residences for adults as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.

Membership corporations established for cultural, social or recreational purposes.

Day-care centers approved by the New York State Department of Social Services.

### **PUBLIC WAY**

Any right-of-way open to the public for vehicular or pedestrian access.

### **ONE-HUNDRED-YEAR FLOOD**

The same meaning as "base flood."

### **RECREATIONAL VEHICLE**

A vehicle which is:

Built on a single chassis;

Four hundred square feet or less when measured at the largest horizontal projections;

Designed to be self-propelled or permanently towable by an automobile, SUV, or light-duty truck; and

Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

### **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 § **165-83D(2)** of this chapter.

### **RESERVOIR SPACE**

Any temporary storage space for a vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or parking space required by this chapter. One reservoir space shall be 24 feet long and 10 feet wide.

### **RESIDENTIAL CARE FACILITY**

A residence under public, voluntary nonprofit, or proprietary sponsorship and regulated by an agency of the state or federal government; it provides care and support services, other than twenty-four-hour nursing care, for approximately five to 25 persons with disabilities which may be developmental, emotional, physical, or social in origin. RCF's are known by a number of names including agency operated boarding home, group home, group residence, family care home, hostel and halfway house.

### **RESIDENTIAL LOT or RESIDENTIAL BUILDING PLOT**

Any parcel of land used for residential purposes. The term "residential" shall include temporary, seasonal and permanent residential use.

### **RESTAURANT**

Any establishment, however designed, at which food is sold for consumption on the premises to patrons and equipped with seating facilities and where the taking of food and drink from said building is incidental. The term "restaurant" shall include bars and taverns licensed to sell

alcoholic beverages for on-premises consumption. However, a snack bar refreshment stand at a public, semipublic or community swimming pool, playground, playfield or park operated by the agency or groups or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility, shall not be deemed to be a restaurant.

### **RESTAURANT, FAST-FOOD**

A restaurant where patrons are not customarily served at tables or sit-down counters; where all or a portion of the food is prepared and wrapped, boxed, bagged or prepackaged or is prepared in a manner in anticipation of customers; and where the customer places an order at a common counter by waiting in line or by being served through a sequential numbering system. Such uses as soft drink parlors, ice cream and/or hot dog stands and the like shall be considered to be in this general classification.

### **REVERSE FRONTAGE LOT**

A lot extending between and having frontage on a major traffic street and a minor street and with vehicular access solely from the latter.

### **RIGHT-OF-WAY OR HIGHWAY LINE**

The line, present or proposed, which is the joint boundary line between a lot and the street or highway right-of-way.

### **ROADSIDE STAND**

Retail outlets, with all related structures for the sale of agricultural products grown on the farm upon which such stand is located.

### **ROOMING HOUSE (BOARDINGHOUSE)**

A dwelling other than a hotel, motel or tourist home, where more than three persons are housed or lodged for hire with or without meals. A rooming house is distinguished from a tourist home in that it is designed to be occupied by longer term residents as opposed to overnight or weekly guests.

### **SAND DUNES**

Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

### **SATELLITE DISH ANTENNA**

A combination of: an antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources; a low noise amplifier whose purpose is to carry signals into the interior of a building.

### **SELF-SERVICE STORAGE FACILITY**

A use that contains compartmentalized space for lease, rental or sale to businesses or individuals for storage of materials or personal property and allows such businesses or individuals to have access to such space.

### **SETBACK**



The distance between the street line, rear or side lines of the lot, and the front, rear and side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the nearest portion of the building lines. Setbacks from street lines to building lines are defined as "front setbacks." Setbacks from side lot lines are "side setbacks." Setbacks from rear lot lines are "rear setbacks." The required front setbacks exclude entrance steps or porches which are not more than seven feet in depth and which are not enclosed.

### **SHOPPING CENTER**

A group of stores, shops and similar establishments occupying adjoining structures or two or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

### **SIGHT DISTANCE**

The maximum extent of unobstructed vision along a street from a vehicle located at any given point on the street.

### **SIGN**

Any material, structure or part thereof, or any device attached to a building or structure or painted or represented thereon, composed of lettered or pictorial matter, or upon which lettered or pictorial matter is placed and is intended for display of an advertisement, notice, directional matter or name, and includes sign frames, billboards, sign boards, illuminated signs, pennants, fluttering devices, projecting signs or ground signs.

### **SIGN, BUILDING FRONT OR FACE**

The outer surface of a building which is visible from any private or public street, highway or driveway, including signs inside window display areas.

### **SIGN, BUSINESS**

A sign which directs attention to a business, profession or industry conducted upon the premises or to a commodity or service sold or offered by such business, profession or industry upon the premises where such sign is located.

### **SIGN COPY AREA**

The actual area of the background occupied by the sign. It is computed by drawing straight lines adjacent to the closest extremities of the individual letters or words and is computed in the same manner when there is no background area. Where there is no background, the size of the copy area shall be equal to what would be permitted if the background were provided.

### **SIGN, DIGITAL**

A sign that has or appears to contain movement or that appears to change, caused by a method other than physically removing and replacing the sign or its components whether the real or apparent movement or change is in the display, the sign structure itself, or any other part of the sign. A digital sign often incorporates a technology allowing the sign face to change the image without the necessity of physically or mechanically replacing the sign face or its components. A digital sign may include a rotating, revolving, moving, flashing, blinking, or animated display, and any display that incorporates rotating panels, LED lights

manipulated through digital input, electronic message centers, or other similar methods or technologies that permit a sign face to present different images or displays.

**SIGN, DIRECTIONAL**

A sign that directs attention to the location of a local service or place of business.

**SIGN ERECTION**

The construction, alteration, repair, display, location or relocation, attachment, placement, suspension, affixage or maintenance of any sign, including the painting of exterior wall signs and the use of any vehicle or other substitute for a sign.

**SIGN, FEATHER FLAG**

A vertically oriented banner attached to a single pole with the fabric hanging loosely at one or two corners. It's also known as a banner flag sign or swooper sign.

**SIGN, ILLUMINATED**

A sign lighted by electricity, gas or other artificial light, including reflective or phosphorescent light, paint or tape.

**SIGN LIGHTING DEVICE**

Any light, string or groups of lights located or arranged so as to cast illumination on or from a sign.

**SIGN, MONUMENT**

A sign that is supported by a foundation of one or more columns, uprights or braces not attached to or forming part of a building or structure. The sign shall be no higher than 5 feet above grade, otherwise such sign shall be classified as a pole sign.

**SIGN, NONCONFORMING**

A sign which exists at the time of enactment or amendment of this chapter and which does not conform to the regulations and restrictions imposed herein.

**SIGN, OUTDOOR ADVERTISING**

A sign which directs attention to a business, profession or industry conducted or a commodity or service sold or offered on a site other than upon the premises where such sign is located.

**SIGN, POLE**

A sign that is affixed to, attached to, or erected on a freestanding pole or other support that the bottom edge of the sign face is greater than 5 feet above grade. Pole signs are prohibited in the Town of Parma.

**SIGN, PORTABLE OR MOBILE**

A sign that is designed and intended to be transported from place to place and is not permanently affixed to the ground or to a building or structure. Portable signs may or may not have wheels.

**SIGN, PROJECTING**

A sign attached to or supported by a building or structure in such a manner that it extends more than 1 foot from the building's façade.

**SIGN, ROOF**

Any sign constructed on or supported by the roof of any building or structure.

**SIGN, TEMPORARY**

A sign which is intended to advertise a community or civic project, real estate for sale or lease, or other special events for a limited period of time.

**SIGN, WALL**

A sign fastened or applied to the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 12 inches from such building or structure.

**SIGN, WINDOW**

A sign which is applied or attached to the exterior or interior of a window or is installed inside of a window within 12 inches of the window through which it can be seen.

**SITE PLAN**

A plan, to scale, showing uses and structures proposed for a parcel of land, including lot lines, streets, existing and proposed buildings and structures, topography, rights-of-way, parking areas, open space, and any other information deemed necessary by the Code Enforcement Officer, Planning Board or Town Board, or Zoning Board of Appeals.

**SMALL-SCALE RETAIL USE**

An establishment of 10,000 square feet or fewer of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service, building materials and/or supplies. Typical uses include, but are not limited to, the sale of consumer goods, food and sundry items, beauty salons and barber shops, coffee shops, ice cream shops, and boutiques.

**SOLAR ARRAY SYSTEM, LARGE-SCALE**

Any ground-mounted solar array system with a nameplate capacity between 25 kW AC and 1 MW AC, or with a total solar facility area of up to 8. Large-scale solar array systems generate no more than 110% of the electricity consumed on-site over a 12-month period.

**SOLAR ARRAY SYSTEM, SMALL-SCALE**

Any ground-mounted solar array system with a nameplate capacity up to 25 kW AC, or with a total solar panel surface area of up to 4,000 square feet.

**SOLID WASTE**

Garbage, refuse and other discarded solid materials, including such materials resulting from industrial, commercial, residential and agricultural operations and community activities.<sup>181</sup>

**SPECIAL PERMITTED USE**

A use that would not be appropriate generally, or without restriction throughout the zoning district, but which, if controlled as to number, area, location or relating to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in a zoning district as a special permitted use only if specific provision for such special permitted use is made in this chapter.

**STABLE**

A building in which any horses are kept for remuneration, hire or sale.

**STABLE, PRIVATE**

A building in which horses are kept for the sole use of the owner and for which there is no remuneration or hire.

**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.

**STORY**

That portion of a building between the surface of any floor and the surface next above it; if there be no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story, but a cellar shall not be counted as a story.

**STORY, HALF**

A story with at least two opposite exterior sides meeting a sloping roof not more than four feet above the floor of such story and having a ceiling height of at least 7 $\frac{1}{2}$  feet over not more than  $\frac{1}{2}$  the total floor space.

**STREET**

A public or private thoroughfare which affords the principal means of access to abutting properties.

**STREET GRADE**

The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

**STREET LINE**

The right-of-way line of a street; the front lot line; the line separating a lot from a street.

**STREET, MAJOR**

A roadway used to move traffic into, through and out of major portions of the Town, designed for heavy traffic.

**STREET, MINOR**

A roadway whose major purpose it to provide direct access to properties.

**STRUCTURE**

Any assembly of materials arranged, connected or installed in a manner to allow temporary or permanent occupancy, use or shelter for humans, animals, materials or equipment.

**SUBDIVIDER**

The owner, or authorized agent of the owner, of a subdivision.

**SUBDIVISION**

The division of any parcel of land into two or more lots, plots, sites or other division of land, for the purpose, whether immediate or future, of transfer of ownership or building development, and shall include resubdivision.

**SUBSTANTIAL DAMAGE**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT**

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**SWIMMING POOL**

Any man-made body of water or receptacle for water, which has a capability of a depth of more than two feet at any point, used or intended to be used for swimming, bathing or wading and installed or constructed above or below ground. The term shall not apply to farm ponds or drainage control facilities (i.e., detention or retention ponds).

**SWIMMING POOL, ABOVEGROUND**

A swimming pool having more than 3/4 of its water content above the level of the surrounding ground.

**SWIMMING POOL, IN-GROUND**

A swimming pool having 3/4 or more of its water content below the level of the surrounding ground.

**TEMPORARY USE**

An activity conducted for a specific limited period of time which may not otherwise be permitted by Town ordinances, laws or regulations. Examples of such uses are structures incidental to new construction which shall be removed after the completion of the construction work.

**TOURIST HOME**

A dwelling in which overnight accommodations are provided or offered for transient guests for compensation. For purposes of the Town Code, tourist home shall include bed-and-breakfast establishments.

**TOWER**

Includes any structure, including dish antennas, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as, or for the support of, devices to be used for the transmission and/or reception of radio frequency signals or microwave, such as, but not limited to, broadcast, shortwave, citizens band, cellular communications, paging, FM or television signals, wind-driven devices such as energy converters and windspeed and/or direction indicators, or any energy-creating enterprise or for personal observation.

**TOWN BOARD**

The Town Board of the Town of Parma.

**TOWN CLERK**

The official elected to the position of Town Clerk of the Town of Parma.

**TOWN SUPERINTENDENT OF HIGHWAYS**

The official elected to the position of Town Superintendent of Highways for the Town of Parma.

**TOWNHOUSE**

An independent single-family dwelling unit which is one of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

**TOWNHOUSE CLUSTERS**

A building, or group of buildings, with each building containing not more than eight townhouse dwelling units connected by common party walls.

**TOWNHOUSE DEVELOPMENTS**

A tract of land adequately sized to accommodate the construction of townhouse dwelling units in accordance with the density standards contained elsewhere in these regulations.

**TRACT**

Any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

**TRUCK TERMINAL**

Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

**UNIFORM CODE**

The New York State Uniform Fire Prevention and Building Code.

**USE**

The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use. A nonconforming use is one which does not comply with the permitted uses of the zone district in which it is located.<sup>19</sup>

**VARIANCE, AREA**

Authorization by the Zoning Board of Appeals for the use of land or buildings, in a manner which is not allowed by the dimensional or physical requirements of this chapter. Area variances involve matters such as setback lines, frontage requirements, lot size restrictions, density regulations and yard requirements.

**VARIANCE, USE**

Authorization by the Zoning Board of Appeals for the use of land or buildings for a purpose which is otherwise not allowed or is prohibited by this chapter.

**WALL**

A structure of wood, stone or other materials or combination thereof intended for security, screening or enclosure, or for the retention of earth, stone, fill or other materials as in the cases of retaining walls or bulkheads.



**WASTE**

Constitutes any material temporarily or permanently discarded or unwanted and not stored in a vermin-proof, sealed enclosure or structure for subsequent disposal.

**WINDMILL**

An alternate energy device which converts wind energy, by means of a rotor, to mechanical or electrical energy. A wind generator may also be deemed a windmill.

**WOODLOT**

An area consisting of five or more contiguous acres with more than 90% of its surface area covered in native or naturalized trees. These tree species shall have an average d.b.h. (diameter at breast height) of six inches or more. These areas shall not include orchards or commercial tree plantations or areas overgrown with nontree species.

**YARD**

A required open space unoccupied and unobstructed by any structure or portion of a structure, and situated between the principal building or group of buildings and the nearest lot line.

**YARD, FRONT**

A yard extending between the side lot lines across the front of a lot adjoining a street; situated between the street line and the building front line.

**YARD, REAR**

A yard extending between the side lot lines situated between the rear line of the building and the rear lot line. In the case of through lots, there shall be no rear yards, but only front and side yards.

**YARD, SIDE**

A yard extending between the side building line and the nearest side lot line; situated between the front and rear yards.

**YARD WASTE**

Brush, grass clippings, leaves, vegetable waste, shrub and tree prunings six inches or less in diameter from residences and businesses that require disposal.

**YARD WASTE COMPOST**

A compost made by composting leaves, grass clippings, sticks, vegetable waste, and other small size yard debris.

## **ZONING BOARD OF APPEALS**

The Zoning Board of Appeals of the Town of Parma.

## **ZONING PERMIT**

Certification by the Code Enforcement Officer that the proposed lots, structures, or uses of land and structures, and the characteristics of such uses, are in conformity with this chapter. Such certification may be issued prior to or in conjunction with the issuance of a building permit pursuant to the NYS Uniform Code.