

# Chapter 107

## ZONING

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[HISTORY: Adopted by the Town Board of the Town of Watertown 6-12-2025 by L.L. No. 3-2025.<sup>1</sup> Amendments noted where applicable.]

ARTICLE I  
General Provisions

§ 107-1. Purpose.

This chapter is adopted for the purpose of promoting the health, safety, morals and general welfare of the community by lessening congestion in the streets, securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, schools and other public requirements; and regulating the location and use of buildings, structures and land for trade, industry, residence and other purposes in accordance with a Comprehensive Plan. The provisions outlined in this chapter are intended to codify the Town's comprehensive plan and protect property values within the town.

§ 107-2. Word usage; definitions.

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged

1. Editor's Note: This local law also repealed former Ch. 107, Zoning, adopted 8-8-2024 by L.L. No. 2-2024.

or designed to be used or occupied." "Reserved" indicates a section was removed and then designated "reserved" to keep the numbering system intact.

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

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal use or building. Accessory uses for commercial principal uses may include, but are not limited to employee food service, equipment storage, simple fleet vehicle maintenance.

**ADMINISTRATIVE, BUSINESS, PROFESSIONAL OR RESEARCH OFFICE** — A building, or part thereof used for conducting the affairs of a business, profession, service, industry, or government; and may include accessory services for office workers; and not including the on-premise manufacturing, servicing, storage or distribution of goods or merchandise.

**AGRICULTURAL OPERATION** — The raising of poultry, crops, livestock and agricultural or dairy products. The term includes riding academy, livery stable, boarding stable, plant, crop and tree growing and harvesting, animal husbandry, horticulture, forestry, and the sale, at wholesale or retail, of the products thereof upon the premises where the same are grown or produced.

**AGRIVOLTAICS** — The combined operation of solar energy production and agricultural operations.

**AIRPORT/LANDING STRIP** — Any facility for the purpose of engaging aircraft to flight including necessary facilities for the housing and maintenance of aircraft.

**ALTERATIONS** — As applied to a building or structures, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**ANIMAL** — Any living, nonhuman creature, domestic or wild.

**AREA, BUILDING** — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between the exterior faces of walls.

**ATHLETIC** — Activity by one or more persons, individually or as a team, conducted for enhancement of exercise, skill, strength, agility, and stamina and/or sporting competition.

**BASEMENT** — A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

**BATTERY CHARGING STATION** — An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth.

**BATTERY ELECTRIC VEHICLE (BEV)** — Any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries and produces zero tailpipe emissions or pollution when stationary or operating.

**BATTERY ENERGY STORAGE SYSTEM** — One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Small or large battery energy storage system as follows:

- A. Small battery energy storage systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- B. Large battery energy storage systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

**BATTERY/BATTERIES** — A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this chapter, batteries utilized in consumer products are excluded from this definition. Battery/Batteries include but are not limited to:

- A. Flow battery. A storage battery that stores and generates an electrical current by ion exchange through a membrane separating liquid electrolytes.
- B. Lead acid battery. A storage battery that is comprised of lead electrodes immersed in sulfuric acid electrolyte, including vented (flooded) or valve regulated lead acid (VRLA) batteries.
- C. Lithium-ion (Li-ion) battery. A storage battery in which an electrical current is generated by lithium ions embedded in a carbon graphite or nickel metal-oxide substrate placed in a high viscosity carbonate mixture or gelled polymer electrolyte.
- D. Nickel cadmium (Ni-Cd) battery. An alkaline storage battery in which the positive active material is nickel oxide, the negative active material contains cadmium, and the electrolyte is potassium hydroxide.
- E. Nickel metal hydride (NiMH) battery. An alkaline storage battery in which the positive active material is nickel oxide, the negative active material is a hydrogen absorbing alloy, and the electrolyte is potassium hydroxide.

**BOARDING STABLE** — A building or part of a building in which horses are boarded or kept for commercial purposes.

**BUFFER AREA** — Land area used to visibly separate one use from another, or partially obstruct the view or block noise or lights of one use from another.

**BUILDING** — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or chattel.

**BUILDING HEIGHT** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between the eaves and the ridge for gable, hip and gambrel roofs.

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

**BUILDING, PRINCIPAL** — A building in which is conducted the main or principal use of the lot on which said building is situated.

**CAMPGROUND** — Any property and associated accessory structures utilized for the overnight occupancy of recreational camping vehicles, cabins, or tents, with or without stipulated agreement as to the duration of their stay, where accommodations are provided for three or more camping units. This definition does not include any portion of the premises used as the primary residence of the owner or operator.

**CELLAR** — A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

**CLUB, MEMBERSHIP** — 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 there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

**COMMERCIAL USE** — An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee, or which is carried on by a 501(c)(3) tax exempt not-for-profit corporation.

**COMMISSIONING** — A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**COURT** — An unoccupied open space, other than a yard, on the same lot with a building which is bounded on two or more sides by the walls of such building.

**DANGEROUS OR WILD ANIMAL** — Any animal, exotic or wild, which due to its nature, size, or other characteristics would constitute danger to human life or property if not maintained in a safe manner or in secure quarters.

**DAY-CARE CENTER** — A land use in which care and supervision of at least three or more minors (children) is provided on a daily or regularly programmed basis outside of their place of residence. Care for each minor is for less than a period of 24 consecutive hours and may occur during any part of a day. Examples of activities which are day-care facilities under this code include: nursery schools, preschool programs, after-school programs, and day-care centers.

**DISTRIBUTION CENTER** — A building or structure whose primary purpose is to receive, store, and/or ship goods to be distributed to retail stores, wholesale stores, or directly to consumers.

**DOMESTIC LIVESTOCK** — Any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses, or fur-bearing animals, as defined in section 11-1907 of the Environmental Conservation Law, which are raised for commercial or subsistence purposes.

**DOMESTIC PETS** — Any living creature customarily kept in the home or place of residence, whether animals, birds, reptiles, or fish, which is not dangerous or otherwise objectionable, and shall not include domestic livestock.

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

**DWELLING** — A building designed or used as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "two-family dwelling," or "dwelling group" shall not be deemed to include automobile courts, rooming houses, or tourist homes.

**DWELLING UNIT** — A building or portion thereof providing complete housekeeping facilities for one family.

**DWELLING, MULTIFAMILY** — A dwelling or group of dwellings on one plot containing separate living units for three or more families but which may have joint services or facilities or both.

**DWELLING, ONE-FAMILY** — A single building designed for and occupied exclusively by one family.

**DWELLING, TWO-FAMILY** — A single building containing two dwelling units.

**ELECTRIC VEHICLE** — A vehicle that operates, either partially or fully, using electrical energy sourced from the grid or another external source, stored on-board for propulsion. "Electric vehicle" includes: (1) a battery electric vehicle (BEV); (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; (4) a medium-speed electric vehicle.

**ELECTRIC VEHICLE CHARGING STATION (EVCS)** — A designated public or private parking space equipped with battery charging equipment, primarily intended for transferring electric energy (via conductive or inductive methods) to a battery or other energy storage device in an electric vehicle.

**ENERGY COOPERATIVE** — An electrical distribution system using alternative energy sources such as but not limited to solar energy systems, geothermal energy systems, wind power generating facilities, and agricultural waste digesters designed to supply energy needs to designated users.

**ENERGY GENERATION FACILITY** — A generating facility that uses a variety of sources and/or products for the production of power for sale as a primary use. Types of generating facilities may include, but are not limited to, petroleum, methane, ethanol, thermal, wind, solar, hydro-electric, and other energy generation systems.

ENGINEERING, RESEARCH, AND DEVELOPMENT FACILITY — A business or enterprise involved with the design, building, creation, or manufacturing of innovative ideas, techniques, or products, which are intended to improve upon previous designs.

ERECT — To construct, build, re-erect, reconstruct, rebuild, or excavate for a building or structure.

FAMILY — One or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, or hotel.

FARM — Any parcel of land containing at least five acres which is used for gain in the raising of agricultural products, livestock, poultry, and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

FENCE — Any structure, including walls or screens, erected for the purpose of enclosing land, screening land, dividing land, to direct or prohibit passage across land, to protect against a potential hazard or for decorative purposes.

FLEET VEHICLE OPERATIONS — The storage, operation, and maintenance of registered and operational fleet vehicles including cars, trucks, and buses, which are owned or leased by a business entity, and which are used for service, delivery, or transportation of goods and/or people by such entity.

FLOOR AREA — The sum of the gross horizontal areas of the several floors of the building or buildings measured from the exterior faces of exterior walls or from the center line of walls separating two buildings.

A. In particular, the "floor area" of a building or buildings shall include:

- (1) Basement space.
- (2) Elevator shafts and stairwells at each floor.
- (3) Floor space for mechanical equipment with structural headroom of seven feet six inches or more.
- (4) Penthouses.
- (5) Attic space, (whether or not a floor has actually been laid), providing structural headroom of seven feet six inches or more.
- (6) Interior balconies and mezzanines.
- (7) Enclosed porches.
- (8) Accessory uses, not including space for accessory off-street parking.

B. However, the "floor area" of a building shall not include:

- (1) Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and off-street loading berths.

- (2) Elevator and stair bulkheads, accessory water tanks and cooling towers.
- (3) Floor space used for mechanical equipment with structural headroom of less than seven feet six inches.
- (4) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet six inches.
- (5) Uncovered steps.
- (6) Terraces, breezeways, and open spaces.
- (7) Accessory off-street parking spaces.
- (8) Accessory off-street loading berths up to 200% of the amount required.

**FREIGHT TERMINAL** — A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semitrailers, including tractor and/or trailer units and other trucks, are parked or stored.

**FRONT LOT LINE** — The street or road right-of-way line. If a lot adjoins two or more streets or roads, it shall be deemed to have a front lot line respectively on each.

**GARAGE, PRIVATE** — An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation, or service is conducted for profit therein, nor space therein for more than one car is leased to a nonresident of the premises.

**GARAGE, PUBLIC** — Any garage which is not a private garage, which is used for storage, repair, rental, servicing or supplying of gasoline or oil to motor vehicles.

**GASOLINE STATION** — Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

**HEALTH CLUB** — An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers.

**HOME OCCUPATION** — Any accessory use of a service character conducted on the premises by the residents thereof which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate. The office of a physician, surgeon, dentist, professional person or appointed or elected town official, including an instructor of musical instruments limited to a single pupil at a time, who offers skilled services to clients and is not professionally engaged in the purchase or sale of economic goods shall be deemed to be a "home occupation." The occupations of seamstress, dressmaker, and milliner, each with not more than one paid assistant, shall be deemed to be "home occupations."

**HOSPITAL** — Unless otherwise specified, shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any

other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

**HOSPITAL, ANIMAL** — An establishment for the medical and/or surgical care of sick or injured animals.

**HOTEL** — A building primarily containing units, for the purpose of furnishing lodging, with or without meals, for transient occupancy; and with management maintaining a register, and providing daily housekeeping and other incidental services, including desk, telephone, and/or bellhop services.

**IMPERVIOUS SURFACES** — Surfaces which do not absorb water. They consist of all buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt.

**JUNKYARD** — The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that joins any street for the storage, keeping or abandonment of junk or scrap materials or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

**KENNEL, COMMERCIAL** — A structure and/or shelter with a fenced-in area which is collectively used for the purpose of training, boarding, breeding, and/or grooming at least five dogs of licensable age primarily for revenue.

**KENNEL, PRIVATE** — Land or an accessory structure used for the harboring of four or more dogs of licensable age, all of which are owned and licensed to the property owner.

**LABORATORIES: RESEARCH, EXPERIMENTAL, AND TESTING** — A facility for experimentation in pure or applied research design, development and production of prototype machines or devices or of a new product and uses accessory thereto.

**LIGHT ASSEMBLY** — The process of joining together, incorporating, or uniting individual items, products or parts brought to the premises to form a product or assemblage and not involving outdoor storage or the emission of noise from the premises.

**LIGHT MANUFACTURING** — A facility which manufactures a product for wholesale or retail sale and does not produce high volumes of polluting wastes.

**LIVERY STABLE** — A stable for the housing of horses for hire.

**LOT** — A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this chapter.

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

**LOT FRONTAGE** — The distance between side lot lines measured along a straight line connecting the end points of the highway right-of-way.

**LOT LINES** — Any line dividing one lot from another.

LOT, CORNER — A parcel of land at the junction of and fronting on two or more intersecting streets.

LOT, DEPTH — The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

MANUFACTURED HOME — A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR Part 3208, 4-1-1993, transportable in one or more sections, which in the traveling mode, is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m<sup>2</sup>) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Federal Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle.

MANUFACTURED HOME PARK — A parcel of land which has been planned and improved for the placement of two or more manufactured homes for nontransient use.

MANUFACTURED HOME, DOUBLE-WIDE — A manufactured home which is manufactured in two or more sections off-site which are designed to be transported individually to the placement site and assembled there to form a complete dwelling.

MANUFACTURED HOME, SINGLE-WIDE — A manufactured home which is manufactured as a single section and is designed to be complete dwelling when transported to the placement site.

MANUFACTURING — Any land or structures used for the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors. Manufacturing includes light manufacturing and light assembly.

MINING OPERATION — A lot of land or part thereof used for the purpose of extracting stone, sand, gravel, or topsoil for sale as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

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

any self-propelled recreational vehicle. Mobile homes shall be subject to the same regulations and standards that apply to manufactured homes in this chapter.

**MODULAR HOME** — A factory manufactured home or any structure or component thereof designed primarily for residential occupancy which is wholly or in substantial part manufactured in manufacturing facilities located away from the building site for installation or assembly and installation on the building site upon a permanent and continuous foundation wall or concrete slab. A "modular home" usually consists of two or more sections and each section must be transported separately to a site where all the sections are put together and where materials are applied or added and a heating system is installed. When completed, a "modular home" is indistinguishable from a conventionally built home.

**MORTUARY ESTABLISHMENT** — A place for the storage of human bodies prior to their burial or cremation.

**MOTOR VEHICLE REPAIR SHOP** — A building or portion of a building arranged, intended, or designed to be used for making repairs to motor vehicles.

**MULTIPURPOSE EVENT CENTER** — Any establishment whose main purpose is to provide the general public with amusement or entertaining activity. Includes but is not limited to skating rinks, indoor and outdoor sporting facilities, and other facilities relating to trade shows, conferences, meetings, concerts, shows, sport competitions, and special events. May include sports bar, restaurant/cafe, hotel/dorm accommodations, day-care facilities, and offices.

**NONCONFORMING USE** — A building, structure, or use of land lawfully existing at the time of enactment of this chapter and which does not conform to the regulations of the district or zone in which it is situated.

**NURSING OR CONVALESCENT HOME** — Any dwelling with less than 15 sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**OFFICE** — A building or portion thereof used primarily for conducting the affairs of a business, professional, medical or health practitioner, service, industry, or government which is generally furnished with desks, tables, files, and communication equipment. No manufacturing processes, retail sales, construction, or warehousing shall occur on the premises.

**OUTDOOR WATER POOL** — A swimming pool, tank, depression or excavation in any material, dike or berm constructed, erected, excavated or maintained which will cause the retaining of water to a greater depth than 18 inches and having a larger plane surface area of water greater than 100 square feet, except such as shall hereinafter be excluded. The word "pool" shall be construed to mean "outdoor water pool."

**OUTDOOR WATER POOL, PUBLIC** — An outdoor water pool operated commercially and opened to the general public, or an outdoor water pool located on public property operated by a public entity.

**OUTDOOR WOODBURNING FURNACE** — Any equipment, device or apparatus which is installed, affixed or situated outdoors or is designed to be operated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a

component of a heating system providing heat to a principal structure or any other site structure on the premises.

**OVERLAY DISTRICT** — A zoning district that encompasses one or more underlying zoning districts and that imposes additional requirements above that required by the underlying zoning district.

**PARCEL** — A piece or area of land formally described and recorded with section, block, and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identify the dimensions and/or boundaries.

**PARK, PUBLIC** — An area of public land specifically defined or set aside for use by and for the general public in both active or passive recreational uses; and includes all landscaping, facilities and apparatus, playing fields, utilities, buildings and other structures that are consistent with the general purposes of public parkland.

**PARKING LOT, PUBLIC** — An open area, other than a street, used for the temporary parking of two or more motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients or customers or residents, but does not include the storing of impounded or wrecked vehicles in a specifically designated area or compound.

**PARKING SPACE** — An off-street space available for the parking of one motor vehicle and having an area of not less than 180 square feet, exclusive of passageways and accesses thereto, and having direct access to a street or highway.

**PEDESTRIAN WALKWAY** — A five-foot-wide trail seasonally maintained for walking, hiking, and biking.

**PLANNED DEVELOPMENT DISTRICT** — Purpose: To enable the Town to establish Planned Development Districts at designated specific locations by amending this chapter so as to encourage a mix or variety of compatible uses such as residential, affordable residential, office, commercial and/or recreational with building types that compliment each other within a single district where such combined uses might not be allowed under ordinary zoning district standards. Also to provide for the development of these mixed use projects in a comprehensive manner instead of piecemeal to save open space that otherwise would be lost or wasted, and to promote more efficient use of land while protecting natural resources and priority character and view shed areas.

**PLAYGROUND** — An active recreational area with a variety of facilities, including for younger children as well as court and field games.

**POULTRY** — Chicken, turkeys, ducks, geese, guinea hens, or any other domesticated fowl normally kept for food or egg production.

**PRIME FARMLAND** — Land designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service's Soil Survey Geographic Database on Web Soil Survey, which has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses. A farmland "conversion" is defined by Section 301(8) of New York State's Agriculture and Markets Law.

**PRINCIPAL USE** — The main or primary purpose for which a building, structure, and/or lot is used, occupied, and/or maintained. Each parcel within the Town may only have one principal use, unless otherwise stated herein and/or approved by the Town Planning Board.

**PRINTING ESTABLISHMENT** — A facility for the bulk processing of paper stock into finished printed materials, primarily through the use of letterpress or offset lithography.

**PRIVATE DRIVE** — A privately owned and maintained roadway, not owned by the town, designed exclusively to provide access to one or more businesses or multibusiness developments.

**PUBLIC AND SEMI-PUBLIC FACILITY** — Any one of the following uses, including grounds and accessory buildings necessary for their use: public schools and institutions of higher education chartered by the NYS Board of Regents; public libraries; public parks and public playgrounds; municipal buildings; religious institutions; cemeteries; philanthropic or eleemosynary institutions and hospitals.

**PUBLIC UTILITY** — A building, structure or facility designed for the distribution of essential public services including the supply of water, gas, electricity (excluding renewable energy facilities), non-wireless telephone services or the disposal of sewage and other waste, which is regulated by the Public Service Commission or other relevant governmental authority. Requires special use permit.

**PUBLIC UTILITY FACILITY AND GRID** — A building, structure or facility designed to serve the public, or some portion thereof, by providing some needed public services such as the supply of water, gas, electricity or nonwireless telephone service or the disposal of sewage and other wastes.

**RECREATION** — Activity designed for the refreshment of mental spirit by means of education or exercise.

**RECREATION AREA** — Various activities of an athletic and recreational nature, together with uses in support of such activities.

**RECREATION, PASSIVE** — A park for activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, and table games.

**RECREATIONAL CAMPING VEHICLE** — Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes including, but not limited to motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and over-night trailers.

**RELIGIOUS INSTITUTION** — Includes church, temple, parish house, convent, seminary, and retreat house.

**RENEWABLE ENERGY FACILITIES** — Infrastructure systems designed to generate energy from naturally replenished sources to include, but not be limited to, wind power generating facilities and solar energy systems.

**RESIDENTIAL HEALTH CARE FACILITY** — A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the

treatment of mental or physical conditions. To include treatment facilities, nursing homes assisted living facilities.

**RETAIL GASOLINE OUTLET** — Any establishment that sells gasoline to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

**RETAIL SALES AND SERVICE** — A commercial facility engaged in selling goods or merchandise to the general public for personal or household consumption; or providing retail services or entertainment to the general public such as eating and drinking establishments, finance, real estate, insurance, personal services, amusement and recreational services, health, educational and social services, retail fuel outlets, retail stores, and electrical vehicle charging stations accessory to retail sales and services listed in this definition.

**RIDING ACADEMY** — A commercial establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and where horses may be hired for riding.

**SALVAGE YARD** — Any lot, building or part thereof used or occupied for the collecting, storage, salvage, processing, dismantling or sale of any of the following materials collected or received from sources off the premises: plastic, wastepaper, rags, scrap or discarded metals or materials or machinery, equipment, or vehicles not in running condition and parts thereof.

**SANITARY LANDFILL** — A site for solid waste disposal.

**SCREENING** — Screening requirements in each district and in each instance shall be determined by the Town Planning Board. The Planning Board has the right to require more and/or different screening than that which is specifically required herein. Further, the Planning Board has the right and authority to require replacement of screening which is damaged, diseased, dangerous, dead or dying, or which is deemed by the Planning Board to be insufficient in providing appropriate screening.

**SIGN** — Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency or of any civic, charitable, religious, patriotic, fraternal or similar organization.

**SOLAR ENERGY SYSTEM** — Any solar collector panel(s), film(s), shingle(s), or other solar energy device(s), or solar structural component(s), mounted on a building or on the ground and including other appurtenant structures and facilities, whose primary purpose is to provide for the collection, storage, and distribution of solar, or radiant, energy received from the sun and used for heating or cooling, for water heating, and/or for generation of electricity. A solar energy system may be ground-mounted (i.e., placed on top of the ground surface) or roof-mounted (i.e., placed on or as an integral part of a building).

**SOLAR ENERGY SYSTEM, GROUND-MOUNTED** — A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices and that is not attached or affixed to an existing structure. Each contiguous structure is

considered an accessory structure within this chapter. Pole-mounted solar energy systems shall be considered ground-mounted solar energy systems.

**SOLAR ENERGY SYSTEM, LARGE** — Any solar energy system that cumulatively on a lot meets one of the following provisions:

- A. Is intended to supply energy principally into a utility grid for the purpose of off-site sale or consumption, or
- B. Has a total ground surface area of greater than 4,000 square feet.

**SOLAR ENERGY SYSTEM, ROOFTOP OR BUILDING-MOUNTED** — A solar energy system located on the roof of any building or structure, or a combination of solar panels and solar energy equipment integrated into any building envelope system that produces electricity for onsite residential or commercial consumption.

**SOLAR ENERGY SYSTEM, SMALL** — Any solar energy system that is an accessory use and cumulatively on a lot meets all of the following provisions:

- A. Is an accessory use or structure designed and intended to generate energy primarily for a principal use located on site.
- B. Has a total ground surface area no larger than 4,000 square feet.

**SPECIAL USE PERMIT** — A permit for special uses as specified in this chapter which must be approved by the Planning Board, granting permission to the Zoning Enforcement Officer to issue a zoning permit.

**STONE AND MONUMENT WORKS** — A manufacturing facility for the fabrication of ornamental stone or monuments.

**STORAGE** — The keeping of any goods, material, merchandise, or vehicles.

**STORY** — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it.

**STREET** — A public way which affords the principal means of access to abutting properties.

**STRUCTURE** — Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground.

**TATTOO PARLOR/BODY PIERCING STUDIO** — A commercial establishment whose principle business activity either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) the placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; or (2) creation of an opening in the body for the purpose of inserting jewelry or other decoration.

**TELECOMMUNICATIONS FACILITY** — Any commercial equipment used in connection with the provision of wireless communications services, including cellular telephone service, personal communications services, radio and television broadcast

communications and private radio communications services, that are regulated by federal laws. A telecommunications facility shall include towers and other structures, including supporting masts and wires, on which transmitting and/or receiving antenna(s) are located as well as antennas and accessory facilities such as transmission equipment and storage buildings.

**TEMPORARY RESIDENCE** — Any property or structure utilized for overnight occupancy with or without stipulated agreement as to the duration of their stay, where accommodations are provided for overnight guests. This definition does not include any portion of the premises used as the primary residence of the owner or operator.

**UNREASONABLE NOISE** — Any excessive or unusually loud sound that disturbs the peace, comfort, or repose of a reasonable person, injures, or endangers the health or safety of a reasonable person or which causes injury to animal life or damage to property or business. For large solar energy systems, a maximum noise limit is 45 dBA Leq (eight-hour), at the outside of any existing nonparticipating residence, and 55 dBA Leq (eight-hour) at the outside of any existing participating residence.

**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.

**USE, ACCESSORY** — See "accessory use."

**VARIANCE** — Any departure from the strict letter of this chapter granted by the Zoning Board of Appeals as it applied to a particular piece of property.

**VARIANCE, AREA** — Authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations, as defined in the New York Town Law, as the same may be amended from time-to-time.

**VARIANCE, USE** — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations, as defined in the New York Town Law, as the same may be amended from time-to-time.

**WAREHOUSE** — Terminal facilities for handling freight with or without maintenance facilities, and buildings used primarily for the storage of goods and materials.

**WHOLESALE BUSINESS** — Establishments primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIND POWER GENERATING FACILITIES, MAJOR** — Wind generating facilities which generate 25 megawatts or more original power on site to be transferred to a transmission system for distribution to customers. The definition of major wind power generating facilities shall not include minor wind power generating facilities.

**WIND POWER GENERATING FACILITIES, MINOR** — Wind generating facilities which generate original power on site that are designed to meet energy needs on premises.

**WIND TEST TOWER** — A structure that is erected for the purpose of measuring wind speed and strength.

**YARD** — An unoccupied space open to the sky on the same lot with a building or structure.

**YARD, FRONT** — An open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the front lot line and the front line of the building projected to the side lines of the lot. The depth of the "front yard" shall be measured between the front line of the building and the front lot line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required "front yard."

**YARD, REAR** — An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

**YARD, SIDE** — An open, unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line that is not a rear line or a front line shall be deemed a side line.

**ZONING ENFORCEMENT OFFICER** — Any person appointed by the Town Board to enforce the provisions of this chapter.

**ARTICLE II  
Districts and Map**

**§ 107-3. Establishment of districts.**

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Watertown, the town is hereby divided into the following districts:

District	Description
R-1	40,000 square feet
R-2	40,000 square feet
R-3	15,000 square feet
R-4	15,000 square feet (two-family)
R-6	Multifamily (manufactured home park)
B	Business
NC	Neighborhood Commercial
M	Manufacturing
NP	Natural Products (Floating Zone)
RA	Recreation Area (Floating Zone)

District	Description
CR	Community Recreation (Floating Zone)
PDD	Planned Development District Outdoor Woodburning Furnace Overlay District

#### § 107-4. Zoning Map.

Said districts are bounded as shown on a map entitled "Zoning Map, Town of Watertown, 2015," and certified by the Town Clerk, which, with all explanatory matter thereon, is hereby made a part of this chapter.

#### § 107-5. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, the center line of such street or highway shall be construed to be such boundary.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated they approximately parallel the lines of streets or highways, such district boundaries shall be construed as being parallel to the center lines of such streets or highways and at such distances therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
- E. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Watertown, unless otherwise indicated.
- F. Where the district boundary line is not a natural or manmade feature, the center of the line appearing on the map is from which or to which measurements are made.

#### § 107-5.5. Floating zones.

- A. The following floating zones may be established in the Town of Watertown:
  - (1) Natural Products (NP) Floating Zone.
    - (a) Statement of intent. The Town of Watertown Town Board recognizes that it is the policy of New York State to foster and encourage the development of an economically sound and stable mining industry, and the orderly development of domestic needs compatible with sound environmental

management practices. The Town Board further recognizes that the New York Mined Land Reclamation Law supersedes all other state and local laws relating to the extractive mining industry where a permit is required by the state.

- (b) An application for amendment of this chapter shall be made. The minimum size of any area for which an application may be made for amendment of this chapter and the Zoning Map to an NP Natural Products District shall be five acres.
- (c) Special use permits. Where Natural Products operations are designated a permissible use in a zoning district, the Town Board shall have the right to place conditions related to the following:
  - [1] Ingress and egress to public thoroughfares controlled by the Town;
  - [2] Routing of mineral transport vehicles on roads controlled by the Town;
  - [3] Requirements and conditions concerning setbacks from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, dust control, and hours of operation; and
  - [4] Enforcement of reclamation by requirements contained in Mined Land Reclamation Permits issued by the state.
- (d) Groundwater. The Town has the right to monitor groundwater impacts resulting from natural products operations and/or the reclamation of mines.
- (e) Before issuing a special use permit for such use, the Planning Board shall find that such natural products operation will not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience, or safety by reason of excessive dust, noise, traffic, or other condition. The Planning Board may specify any reasonable requirements to safeguard the public health, safety, and welfare in granting such permit, including the following.
  - [1] The slope of material in such topsoil, sand, gravel, clay, and other earth shall not exceed the normal angle of repose of such material.
  - [2] The top and base of such slope shall not be nearer than 50 feet to any property line nor nearer than 100 feet to the right-of-way line of any street or highway.
  - [3] A plan for restoration and rehabilitation of a natural products operation shall accompany the application for a permit and shall assure conformance with the public health, safety, and welfare. The Planning Board, upon approval of such plan, shall require a performance bond or other security to assure rehabilitation of natural products operations in conformance therewith.

- [4] A plan for safeguarding the public health, safety and welfare in natural products operation areas shall accompany the application for a permit and shall be approved by the Planning Board.
- [5] Proper screening, as determined by the Town Planning Board, shall be provided by the natural products operation in order to screen all activities from view from a public street or public right-of-way. Similar screening shall be provided where excavating activities adjacent to a residential district would have or are having a harmful effect on residential use or development, as determined by the Planning Board.
- [6] Notwithstanding any other provisions of this chapter, a natural products operation existing immediately prior to the time of adoption of this chapter, either by special use permit or as a nonconforming use under the Zoning Ordinance repealed by this chapter shall be subject to the provisions of this chapter, except that said operation shall not be subject to the provisions herein for a period of five years from the date of the adoption of this chapter. All such natural resource operations shall be registered with the Zoning Enforcement Officer if they have been operating as a nonconforming use under the Zoning Ordinance repealed by this chapter.

(2) Recreation Area (R-A) Floating Zone.

- (a) Statement of intent. The Town of Watertown Town Board recognizes that areas dedicated to recreational and athletic activities are necessary and beneficial to the economy of the Town and to the welfare of its citizens.
- (b) Various activities of an athletic and recreational nature, together with uses in support of such activities, may be permitted in an R-A District subject to the following provisions:
  - [1] An application for amendment of this chapter shall be made. The minimum size of any area for which an application may be made for amendment of this chapter and the Zoning Map to an R-A Recreation Area District shall be five acres.
  - [2] A special use permit may be granted by the Planning Board upon application, subject to the provisions of this chapter and this section.
  - [3] A special use permit may be granted for one or more uses upon a single application. The applicant shall present maps, plans and specifications prepared by an architect and/or a professional engineer, licensed by the State of New York, having the approval of the New York State Department of Environmental Conservation (NYSDEC) and/or the New York Department of Health (NYDOH) of plans and specifications of water supply and sewage disposal. Should the approval of the NYSDEC or the NYDOH be not required, there shall be presented evidence satisfactory to the Planning Board to demonstrate that the system of sewage disposal and surface water

drainage for the proposed use or uses is in accord with state health regulations and found to be satisfactory by the Planning Board.

- [4] The application shall set forth with exactness the proposed uses, and the map, plans and specifications shall set forth the location of each building or structure to be erected and a delineation of the area of each use contemplated.
- [5] The maps, plans and specifications shall show thereon the provision for a parking area sufficient in size to provide space for the parking of motor vehicles at the ratio of one motor vehicle for each two persons physically upon the area designated an R-A District at any one time. For this purpose, the application shall set forth the maximum number of persons which will be permitted to be within the R-A District at any time.
- [6] Any plan for the use of any part of the area of the R-A District as a restaurant or tavern licensed to sell alcoholic beverages shall be supported by documentation of the need therefor, and provided further that such use is supportive of and complimentary to an athletic or recreational use within the R-A District. No special use permit shall be granted allowing such use without limitations upon the hours of such use during the day, the days of the week and the months of the year during which such use shall be permitted. A special use permit granting such use or uses shall prohibit all advertising of such use or uses by all means, including signs, posters, circulars, and the news media. Further, the special use permit shall prohibit the use or uses at all times during which there is not occurring an athletic or recreational event to which such use is supportive or complimentary. For this purpose, the event being supported or complimented must occur outside of any restaurant or tavern selling alcoholic beverages and any room contiguous thereto or having inside access thereto.
- [7] The maps, plans, and specifications shall provide for a minimum distance from the property line of any adjoining owners and public highway of at least 100 feet from any particular use area within the R-A District.
- [8] No building or structure shall be more than 35 feet tall and there shall be a minimum of 15 feet between all buildings and structures. All buildings and structures shall conform to the New York State Building Code.
- [9] The Planning Board, in approving or denying an application for a special use permit for any particular use within an R-A Recreation Area District shall take into consideration the following as each may have application: intensity of use; traffic access, pattern, and safety; existing and permitted uses of adjoining property; potential noise levels and pollution; potential air pollution.

[10] Uses specifically prohibited. Prohibited uses shall be as follows: any form of overnight camping or lodging; fireworks displays, unless authorized by a permit under Penal Law § 405.

- (3) Community Recreation (CR) Floating Zone.
- (a) Statement of intent. The Town of Watertown Town Board recognizes entertainment, cultural, and recreational opportunities are necessary and beneficial to the economy of the town and welfare of its citizens.
  - (b) An application for amendment of this chapter shall be made. The minimum size of any area for which an application may be made for amendment of this chapter and the Zoning Map to an CR Community Recreation District shall be five acres.
  - (c) Projects shall be subject to site plan review by the Planning Board and meet all necessary regulations set out in subsection [e]<sup>2</sup>.
  - (d) Uses permitted shall be as follows:
    - [1] Multipurpose event center.
    - [2] Skating rink.
    - [3] Indoor and outdoor sporting facility.
    - [4] Conference center.
    - [5] Concert hall and/or music venue.

B. The following are the procedural steps that shall be followed when applying for a floating zone:

- (1) A party considering making an application for the creation of a floating zone shall first meet with the Town Board to present their preliminary proposal for the location and development of the zone. Based on the results of this meeting, the applicant will decide whether to proceed with a formal application or not.
- (2) Application for establishment of a floating zone shall be made to the Zoning Enforcement Officer along with the appropriate filing fee paid to the Town Clerk. The Zoning Enforcement Officer shall forward the application to the Planning Board within five days of receipt.
- (3) Within 62 days of the acceptance of a completed application by the Planning Board, the Planning Board shall report its recommendations to the Town Board. The recommendations shall address the following findings:
  - (a) The zone proposed will not be detrimental to present and potential surrounding uses.
  - (b) Land surrounding the proposed development is compatible in use and can be planned in coordination with the proposed zone.

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2. Editor's Note: So in original.

- (c) The proposed change is in conformance with the general intent of the comprehensive plan for the community.
- (d) Existing and proposed roads are suitable and adequate to carry anticipated traffic within and around the proposed zone.
- (e) Existing and proposed utility services are adequate for the proposed zone.
- (4) Within 62 days of the Planning Board report, the Town Board shall hold a public hearing on the proposal to rezone.
- (5) Within 62 days of the public hearing, the Town Board shall take action to approve or disapprove the rezoning proposal.

#### § 107-6. Planned Development District.

- A. Statement of purpose. Planned Development Districts ("PDDs") provide opportunities to create more desirable environments through the application of flexible and diversified land development standards based on the Town of Watertown Comprehensive Plan. A PDD is a zoning overlay option designed to overcome the rigidity of traditional zoning, protect environmentally sensitive areas, and encourage or discourage specific types of development. Traditional zoning ensures consistent applications of regulations, but it does not easily accommodate innovative development. The PDD allows for site-specific regulations in response to on-site conditions or to mitigate off-site impacts. The Town of Watertown Planning Board will carefully review submitted PDD applications for consistency with the Town of Watertown Zoning Law, the Comprehensive Plan, and the proposed project's harmony with adjacent development.
- B. To establish a Planned Development District, the Zoning Map must be amended in accordance with the following procedures and the regulations for amendments to the Zoning Law. Prior to the preparation and submission of a completed application and site plan, the owners may request a meeting with the Planning Board for the purpose of reviewing and discussing the proposed uses, densities, infrastructures, common areas, and other elements of the proposed Planned Development District. This meeting is intended to assist the owners in planning and preparing the application and site plan. It should be noted, however, that the more detail the owners provide to the Planning Board the more that the board will be able to provide the owners with guidance and advice prior to their final preparation of the plans and specifications.
  - (1) Application for a Planned Development District shall be made to the Planning Board, with copies to the Town Board, by the owner(s) of the property, or a designated agent, included in the proposal. The application shall consist of all the information required for site plan review, unless waived by the Planning Board.
  - (2) The Planning Board shall review the application according to the criteria and procedures for site plan review, except that a public hearing is not required, nor shall the Planning Board be limited by the use and area requirements of the existing underlying zoning districts except for density requirements. The Planning Board shall have a maximum of 60 days from receipt of all materials and any information required by it to make its recommendations to the Town Board.

- (3) The Planning Board shall recommend in writing (rather than take final action) approval, approval with conditions, or disapproval of the application and site plan to the Town Board.
- (4) Within 45 days of receiving the Planning Board recommendation, the Town Board shall hold a public hearing on the proposal. Within 45 days after the public hearing has been closed, the Town Board shall deny, approve, or approve with modifications the application for the Planned Development District and its site plan.
- (5) If the Planned Development District is approved, the permitted development must be confined to the specific designated area and the approved site plan must be adhered to in all respects. Anything different from these requirements shall constitute a violation of the Zoning Law.
- (6) If the Town Board finds that noticeable progress toward development has not been demonstrated within one year from the date that "Planned Development District Status" was granted, the Town Board may (after 30 day notice to the owners, or their designated agent) adopt a resolution which formally states such lack of progress, and which reverts the subject land back to its former zoning status. The Town Clerk shall then make the necessary notations on the Zoning Map. The owners, or their designated agent, may request the Town Board, in its discretion, for extensions and modifications to the projected construction schedules and staging phases contained in the approved site plan.
- (7) A particular Planned Development District shall not be changed to increase dwelling units, increase housing density, or increase nonresidential square footage or to change any specific conditions placed upon the applicant by the Town Board without undergoing a complete Planned Development District procedure as outlined in this section.
- (8) Except as otherwise provided in this section, a change of site plan will require only site plan review and approval by the Planning Board.

### ARTICLE III Regulations

#### § 107-6.1. Applicability.

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building shall hereafter be erected or altered to exceed the height; accommodate or house a greater number of families; occupy a greater percentage of lot area; or have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such building is located.

- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

### § 107-6.2. Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

### § 107-7. Schedule of Regulations.

The chart entitled "Schedule of Regulations, Town of Watertown," adopted November 9, 1970, and certified by the Town Clerk and the notes appended thereto applying to the uses of land and buildings, the height of buildings, the yards and other open spaces to be provided contiguous to or in connection with buildings, the area of lots, off-street parking space and all other matters contained therein as indicated for the various districts established by this chapter is hereby made and declared to be part of this chapter<sup>3</sup> and may be amended in the same manner as any other part of this chapter. The regulations listed for each district as designated, reading from left to right across the schedule, and in all notes appended thereto, are hereby adopted and prescribed for such district, subject to the provisions of other applicable sections of this chapter and, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application. The listing of any use in said schedule either as being permitted in or as being excluded from any particular district shall be deemed to be an exclusion of such use from any more restricted district unless such use is permitted in such more restricted district under the language set forth in the schedule as applying thereto.

### § 107-8. Special use permit requirements for specific uses.

- A. (Reserved)
- B. Specific uses.
- (1) Sanitary landfills and junkyards.
- (a) No sanitary landfill operation for garbage disposal or dump shall be established hereafter and no trash, rubbish, refuse or other waste material shall be dumped or deposited or burned or disposed of in any area within 200 feet from any highway, lake, stream or property line or 500 feet from any existing dwelling. A permit for any landfill operation or other deposition shall be obtained from the Planning Board subject to any additional regulations the Board may prescribe and to any conditions that the Board may impose in connection with a particular permit.

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3. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

- (2) Multifamily apartments or manufactured home parks. Multifamily development and manufactured home parks shall be permitted in the R-6 Districts subject to a special use permit and the following provisions:
- (a) An application for an amendment of this chapter shall be made and for a zoning permit for the construction of a multifamily dwelling or for the construction of a manufactured home park. A special use permit may be granted by the Planning Board subject to the provisions of this chapter and this section. For this purpose, the applicant shall present plans and specifications for the proposed manufactured home park or multifamily dwelling in a form suitable for making the determinations required herein which shall be considered as a guide for the Planning Board decision.
  - (b) (Reserved)
  - (c) In the case of a corner lot, the front yard depth from each street shall be at least 25 feet.
  - (d) (Reserved)
  - (e) (Reserved)
  - (f) (Reserved)
  - (g) A paved off-street parking area conforming to the requirements of this chapter shall be provided at a ratio of 1 1/3 spaces for each dwelling unit. Garages may be substituted for such off-street parking areas and shall conform architecturally to the principal building or buildings.
  - (h) A minimum area for recreation shall be provided at a ratio of 100 square feet for each dwelling unit; provided, however, that off-street parking areas shall not be included in the computation of the areas required to be furnished for recreational purposes. Said recreational areas shall be developed into either passive or active recreation which may include swimming pools which shall, however, be subject to the requirements of this chapter.
  - (i) The minimum habitable floor area for each dwelling unit shall not be less than 380 square feet, except that, where recreational camping vehicles are permitted in a manufactured home park, there shall be no minimum floor area.
  - (j) There shall be suitable landscaping, shrubbery, trees, and screening, and in the case of manufactured homes, there shall be ample lots arranged around paved streets. In addition, the entire lot shall be screened by a ten-foot strip of evergreen growth at least eight feet in height, except that, where exits and entrances are provided, said screening shall not be placed so as to obstruct normal and safe vision at the intersection. Such screening should not be more than 3 1/2 feet in height and so maintained within the triangular area formed by the intersecting street line and a point 30 feet distant from the point of intersection as measured along the street line. The Planning Board may approve alternate screening methods such as evergreen

shrubs and trees and earth mounds, provided that proper screening is accomplished.

- (k) There shall be a minimum of 10 feet between all buildings erected including accessory buildings.
  - (l) No parcel of property within the Town of Watertown shall be classified in the R-6 District until after evidence satisfactory to the Planning Board demonstrates that the system of sewage disposal for such development is in accord with state health regulations and further, is found to be satisfactory by the Planning Board.
  - (m) The dwelling unit density of the entire parcel shall not exceed one dwelling unit per 2,000 square feet of land area.
  - (n) A retail store providing day-to-day convenience items for the residents of a manufactured home park may be permitted as a secondary use in such a park, provided that:
    - [1] There shall be no more than one such store for each park.
    - [2] The area of the store shall not exceed 1,000 square feet.
    - [3] The orientation of the store shall be directed to the manufactured homes and no signs of any type shall be visible from any street of the Town of Watertown.
  - (o) In the case of a manufactured home park only, no more than 20% of the developed sites may be used at one time for the purpose of accommodating recreational camping vehicles overnight or on a short-term, temporary basis.
- (3) Gasoline station or public garage.
- (a) (Reserved)
  - (b) (Reserved)
  - (c) The minimum distance between pump islands shall be 20 feet.
  - (d) The minimum distance from the boundary of any residential district shall be 300 feet.
  - (e) No exterior storage of dismantled vehicles, vehicle parts or salvage materials shall be permitted.
- (4) Campground. A campground shall be subject to the provisions of this chapter and the following requirements:
- (a) Where the land area is to be used for a single-family unit purpose, no plans or specifications will be required except as specified in Articles IX and V.
  - (b) The minimum lot area shall be five acres, except for the individual use, where the minimum lot area for each one-family shelter shall be 4,500 square feet.

- (c) The minimum lot frontage shall be 60 feet. The minimum lot depth shall be 75 feet. The minimum lot area shall be 4,500 square feet.
  - (d) No temporary shelter or open fire shall be permitted within 100 feet of any street or property line.
- (5) Adult entertainment/business use.
- (a) Statement of purpose, findings, and intent. The Town Board of the Town of Watertown recognizes that adult entertainment businesses and uses, because of their very nature, exhibit serious objectionable operational characteristics which can lead to significant adverse impacts on the surrounding community, can be deleterious to the health, welfare and well-being of the residents of the Town of Watertown and often result in influences on the community which increase the crime rate and undermine the economic, moral and social welfare of the community. The unrestrained proliferation of such businesses and uses is inconsistent with the existing development and future plans for the Town of Watertown and can change the economic, social, and moral character of the existing community and adversely affect existing businesses and community and family life. Therefore, the Town Board of the Town of Watertown recognizes and determines that special regulation is necessary and desirable for the welfare of the citizens of the Town of Watertown to prevent the proliferation of adult businesses and uses and to regulate the establishment of such businesses and uses within close proximity to residentially zoned areas, schools, playgrounds and churches, so as to minimize the effect on such neighborhoods.
  - (b) Definitions. The following phrases and words shall have the meanings set forth below, except in those instances when the context clearly indicates a different meaning. Words and phrases not specifically defined below shall be interpreted so as to give them the meanings they have in common usage and to give the provisions of these regulations the most reasonable application.

**ADULT BOOKSTORE** — A business, whether retail or wholesale, having more than 10% of its net floorspace or 10% of the value of its stock-in-trade set aside for the sale of recordings, books, magazines, periodicals, films, videotapes/audiotapes or other viewing materials which may be viewed on or off the premises where such stock-in-trade is distinguished or characterized by its emphasis on or depiction of sexual activities or specified anatomical areas.

**ADULT ENTERTAINMENT USES** — A business, building, structure or portion thereof, including but not limited to those specifically enumerated in this subsection, which has more than 10% of its net floor space or 10% of the volume of its stock-in-trade set aside or devoted to the display, presentation or dissemination of material distinguished or characterized by an emphasis on the description or depiction of specified anatomical areas or sexual activities, including, but not limited to, any establishment presenting dancers, performers or any employee who displays specified anatomical areas. This

definition shall include adult bookstores, adult motion-picture theaters, and massage establishments.

**ADULT MOTION-PICTURE THEATER** — Enclosed or unenclosed building, structure or portion thereof used for presenting materials distinguished or characterized by an emphasis on the depiction or description of sexual activities or specified anatomical areas for the observation of patrons on the premises.

**BUSINESS** — Any person, firm, association, partnership, corporation, or other entity for profit.

**DISSEMINATION** — The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or specified anatomical areas.

**MASSAGE** — A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand or any instrument.

**MASSAGE ESTABLISHMENT** — Any establishment having a fixed place of business where massages are administered. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of any health care practitioner duly licensed by the State of New York, nor barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulders. This definition shall not include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational, or athletic facilities and facilities for the welfare of the residents of the area.

**MASSAGE TECHNICIAN** — Any individual who administers a massage to another individual at a massage establishment. This definition shall not include any health care practitioner duly licensed by the State of New York.

**NET FLOOR AREA** — That portion of the building devoted to display, whether for viewing or dissemination of a business's stock-in-trade. This shall not include entry areas, stockrooms, closets, storage areas, cash register areas, any area from which the public is excluded or rest rooms, whether public or private.

**SEXUAL ACTIVITIES** — Any act of masturbation, fellatio, sadomasochism, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be female, breasts.

**SPECIFIED ANATOMICAL AREAS** — Human male or female genitals, pubic area or buttocks with less than a full opaque covering, or female breasts with less than a fully opaque covering or any portion thereof below the top of the nipple, or covered male genitals in a discernible turgid state.

- (c) Adult entertainment businesses and uses shall be permitted only in the Manufacturing District and shall be subject to a special use permit issued by the Planning Board of the Town of Watertown in accordance with the provisions of Article IX of this chapter.
- (d) Adult entertainment uses shall be a minimum of 1,000 feet from schools, churches, public parks and recreation lands, municipal buildings, municipal boundary lines, residential parcels, and other adult entertainment uses. Measurement of distances shall be from the property lines of the uses except in the separation from other adult uses, in which case the distance shall be measured from structure to structure.
- (e) In addition to the other criteria set forth herein for special uses, the following specific criteria shall be applied to any adult entertainment business or use:
  - [1] No exterior sign shall contain any photographic or artistic representation of the human body.
  - [2] All building openings, entries, windows, and doors shall be located, covered, or screened in such a manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property.
  - [3] No adult use shall be established in any building of which any part is used for residential purposes.
  - [4] No residential use shall be established in any building of which any part is used as an adult use establishment.
  - [5] Stairways, sloping or rising paths, building entrances and exits shall be illuminated. Spotlight-type fixtures attached to buildings shall be prohibited.
  - [6] Adequate lighting shall be provided on site to ensure safe movement of persons and vehicles and for security purposes.
  - [7] Parking. One parking space for every 200 square feet of gross floor area devoted to adult use shall be provided. All adult uses shall be provided with off-street parking for all vehicles during typical peak use periods. Off-street parking may be located off site but must be within 300 feet of the site. If the property on which such parking will be permitted is not owned by the business operating the adult use, evidence in writing must be submitted to the Planning Board indicating the owner's agreement to permit patrons of the adult use access to such off-site parking facilities.

## ARTICLE IV

**Supplementary Regulations****§ 107-9. Applicability.**

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

**§ 107-10. Uses.**

- A. Accessory uses and garages. In residence districts, the number of motor vehicles for which space may be provided as accessory to an authorized use shall not exceed three times the number of dwelling units permitted, but for each 5,000 square feet by which the lot area exceeds the minimum required square feet, space for one additional motor vehicle may be provided.
- B. Stripping of topsoil. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.
  - (1) Dwellings on small lots. Notwithstanding the limitations imposed by any other provisions of this chapter, the Board of Appeals may permit erection of a dwelling on any lot (except a lot in a Manufacturing District) separately owned or under contract of sale and containing, at the time of the passage of this chapter, an area or width smaller than that required for a one-family dwelling, except that where said lot would not have met the requirements of the ordinance repealed but had been purchased after its adoption.
- C. Accessory uses and structures. Accessory uses and structures shall be allowed in all districts and shall comply with all requirements for principal uses and structures as set forth in the Town of Watertown Zoning Schedule of Regulations,<sup>4</sup> regardless of whether or not they require a permit pursuant to this chapter.
- D. Animal hospitals and kennels. All outdoor dog kennels, dog runs, or outdoor areas allowed for the use of dogs shall be fenced and set back 100 feet, minimum, from all property lines.
- E. Residential Access in Business (B) and Neighborhood Commercial (NC) Districts.
  - (1) No one- or two-family dwelling, or single- or double-wide manufactured homes shall be constructed on any lot within the B District unless the lot fronts on and has direct vehicular access to a public road.
  - (2) No one- or two-family dwelling shall be constructed on any lot within the NC District unless the lot fronts on and has direct vehicular access to a public road.

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4. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

- F. Domestic livestock on nonagricultural lots. Domestic hooved livestock and domestic small livestock, poultry, and fowl are allowed in the R-1, R-2, R-3, and R-4 zoning districts subject to the following standards:
- (1) A fenced containment area must be provided and shall not be closer than 50 feet from the property boundary.
  - (2) Animals shall be properly housed and sheltered in an accessory structure located in the rear yard.
  - (3) No person shall keep any dangerous or wild animals within the Town of Watertown unless the individual has a wildlife rehabilitator license issued by the New York State Department of Environmental Conservation.
  - (4) Regular removal or spreading of manure is required so that it does not become unsightly or emit odor beyond the property boundary.
  - (5) Drainage improvements shall be provided and constructed to protect adjoining properties from runoff containing contaminants, including sediment or organic wastes.

**§ 107-11. Height.**

- A. Height exceptions. The height limitation of this chapter shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads, similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area 20% of the ground floor area of the building.
- B. Ornamental features. The provisions of this chapter shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five feet.
- C. Height and open space. In any district any main building may be erected to a height in excess of that specified for the district, provided that each required front, side, and rear yard is increased one foot for each one foot of such additional height.

**§ 107-12. Reduced lot area.**

No lot shall be so reduced in area that any required open space will be smaller than that prescribed in the regulations for the district in which said lot is located.

**§ 107-13. Visibility at intersections.**

On a corner lot in any residence district no fence, wall, hedge or other structure or planting more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by the intersection of street lines at points which are 30 feet distant from the point of intersection measured along said street lines.

**§ 107-13.1. Fences.**

- A. No fence shall be erected within 20 feet the right-of-way of a public road.
- B. Any fence within 50 feet of the right-of-way of a public road shall not exceed four feet in height.
- C. All fences shall be constructed so that the finished side faces outward from the premises with the backers and/or supports facing inward toward the property owner's side of the premises.
- D. Barbed wire, chicken wire, pallets, plywood, and construction fencing shall not be used as a fencing material or as any part of a fence.
- E. The provisions of this section shall not apply to hedges or fences on premises used exclusively for farm purposes.
- F. Garden fencing and pet enclosure fencing shall be exempt from these regulations.

**§ 107-14. Yards.**

- A. Terraces. A paved terrace shall not be considered a part of the building in the determination of yard sizes or lot coverages; provided, however, that such terrace is unroofed and without walls, parapets, or other forms of enclosure. Such terrace, however, may have an open guard railing not over three feet high and shall not project into any yard to a point closer than four feet from any lot line.
- B. Porches. Any open or enclosed porch shall be considered a part of the building in the determination of the size of yard or lot coverage.
- C. Projecting architectural features. The space in any required yard shall be open and unobstructed except for the ordinary projection of windowsills, belt courses, cornices, eaves, and other architectural features; provided, however, that such features shall not project more than two feet into any required yard.
- D. Bay windows. Bay windows, including their cornices and eaves, may project into any required yard not more than two feet; provided, however, that the sum of such projections on any wall does not exceed 1/3 the length of said wall.
- E. Fire escapes. Open fire escapes may extend into any required yard not more than four feet six inches.
- F. Front yard depth. In any residence district, each dwelling hereafter erected shall have a front yard equal in depth to the average depth of the front yards of the lots immediately adjacent thereto on either side, but no front yard shall be less than 10 feet nor need any front yard have a greater depth than 50 feet.
- G. Reduction in rear yards. When a lot is less than 100 feet deep at the time of the passage of this chapter such rear yard may be decreased 1/4 of the distance that the lot depth is less than said 100 feet; provided, however, that no rear yard shall be less than 20 feet in depth.

**§ 107-15. Transition regulations.**

- A. Lots in two districts. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district. Business entrances on residential streets. Where a residential district is bounded by a portion of a business district, any side street extending through such residential district into such business district shall not be used for any business purpose, except as herein set forth. The business structure erected in said business district shall face and open upon the street set aside for business purposes, except that show windows in such business structure may be built and exposed upon said side street within the area set aside as a part of such business district and an entrance may be made at the corner of such business and residential street, and all other entrances thereto must face on the business street, except that entrances may be made from such residential street to the upper stories of such business structure.
- B. Garage entrances. No public or private garage for more than five motor vehicles shall have an entrance or exit for motor vehicles within 50 feet of a residential district, except when constructed in the R-6 District.
- C. Side yard and rear yard transition. Where a lot in a business or industrial district abuts a lot in a residential district there shall be provided along such abutting lines a yard equal in width or depth to that required in the residential district.
- D. Front yard transition. Where the frontage on one side of a street is zoned partly as residential and partly as business or manufacturing, the front yard depth in the business or manufacturing district shall be equal to 1/2 the required front yard depth for a distance of 50 feet into the business or manufacturing district.
- E. Corner lot transition. On every corner lot in a residential district there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street.

**§ 107-16. Off-street parking.**

- A. A parking space shall not be less than nine feet by 20 feet exclusive of access ways and driveways.
- B. Adequate provision shall be made for snow removal and storage for all off-street parking areas.
- C. Parking areas of adjoining uses shall be connected to allow for convenient circulation between commercial uses and parking areas, and to maintain safety and efficiency on main highways by reducing traffic and multiple curb cuts. The Town may require proof of shared parking agreements or easements. Planning Board may waive certain overall parking requirements if shared parking arrangements are made.
- D. Landscaped islands and other pervious surfaces on the site shall be considered as opportunities to treat stormwater in an environmentally friendly matter and assist in

water table recharge. Where feasible, pervious surfaces shall be used instead of impervious surfaces.

- E. The following parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building which is erected, enlarged, or altered for use for any of the following purposes:

Use	Parking Spaces Required
1. Dwelling unit	2 spaces per unit
2. Theater or other places of public assembly	1 space per 4 seats
3. Temporary residents	1 space for each guest room
4. Restaurant or other eating or drinking place	1 space for each 5 seats
5. Residential health care facilities	1 space for each 5 patient beds
6. Administrative, business, professional or research offices	1 space for each 300 square feet GFA
7. Commercial retail facilities of:	
Less than 25,000 square feet	1 space for each 200 square feet GFA
25,000 to 400,000 square feet	1 space for each 250 square feet GFA
400,001 to 600,000 square feet	1 space for each 225 square feet GFA
600,001 square feet or more	1 space for each 200 square feet GFA

GFA = gross floor area

- (1) Applicant shall demonstrate the fact they are providing adequate parking convenient and accessible to the building installed in such a manner as not to be in conflict with loading areas.
  - (2) Where the applicant has provided to the Planning Board evidence of the necessity for a lesser number of parking spaces than are allowed in the above chart, the Planning Board may waive the above requirements and allow the number of spaces deemed necessary by the board.
- F. All parking spaces provided pursuant to this section shall be on the same lot or on an adjoining lot with the building, except that the Planning Board may permit the parking spaces to be on a lot within 500 feet of the building if it determines that it is impractical to provide parking on the same lot with the building.

**§ 107-16.1. Solar energy systems.**

- A. Any proposed solar energy system including those subject to review by the Office of Renewable Energy Siting (ORES) pursuant to Executive Law § 94-c, shall be subject to all substantive provisions of this section and any other applicable local law.
- B. Small solar energy systems.

- (1) Residential and commercial rooftop and building-mounted. Rooftop and building-mounted solar energy systems used for residential and commercial use are allowed in all zoning districts in the Town of Watertown. A NYS Building Code permit from the Jefferson County Fire Prevention and Building Department and a Town of Watertown zoning permit shall be required for installation of rooftop and building-mounted solar energy systems.
- (2) Residential and commercial ground-mounted. Ground-mounted solar energy systems designed to meet residential and commercial energy needs are allowed as accessory structures in all zoning districts of the Town of Watertown. A NYS Building Code permit from the Jefferson County Fire Prevention and Building Department and a Town of Watertown zoning permit shall be required for installation of ground-mounted solar energy systems. Ground-mounted solar energy systems serving commercial properties shall require site plan review. All ground-mounted systems shall be subject to the following requirements:
  - (a) Small solar energy systems shall be located in the least visibly obtrusive location where panels would be functional.
  - (b) Small solar energy systems shall only be located in the side or rear yard of a property.
  - (c) No part of a small solar energy system shall be located within any required front, side, or rear setback.
  - (d) All small solar energy systems shall comply with the NYS Uniform Fire Prevention and Building Code and the NYS Energy Conservation Code.
  - (e) The manufactures' or installers' identification and appropriate warning language signage shall be posted on or near the equipment in a clearly visible manner.
  - (f) Nonfunctioning solar energy equipment shall be repaired, replaced, or removed within six months of becoming nonfunctional.
  - (g) Siting of the small solar energy systems shall not block any required parking areas, sidewalks, or driveways and must take into account existing vegetation on adjacent lots and their potential growth.
  - (h) Small solar energy systems serving commercial properties shall be set back 100 feet from road right-of-way lines, side and rear lot lines, and any existing residential structures, unless the applicant can demonstrate reduced or no visual impact or glare on neighboring residences. The Planning Board may require greater setbacks if deemed necessary to lessen the impacts of the project on neighboring properties.
  - (i) Small solar energy systems serving commercial properties shall be screened by fencing or landscaping comprised of a minimum of one evergreen tree, at least six feet high at time of planting, plus two supplemental shrubs or other equivalent vegetation, not limited to evergreen, every 10 feet. For small solar energy systems serving commercial properties, the Planning Board has the right to require taller landscaping to reasonably minimize

views for surrounding properties. Plantings should be installed during the first planting season after installation and maintained to ensure survivability, including periodic watering of plantings.

- (3) (Reserved)
  - (4) Installation. Glare from all solar energy systems shall not be directed onto adjacent buildings, properties, or roadways. All solar energy system installations must be performed by an installer that is a licensed electrician or certified with a recognized certificate in solar installation, and prior to operation, the electrical connections must be inspected by a Jefferson County Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town of Watertown. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
  - (5) Removal. If a solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the system, mount, and associated equipment and facilities within 90 days of the end of the twelve-month period. Failure to remove the system within 90 days may result in the Town hiring a contractor to remove said system at the property owner's expense.
- C. Large solar energy systems. In addition to all minimum standards suggested by the New York State Energy Research and Development Authority (NYSERDA), large solar energy systems, specifically including those subject to Executive Law Section 94-c, and/or any laws which update and/or replace Executive Law Section 94-c, shall be subject to a zoning permit, special use permit, and the following permitting requirements:
- (1) Permit applications for any large solar energy system with a nameplate generating capacity of 25 megawatts or more and any solar energy system below 25 megawatts nameplate generating capacity that opts into Article 6, Section 94-c of Executive Law, known as the "Major renewable energy development program," must follow preapplication procedure and application requirements including, but not limited to, exhibits, fees, and filing, as outlined in the Office of Renewable Energy Siting's regulations (i.e., Chapter XVIII, Title 19 of NYCRR Part 900).
    - (a) Location. Large solar energy systems are permitted in all zoning districts except R- 3, R-4, and R-6 and shall not be located in floodplains, historic sites, airports, government lands, conservation easements, trails, parklands, and wetlands to the maximum extent practicable. Large solar energy systems shall not result in conversion of more than 10% of all prime farmland within the project area, which includes the area within which all facility components, such as solar panels, mechanical equipment, and support facilities are located, unless the project design allows for compatible agricultural uses within that area, including but not limited to cover crops, grazing, etc. All large solar energy systems shall be located so as to reasonably minimize their visibility from surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.

(2) Design standards.

- (a) Lot coverage. The project area of a large solar energy system that is ground-mounted shall not exceed 40% of the total size of the lot(s) on which it is installed. The project area includes the area within which all facility components, such as solar panels, mechanical equipment, and support facilities are located.
- (b) Height and setbacks. Large solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt. Taller installations may be allowed if the applicant/operator can demonstrate that higher structures are necessary for crop productivity, livestock management, or other agricultural operations. Setbacks from road right-of-way lines, side and rear lot lines, and any existing residential structure shall meet the following setback regulations unless the applicant can demonstrate reduced or no visual impact or glare on neighboring residences. If more than one setback applies, the larger setback takes precedence. The side and rear lot line setbacks for contiguous parcels that include facility components within one proposed project may be waived. The Planning Board may require greater setbacks if deemed necessary to lessen the impact of the project on neighboring properties. Minimum spacing requirements between solar panels shall be determined in accordance with local agricultural needs and site-specific assessments, considering factors such as the type of agricultural activity, equipment access, and sunlight distribution to support both energy production and agricultural productivity.

Zoning District	Minimum Setback from Road Right-of-Way Lines	Minimum Setback from Side Lot Lines	Minimum Setback from Rear Lot Lines	Minimum Setback from any Existing Residential Structures
Residential (R-1)	100	300	200	400
Business (B)	100	100	100	400
Manufacturing (M)	100	100	100	400

- (c) Fencing and signage. All large solar energy systems shall be enclosed by fencing at least seven feet high with a self-locking gate to prevent unauthorized access. The manufacturer's name, equipment specification information, safety information, twenty-four-hour emergency contact, and any other information required by the National Electric Code shall be placed on the entrance and perimeter of the fencing, and each sign shall be eight square feet or smaller. All fencing shall be of a type and style acceptable to the Planning Board, taking into consideration the location of the proposed large solar energy system and the surrounding uses.
- (d) Screening. Based on site-specific conditions including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize adverse visual impacts and glare by preserving natural vegetation, providing berms and landscape screening to abutting residential properties, public roads, public sites, and known areas of important views or vistas. Required

screening shall be complete prior to construction of the large solar energy system where it abuts residential properties to the extent practicable. All other screening that does not abut residential properties may be complete in the next suitable planting season within one year following construction. The landscaped screening surrounding the panels shall be comprised of a minimum of one evergreen tree, at least six feet high at time of planting, grouped with two supplemental shrubs or other equivalent vegetation—not limited to evergreen—every 10 feet and all planted within 10 linear feet of fencing adjacent to residential structures. Screening requirements along non-residential parcel boundaries, when applicable, shall be in a manner acceptable to the Planning Board. All screening shall consist of native species and should minimize the shading of solar collectors. Existing vegetation may be used to satisfy all or a portion of the required landscape screening. Plantings shall be maintained to ensure survivability, including periodic watering of plantings. Any unhealthy vegetation shall be removed and replaced, immediately. The Planning Board has the right to require taller landscaping, including—but not limited to—a combination of screening and berms, to reasonably minimize views for surrounding properties. The Planning Board has the right to waive the landscaping requirements for large solar energy systems where an applicant can demonstrate no impact on adjacent parcels.

- (e) Vegetation. The applicant/operator shall implement and maintain vegetation within the vicinity of solar panel installations that does not exceed a predetermined height, such as the planting of red clover, to reduce fire risk and ensure unobstructed access.
- (f) Watertown International Airport. The applicant shall notify the Airport Manager upon application submission to determine potential impacts on the airport. The applicant shall provide a letter of response from the Airport Manager. In order to prevent unwanted visual impacts to air traffic control towers and airplane pilots, all applicants for large solar energy systems shall conduct a glare analysis. Depending on site specifics (existing land uses, location, size of project, proximity to flight paths, etc.), an acceptable evaluation could involve one or more of the following levels of assessment: a qualitative analysis of potential impact in consultation with the air traffic control tower, pilots, and airport officials; a demonstration field test with solar panels at the proposed site in coordination with air traffic control tower personnel; or a geometric analysis to determine days and times when there may be an ocular impact.
- (g) Viewshed analysis. A viewshed analysis may be required by the Planning Board if deemed necessary.
- (h) Noise and vibration. No facility or solar energy equipment shall make, continue, or cause any unreasonable noise. Any application will require a study of the noise impacts of the construction and operation of the facility per Exhibit 7 of Chapter XVIII, Title 19 of NYCRR Part 900.

- (i) Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways. Exterior surfaces of all collectors and related equipment shall have a nonreflective finish. Particular attention shall be paid to panel orientation with regard to airport runway locations, airplane flyover/approach patterns, and emergency helicopter landing areas to minimize potential glare impacts on pilots.
  - (j) Lighting. Lighting of solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- (3) Construction. Large solar energy systems shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets, and shall also be subject to the following requirements:
- (a) All topsoil removed shall be stockpiled on site and immediately spread and seeded on site after completion to prevent erosion and dust.
  - (b) Required screening shall be complete prior to construction of the large solar energy system where it abuts residential properties. All other screening that does not abut residential properties may be complete in the next suitable planting season following construction.
  - (c) All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and rights-of-way.
  - (d) Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
  - (e) Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.
  - (f) Decommissioning plan. To ensure the proper removal of a large solar energy system, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of any special use permit approval under this section. The decommissioning plan must specify that after the large solar energy system is abandoned, no longer producing at facility capacity, and/or can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and environmentally proper manner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimations shall take inflation into account. The Town Board may require a decommissioning bond to be agreed upon and approved by the Town Board during the permit process. Removal of large

solar energy systems must be completed in accordance with the decommissioning plan.

- (4) Sureties. The applicant shall be required to provide the finances necessary to remove the large-scale solar energy system. Pursuant to the execution of the decommissioning plan, the applicant shall provide the town with United States Currency in an amount determined by the Town Board and Town Attorney to cover the expense of removal of the system and remediation of the landscape in the event the Town must remove the facility. The Town shall hold the funds in an escrow account until the time of decommissioning. In the event the decommissioning funds held by the Town exceed that needed for complete decommissioning of the solar facility, the amount remaining from the original funds provided to the Town shall be returned to the facility. The amount of money provided to the Town shall be 115% of the cost of removal of the Large-Scale solar energy system and restoration of the property.

**§ 107-16.2. Minor wind power generating facilities and wind test towers.**

- A. Location. Minor wind power generating facilities and wind test towers are allowed in all zoning districts in the Town of Watertown. A NYS Building Code permit from Jefferson County Fire Prevention and Building Department shall be required for installation of all minor wind power generating facilities.
- B. Setbacks. Lot line setback of minor wind power generating facilities and wind test towers shall be 110% of the height of the structure including rotor radius.
- C. Height. Maximum height of minor wind power generating facilities and wind test towers shall be 100 feet including rotor radius.
- D. Removal. If a minor wind power generating facility or wind test tower ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the facility or tower and associated equipment no later than 90 days after the end of the 12-month period.

**§ 107-16.3. Major wind power generating facilities.**

Major wind power generating facilities are only allowed in the R-1 Zoning Districts in the Town of Watertown subject to the following requirements:

- A. Setback from road right-of-way lines: 1,000 feet plus the height of the structure including rotor radius, minimum on all state highways and 500 feet plus the height of the structure including rotor radius, minimum on all other roads.
- B. Setback from side and rear lot lines: 300 feet minimum. Additional setbacks may be required by the Planning Board in order to provide for the public safety, health, and welfare. The Planning Board may waive setback requirements from adjacent property lines if such adjacent properties are also participating in the siting of the wind power project.
- C. Setback from any existing residential structures: 1,000 feet minimum.

- D. Landscape and screening. Appropriate landscaping is required to keep the site in a neat and orderly fashion. Appropriate screening is required to screen accessory structures from adjacent residences.
- E. Equipment on site. All electrical generating equipment, electrical storage equipment, transformers and related equipment shall be enclosed in a secure structure. All such structures shall be secured by a fence.
- F. Compliance with other agency regulations. All major wind generating facilities shall comply with applicable state and federal regulations.
- G. Lighting. Major wind generating facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- H. Removal. The applicant shall submit an agreement to remove all driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower dedicated solely for use as a major wind power generating facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than 12 consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils. The applicant must provide a financial security bond or other security acceptable to the municipality for removal of the major wind power generation facility and property restoration, with the Town of Watertown as the assignee, in an amount approved by the Town Board, but not less than \$50,000. On an annual basis, the financial security bond or other security shall be reviewed and renewed. The Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the major wind power generating facility and property restoration.

**§ 107-16.4. Battery energy storage systems.**

- A. Permitting requirements for small battery energy storage systems. Small battery energy storage systems shall be allowed in all zoning districts and shall require a zoning permit. Small battery energy storage systems shall maintain a 100-foot minimum setback distance from any existing residential structure.
- B. Permitting requirements for large battery energy storage systems. Large battery energy storage systems are only permitted in the R-1, B, and M Zoning Districts. Large battery energy storage systems shall be subject to a zoning permit, special use permit, and the following permitting requirements:
  - (1) Site plan application. A site plan approval shall be required pursuant to § 107-42 of this chapter. Any site plan application shall also include, but not be limited to, the following information: an electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electric Code compliant disconnects and over current devices; a preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed; a commissioning plan; a fire safety compliance plan; an operation and maintenance manual; an emergency operations plan,

including training for first responders in case of an emergency; and a decommissioning plan. A final equipment specification sheet shall be submitted prior to special use permit approval.

(2) Design standards.

- (a) Signage. Signage shall be in compliance with American National Standards Institute Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, twenty-four-hour emergency contact information, and any information required by the National Electric Code. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- (b) Vegetation and tree cutting. Areas within 10 feet on each side of large battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover shall be permitted if they cannot readily transmit fire. Removal of trees should be minimized to the extent possible outside the 10-foot radius of the large battery energy storage system. The applicant/operator shall implement and maintain vegetation, as a managed lawn, within the vicinity of battery energy storage systems that does not exceed a height of one foot to reduce fire risk and ensure unobstructed access.
- (c) Fencing and screening. Large battery energy storage systems, including all mechanical equipment, shall be enclosed by fencing at least a seven-foot-high with a self-locking gate to prevent unauthorized access (unless housed in a dedicated-use building) and not interfering with ventilation or exhaust ports. Large battery energy storage systems shall be screened to minimize adverse visual impacts by preserving natural vegetation and providing earth berms and landscaped screening to abutting residential properties, public roads, public sites, and known areas of important views or vistas. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. Any unhealthy vegetation shall be removed and replaced, immediately. The Planning Board has the right to require higher landscaping to reasonably minimize views for surrounding properties. The Planning Board has the right to waive the landscaping requirements for large battery energy storage systems where an applicant can demonstrate no impact on adjacent parcels.
- (d) Setbacks.

Zoning District	Minimum Setback from Road Right-of-Way Lines	Minimum Setback from Side Lot Lines	Minimum Setback from Rear Lot Lines	Minimum Setback from any Existing Residential Structures
Residential (R-1)	100	300	200	400
Business (B)	100	100	100	400
Manufacturing (M)	100	100	100	400

- (e) Battery energy storage system (BESS) spacing. All battery energy storage structures or buildings shall be spaced at least five feet from one another to mitigate fire spread risks. Smaller BESS separation distances may be allowed based on large scale fire testing in accordance with Section 1206.12.1 of the 2020 New York State Fire Code.
  - (f) Applicant/operator shall supply and install a dry water pipe that permits direct connection by fire department apparatus for fire suppression purposes in the area of the battery energy storage system. The pipe shall run from a point along the road frontage to the BESS itself.
- (3) Safety requirements.
- (a) Prior to the issuance of a zoning permit from the Zoning Enforcement Officer, the applicant must submit copies of all safety certifications to the Planning Board.
  - (b) Large battery energy storage 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 local fire department and first responders in the area.
  - (c) Large battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with National Electric Code.
  - (d) The applicant/operator shall be responsible for coordinating and conducting annual training sessions and facility walkthroughs with the local fire departments to ensure familiarity with the layout, technology, and emergency response protocols specific to the battery energy storage system.
  - (e) The applicant/operator shall maintain and provide an up-to-date contact roster to the local emergency management center, listing all essential personnel, including names, titles, phone numbers, and other pertinent contact information.
  - (f) The applicant/operator shall conduct annual contact notification exercises to verify the accuracy of the emergency contact information maintained with local emergency response agencies.
  - (g) An independent certified electrical inspector must conduct a thorough inspection of the battery energy storage facility, prior to operation, to ensure compliance with all applicable safety codes and standards.
- (4) Applicant/operator responsibilities. The applicant/operator shall be responsible for the following in the case of an emergency situation at a battery energy storage facility.
- (a) In the event of a fire or emergency at a battery energy storage facility, applicants/operators shall be liable for all associated costs, including but not limited to:

- [1] Damages incurred to the facility or surrounding property.
  - [2] Charges assessed by the fire department for emergency response services, including equipment and personal costs.
- (b) The applicant/operator shall provide, at their expense, one or more oscillating deck guns or articulating master stream devices compatible with the fire department's existing apparatus for all locations with battery energy storage systems.
  - (c) In instances where public water is utilized for fire suppression at the battery energy storage system, the applicant/operator shall reimburse the municipality for all related water usage costs.
- (5) Decommissioning plan and fund. The applicant shall submit a decommissioning plan to be implemented upon abandonment and in conjunction with removal of the facility. The owner and operator of the energy storage system shall continuously maintain a fund or bond payable to the Town, in a form approved by the town for the removal of the large battery energy storage systems, in an amount acceptable to the Planning Board, for the period of the life of the facility.
  - (6) Removal. Large battery energy storage systems shall be considered abandoned when they cease to operate consistently for more than 12 consecutive months. If the owner and operator fails to comply with decommissioning upon any abandonment, the Town may enter the property and utilize the available bond or security for the removal of a large battery energy storage system and the restoration of the site in accordance with the decommissioning plan.

#### **§ 107-16.5. Energy cooperatives.**

Producers of energy cooperatives are allowed in all zoning districts except R-3, R-4, and R-6 in the Town of Watertown through site plan review.

#### **§ 107-17. Outdoor water pools.**

- A. Permits. Permits for the construction, erection and maintenance of such pool shall be issued by the Zoning Enforcement Officer and shall be subject to all applicable provisions of applicable codes or ordinances of the Town of Watertown and of the State of New York.
- B. Materials of construction. No pool shall be built, constructed, or maintained except of materials having adequate strength to retain the water contained therein. They shall be designed in accordance with sound engineering practice and the applicant shall furnish complete plans, data, and specifications to enable the Zoning Enforcement Officer to evaluate the structure.
  - (1) Water disposal. Water overflowing from the pool and, when the pool is emptied, the water therefrom shall be disposed of on the owner's land and restrained from flowing on the land of any adjoining property owner or into any abutting street. The applicant shall show in his application the plans for the disposal of water.

## C. Fencing.

- (1) Adequate fencing shall be provided to prevent accidental entry and unauthorized use of the pool. Such fencing may be erected so as to completely enclose the pool itself or the particular yard in which the pool is situated or the entire property, except that, where the pool is constructed in connection with multifamily housing, the pool itself shall be enclosed.
- (2) Such fencing shall be constructed of chain link fabric not less than four feet high of number nine-gauge wire, erected on a framework of galvanized steel members as listed below, or other approved equal.
- (3) Line posts shall be 1 5/8 inches outside diameter (OD) round posts or equivalent structural section. End and gate posts shall be two inches OD round posts or equivalent structural section. Top rail shall be 1 3/8 inches OD pipe. All posts shall be set in concrete to a depth of 30 inches, eight inches in diameter and spaced not over 10 feet apart. Gates to give entrance to the enclosure shall be locked whenever the pool shall be unattended.
- (4) If some other type of fencing than that specified above is preferred, plans and specifications thereof may be submitted for the approval of the Zoning Enforcement Officer. In evaluating such request for approval, the Zoning Enforcement Officer shall give due consideration to the adequacy and durability of the proposed fence to ensure the safety and welfare of the general public.

D. Exclusions. Excluded from the provisions of this chapter shall be outdoor ice-skating rinks or surfaces of water used for ice skating, water ponds for agricultural purposes and water storage tanks when such tanks are completely enclosed by the principal material of their construction. Access doors to the interior of such tanks shall be securely locked except when personally attended by a regular employee or the owner.

E. Abandonment. Should the owner abandon the pool, he shall arrange to remove the depression and return the surface of the ground to its original grade and approximately in the same condition as before the pool was constructed, and he shall further notify the Zoning Enforcement Officer of the abandonment so that an inspection of the site may be made and records of the permit be marked accordingly.

F. Size and location. All pools shall comply with the requirements of the provisions of this chapter applicable to accessory buildings, except that the yard area occupied by such pools shall not be included in computing the percentage of lot area permitted to be built upon.

**§ 107-18. Off-street loading space.**

A. Structures used for the business uses permitted in this chapter shall be provided with one loading space as a part of the building or accessory thereto on the same lot for each 20,000 square feet or fraction thereof of floor area in such use, except that this shall not be a requirement for any building whose floor area is less than 2,000 square feet.

- B. Structures used for the industrial uses permitted in this chapter shall be provided with one loading space as a part of the building or accessory thereto on the same lot for each 10,000 square feet, or fraction thereof, of floor area in such use.
- C. An off-street loading space shall be a minimum of 12 feet in width, of adequate length to receive the largest anticipated vehicle, but not less than 33 feet, and 14 feet in height and shall have proper access.
- D. Off-street loading facilities shall be so arranged as not to interfere with pedestrian or vehicle traffic on public roads and will not create a safety hazard. Off-street loading facilities shall be to the rear of the structure where practicable and appropriately screened.

#### **§ 107-19. Screening for nonresidential uses.**

In any case where a business or manufacturing use in the business or manufacturing districts shall be contiguous to and abut upon any residence use conforming or nonconforming, a ten-foot planting strip of thick evergreen growth at least eight feet in height shall be planted on such industrial property along the abutting line, said planting strip shall be maintained in such manner as to protect the residential use from directed light beams as long as the nonresidential use shall be maintained. In the event any or all of the planting strip is damaged, destroyed, diseased, or dead, the industrial property owner shall replace the same with plantings which are at least equal in height and size to those being replaced.

#### **§ 107-20. Signs.**

All signs shall comply with the regulations set forth in the Town of Watertown Sign Control Law.<sup>5</sup>

#### **§ 107-20.1. (Reserved)**

#### **§ 107-20.2. Lighting.**

- A. Adequate lighting shall be provided on site to ensure safe movement of persons and vehicles and for security purposes. All exterior lighting proposed for the site shall be designed and arranged so as to minimize glare and reflection on adjacent properties. Lighting shall comply with guidelines set forth by the International Dark Sky Association or equivalent standard.
- B. The following design standards shall be followed on all site plans:
  - (1) The style of the light and light standard should be consistent with the architectural style of the principal structure and surrounding environment.
  - (2) The maximum height of free-standing lights should not exceed 35 feet.

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5. Editor's Note: See Ch. 86, Signs.

- (3) All lights should be shielded to restrict the maximum apex angle of the cone of illumination to 150°.
- (4) Where lights along the property lines will be visible to adjacent residents, the lights should be appropriately shielded.
- (5) Free-standing lights should be so located and protected to avoid being easily damaged by vehicles.
- (6) Pathways, sidewalks, and trails should be lighted with low or mushroom type standards.
- (7) Stairways, sloping or rising paths, building entrances and exits should be illuminated.
- (8) Lighting should be provided where buildings are set back or offset.
- (9) The following intensity in foot-candles should be provided:
  - (a) Parking lots: an average of 1.0 foot-candle;
  - (b) Intersections: 2.0 foot-candles;
  - (c) Maximum at property lines: 0.6 foot-candle;
  - (d) In residential areas: average of 0.6 foot-candle.

**§ 107-21. Nonconforming uses.**

The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform to the provisions of this chapter.

- A. Unsafe structures. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
- B. Alterations. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 75% of the assessed value of the building unless said building is changed to a conforming use.
- C. Extension. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this chapter shall not be deemed the extension of such nonconforming use.
- D. Construction approved prior to adoption of or amendment to chapter. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within one year of the date of the permit and which the entire building shall be completed according to such plans as filed within two years from the date of this chapter.

- E. Restoration. No building damaged by fire or other causes to the extent of more than 150% of its assessed value shall be repaired or rebuilt except in conformity with the regulations of this chapter.
- F. Discontinuance. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter.
- G. Changes. Once changed to a conforming use no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification.
- H. Displacement. No nonconforming use shall be extended to displace a conforming use.
- I. District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

## ARTICLE V

### Administration and Enforcement

#### § 107-22. Enforcement.

- A. Enforcing Officer. This chapter shall be enforced by the Zoning Enforcement Officer of the Town of Watertown who shall be appointed by the Town Board. No zoning permit shall be issued by the Zoning Enforcement Officer unless and until all of the provisions of this chapter have satisfied.
- B. Zoning permits.
  - (1) No building, structure or land shall hereafter be used or occupied, and no building, structure or part thereof shall be erected, moved or altered (to expand the exterior physical dimensions) and no use shall be instituted on any parcel of land within the Town of Watertown unless in conformity with the regulations specified in this chapter for the district in which it is located and until a zoning permit therefore has been issued by the Zoning Enforcement Officer. A zoning permit issued under this chapter shall expire one year from the date of issue if construction has not commenced or the use instituted.
  - (2) There shall be submitted with all applications for zoning permits three copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings or structures to be erected and such other information as may be necessary to determine and provide for the endorsement of this chapter.
  - (3) One copy of such layout or plot plan shall be returned when approved by the Zoning Enforcement Officer, together with such zoning permit to the applicant upon payment of a fee to be established annually by the Town Board by resolution at the organizational meeting. In the event that the Town Board fails to

establish the permit fee at its organizational meeting the previously established fee shall continue to apply for the ensuing year.

- (4) No application for a zoning permit shall be considered complete unless and until the applicant certifies to the Zoning Enforcement Officer that all real property taxes pertaining to the property on which the application is sought are fully paid.
- (5) The Zoning Enforcement Officer shall maintain a record of all applications for zoning permits and all zoning permits issued, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected thereby upon payment to the Town Clerk of the established charge for copies.

### § 107-23. Board of Appeals.

- A. Creation, appointment, and organization. A Board of Appeals is hereby created. Said Board shall consist of five members. The Town Board shall appoint the members and designate the Chairman of the Board of Appeals. The Board shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.
- B. Powers and duties. The Board of Appeals shall have all the power and duties prescribed by law and by this chapter, which are more particularly specified as follows:
  - (1) Interpretation. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation, or determination appealed from and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation, or determination the appeal is taken.
  - (2) Variances.
    - (a) To vary or adopt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow, or steep lots or other exceptional physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case.
    - (b) The 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 the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
    - (c) Area variance. 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 such ordinance or local law, to grant area variances as defined herein. In determining whether an area variance be granted, the Board of Appeal shall consider:

- [1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - [2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - [3] Whether the requested area variance is substantial;
  - [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - [5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (d) The 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) Use variance. The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein. No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
- [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - [2] That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - [3] That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - [4] That the alleged hardship has not been self-created.
- (3) The 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 the

zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

C. Procedure.

- (1) The Board of Appeals shall act in strict accordance with the procedure specified by New York Town Law and by this chapter. All appeals made to the Board shall be in writing on forms prescribed by the Board. Every appeal shall refer to the specific provision of the chapter involved and shall exactly set forth the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.
- (2) Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case.
- (3) No application to the Zoning Board of Appeals shall be considered complete unless and until the applicant certifies to the Zoning Board of Appeals that all real property taxes pertaining to the property on which the application pertains are fully paid.

D. Alternate members.

- (1) There are hereby established three alternate member positions for the Town of Watertown Zoning Board of Appeals. The alternate Zoning Board of Appeals member positions are hereby established for the purpose of substituting for a regular member of the Zoning Board of Appeals in the event such regular member is unable to participate in a matter before the Zoning Board of Appeals because of a conflict of interest, a scheduled absence from the Zoning Board of Appeals for two or more consecutive meetings of said board, or in the event there is a lack of quorum of said board at any meeting thereof. The alternate members of the Zoning Board of Appeals shall be appointed by resolution of the Town Board for terms established by the board.
- (2) In the event a regular member of the Zoning Board of Appeals is unable to participate in a matter before the Zoning Board of Appeals due to a conflict of interest, or has indicated that he or she will be absent from at least two consecutive meetings of said board, or in the event there is a lack of quorum present for any meeting of the Zoning Board of Appeals, the chairperson of the Zoning Board of Appeals may designate an alternate member or members from those appointed by the Town Board to participate on a matter or matters pending before the Zoning Board of Appeals. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made when so designated, the alternate member or members shall possess all the powers and responsibilities of the regular member of the board for whom the appointment has been made. The substitution shall continue until the matter or matters for which the substitution has been made have been finally decided by the Zoning Board of Appeals.
- (3) All provisions of the Town Law and of the Town Code of the Town of Watertown relating to Zoning Board of Appeals member training and continuing

education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to alternate members of the Zoning Board of Appeals.

**§ 107-23.5. Planning Board.**

- A. Creation, appointment, and organization. A Planning Board is hereby created. Said board shall consist of five members. The Town Board shall appoint the members in conformance with Town Law. The Planning Board shall select a chairman and secretary and shall prescribe rules for the conduct of its affairs.
- B. Powers and duties. The Planning Board shall have all the powers and duties prescribed by Town Law, the Town Code of the Town of Watertown, as the same may be amended from time to time.
- C. Alternate members.
- (1) There are hereby established three alternate member positions for the Town of Watertown Planning Board. The alternate Planning Board member positions are hereby established for the purpose of substituting for a regular member of the Planning Board in the event such regular member is unable to participate in a matter before the Planning Board because of a conflict of interest is scheduled to be absent from the Planning Board for two or more consecutive meetings of said board, or in the event there is a lack of quorum of said board at any meeting thereof. The alternate members of the Planning Board shall be appointed by resolution of the Town Board for terms established by the Town Board.
  - (2) In the event a regular member of the Planning Board is unable to participate in a matter before the Planning Board due to a conflict to interest, or has indicated that he or she will be absent from at least two consecutive meetings of said board, or in the event there is not a quorum present for any meeting of the Planning Board, the chairperson of the Planning Board may designate an alternate member or members from those appointed by the Town Board to participate on a matter or matters pending before the Planning Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made, and when so designated, the alternate member or members shall possess all the powers and responsibilities of the regular member of the board for whom the appointment has been made. The substitution shall continue until the matter or matters for which the substitution has been made have been finally decided by the Planning Board.
  - (3) All provisions of the Town Law and of the Town Code of the Town of Watertown relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

**§ 107-24. Penalties for offenses.**

- A. A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both such

fine and imprisonment for a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or, imprisonment for a period not to exceed six months, or both such fine and imprisonment; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment not to exceed six months, or both such fine and imprisonment. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional offense.

- B. Any person and/or the Zoning Enforcement Officer may file a signed complaint when a violation of this chapter is suspected. All such complaints must be in writing and shall be filed with the Zoning Enforcement Officer who shall properly record such complaint and immediately investigate and report to the Town Board. If a violation is found to exist, the Zoning Enforcement Officer shall issue a notice of violation requesting compliance with the applicable section of the local law within a time period specified by the Zoning Enforcement Officer, as a courtesy to encourage voluntary compliance. If a violation persists beyond this time period, the Zoning Enforcement Officer shall issue a stop-work order requiring all work to cease until the violation is corrected. If the violation is not corrected, the Zoning Enforcement Officer shall take action to compel compliance.
- C. Pursuant to Criminal Procedure Law Section 150.20 (3), the Zoning Officer is hereby authorized to issue an appearance ticket to any person causing a violation of this chapter and shall cause such person to appear before the Town Justice.
- D. The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this chapter.

## ARTICLE VI Amendments

### § 107-25. Procedure.

- A. The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement, or repeal the regulations and provisions of this chapter after public notice and hearing. No petition requesting an amendment, supplement or repeal of Ch. 107, Zoning, of the Code of the Town of Watertown shall be considered complete unless and until the petitioner certifies to the Town Board that all real property taxes pertaining to the property on which the application is sought are fully paid.
- B. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated

meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

- (1) By publishing a notice with at least 20 days' notice of the time and place of such hearing in a paper of general circulation in the Town.
- (2) A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law, as such area is shown on an approved zoning map filed with the Zoning Enforcement Officer, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least 10 days prior to the date of such hearing.
- (3) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional State Park Commission having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.
- (4) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, town or county shall be given to the Clerk of such municipality and to the Clerk of the Board of Supervisors at least 10 days prior to the date of such hearing.
- (5) In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of that immediately adjacent extending 100 feet therefrom or of that directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of a least 3/4 of the members of the Town Board.

## ARTICLE VII

### Interpretation and Title

#### § 107-26. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

#### § 107-27. Title.

This chapter shall be known and may be cited as the "Town of Watertown, New York, Zoning Law."

## ARTICLE VIII

(Reserved)

§ 107-28. through § 107-40. (Reserved)

## ARTICLE IX

## Special Use Permits and Site Plan Reviews

## § 107-41. Special use permits.

- A. Authority. Pursuant to authority delegated in accordance with Section 274-b of the Town Law of the State of New York, the Town Board hereby authorizes the Planning Board to grant special use permits as set forth in this chapter.
- B. Applicability of special uses. Uses requiring a special use permit shall be controlled by the regulations in this article in addition to the regulations which apply in each district for any specific use. Such uses also require site plan review. No zoning permit shall be issued for any use or structure requiring a special use permit until approval has been granted by the Planning Board as required below.
- C. Expiration. A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than six months for any reason.
- D. Existing violations. No permit shall be issued for a special use for a property where there is an existing violation of this chapter or any other ordinance.
- E. Delinquent property tax. No permit, zoning or special use, shall be issued for a property where a delinquency in property taxes exists. A permit will be issued once delinquent property taxes are brought up to date.
- F. Standards applicable to all special uses. The Planning Board shall require that all special use permits comply with the following general review criteria:
  - (1) The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts subject to the satisfaction of the requirements and standards set forth herein in addition to all other requirements of this chapter and any additional conditions and requirements as may be set forth in such special use permit in definition of the extent and nature of any such permitted use;
  - (2) The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it and the location of the site with respect to the existing or future streets giving access to it shall be such that it will be in harmony with the orderly development of the district;
  - (3) The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

- (4) Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations or flashing lights than would be the operations of any permitted use.
- G. No application for a special use permit shall be considered complete unless and until the applicant certifies to the Town Board that all real property taxes pertaining to the property on which the application is sought are fully paid.

**§ 107-42. Site plan review.**

- A. Authority for site plan review. Pursuant to authority delegated in accordance with Section 274-a of the Town Law of the State of New York, the Town Board hereby authorizes the Planning Board to review and approve, approve with modification, or disapprove site plans.
- (1) Applicability of site plan review. Site plan review uses shall be controlled by the regulations in this article in addition to the regulations that apply in each district for any specific use. No zoning permit shall be issued for any use or structure requiring site plan review until approval has been granted by the Planning Board. All land use activities within the town shall require site plan review and approval before being undertaken, except the following:
    - (a) Construction or alteration of one- or two-family dwellings and ordinary residential accessory structures and related land use activities;
    - (b) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this chapter;
    - (c) Ordinary repair and maintenance of existing structures or uses;
    - (d) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%, or 500 square feet of floor area, whichever is less;
    - (e) Nonstructural agricultural or gardening uses;
    - (f) Agricultural structures.
  - (2) Any person may apply in writing to the Zoning Enforcement Officer for a written jurisdictional determination as to the requirements for site plan review.
- B. General site plan review criteria. The Planning Board shall require that all site plans comply with the following general review criteria:
- (1) The site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
  - (2) The site is designed so as to be in harmony with the comprehensive plan for the community;
  - (3) Parking and loading areas are adequate for the intended level of use, compliant with handicapped parking laws, rules and regulations, and arranged and screened

so as to minimize negative impacts on adjacent properties and the town road system;

- (4) Access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site, adjacent site access, and the town road system;
- (5) Internal circulation of the site is arranged so as to provide safe accessibility to parking areas, provide adequate separation of pedestrian and vehicular movements, and minimize impacts on the Town road system;
- (6) The site is suitably landscaped, and appropriately screened from adjacent properties and the road at all seasons of the year, so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
- (7) Sidewalks, bike paths, or other pedestrian facilities located in close proximity to schools, parks, businesses, existing neighborhoods, existing sidewalks, or roads with the potential for high traffic volumes and are safe and adequate;
- (8) Activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
- (9) Signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
- (10) Changes to existing drainage patterns, or increased drainage due to development activity have no negative impacts on adjacent property;
- (11) Proposed water supply and sewage disposal facilities are safe and adequate;
- (12) The proposed use is compatible with the geologic, hydrologic and soil conditions of the site and adjacent areas and that existing natural features are preserved to the extent possible;
- (13) Development activity complies with all other standards and requirements of this chapter.

**§ 107-43. Special use permit and site plan review procedure.**

- A. Presubmission conference. The applicant is encouraged to request and attend a presubmission conference with the Planning Board prior to formal submission of an application. This conference may be used to discuss rough conceptual drawings, proposed uses, the possible waiver of submission requirements, the review procedure, and the criteria that the project must meet.
- B. Application requirements. An application for review shall be made on forms prescribed by the Town. Five copies, minimum, of all materials shall be submitted to the board by the applicant. Extra copies as may be deemed necessary by the Planning Board may be required. The following information shall be required of all applications, unless specifically waived by the Planning Board:

- (1) Name and address of applicant and owner, if different, and of the person responsible for the preparation of such drawing;
- (2) Date, north arrow, written and graphic scale;
- (3) Boundaries of the area plotted to scale, including distances, bearings, and areas;
- (4) Location and ownership of all adjacent lands as shown on the latest tax records;
- (5) Location, name, and existing width and right-of-way of adjacent roads, including traffic circulation patterns;
- (6) Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use adjoining the property;
- (7) The current zoning classification of the property, including the exact zoning boundary if in more than one district;
- (8) A complete outline of existing or proposed deed restrictions or covenants applying to the property;
- (9) Plans for grading and drainage showing existing and proposed contours of five-foot intervals;
- (10) A written description of all proposed uses and activities on the site, including the number and distribution by type of all dwelling units;
- (11) Location, size, and design of the following: existing, proposed, and alterations to buildings, driveways, parking and loading areas, outdoor storage areas, sidewalks or pedestrian paths, drainage facilities, sewage facilities, water facilities, signs, outdoor lighting, landscaping or screening, buffer areas, snow storage areas; walls and fences, energy distribution facilities, fire lanes and other emergency zones;
- (12) Plans for controlling soil erosion and sedimentation during development;
- (13) Significant or outstanding natural features of the property (e.g. wetlands, streams, high-water lines, cliffs, dense vegetation, etc.);
- (14) Designation of the amount of gross floor area and gross leasable area proposed for each nonresidential use;
- (15) Project construction schedule and staging phases, if applicable;
- (16) Certification that all real property taxes pertaining to the property on which the application is sought are fully paid;
- (17) An Environmental Assessment Form (EAF) or draft Environmental Impact Statement (EIS), pursuant to 6 NYCRR Part 617, where required;
- (18) An agricultural data statement, pursuant to Town Law Section 283-a, when applicable;
- (19) A statement with the name, address and the nature and extent of the interest of any state employee, or any officer or employee of the town in the application pursuant to General Municipal Law Section 809, when applicable;

- (20) Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any federal, state, or county permits required for the project's execution;
  - (21) Application fee as stated in the fee schedule adopted by the Town.
- C. Public hearing. Once a completed application has been formally accepted by the Planning Board at a public meeting of the board, the board shall have a maximum of 62 days to hold a public hearing on the application to entertain public comment, unless the hearing is waived. This time period may be extended upon the mutual consent of the Planning Board and the applicant. A waiver of the hearing shall not be allowed in any one of the following circumstances:
- (1) The use requires a special use permit pursuant to this chapter;
  - (2) An identical application has been submitted and public hearing held on the use within the previous six months;
  - (3) The use is a Type I action according to the State Environmental Quality Review Act;
  - (4) The use is over 2,000 square feet of floor or ground area;
  - (5) The use is over 35 feet in height;
  - (6) The use requires an increase or change in public water supply facilities, sewerage facilities, drainage facilities, sidewalks, roads, curbs, gutters, or other public improvements;
  - (7) The applicant has requested a public hearing.
- D. Public hearing notice. At least five days advance public notice of the hearing shall be published in a newspaper in general circulation in the Town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing. The notice shall also be mailed to any farm operations listed on the agriculture data statement.
- E. Referral to County Planning Board.
- (1) Pursuant to General Municipal Law Section 239-m, at least 10 days before the hearing, or where the hearing has been waived, before final action, the Planning Board shall refer all site plan reviews or special use permits to the County Planning Board that fall within 500 feet of the following:
    - (a) The boundary of the Town;
    - (b) A state or county park or recreation area;
    - (c) A state or county highway or expressway;
    - (d) A state or county owned drainage channel;
    - (e) State or county land where a public building or institution is located; or
    - (f) The boundary of a farm operation located within an agricultural district.

- (2) If the County Planning Board does not respond within 30 days from the time it received a full statement on the referral matter, then the Planning Board may act without such report. However, any County Planning Board report received after such 30 days but two or more days prior to final action by the referring body, shall be subject to the provisions of an extraordinary vote upon recommendation of modification or disapproval. If the County Planning Board recommends modification or disapproval of a proposed action, the referring board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.
- F. State environmental quality review. The Planning Board shall be responsible for the completion of an Environmental Assessment Form (EAF) for each application, and for compliance with 6 NYCRR Part 617 (State Environmental Quality Review Act regulations) in cooperation with other involved agencies in the review of any application. The Planning Board shall complete its environmental review and make an environmental determination prior to final action on the application.
- G. Waiver of requirements. The Planning Board is empowered to waive, when reasonable, any application requirements for the approval, approval with modifications or disapproval of site plans or special use permits submitted for approval. Such waiver may be exercised in the event requirements are found not to be requisite in the interest of the public health, safety, or general welfare and inappropriate to a particular site plan or special use permit. The reasons for, and the scope of any such waiver granted by the Planning Board shall be in writing and entered into the minutes of the board.
- H. Area variance. Notwithstanding any provisions of this chapter to the contrary, where a proposed project contains one or more dimensional or physical features which do not comply with the Zoning Law, application may be made to the Zoning Board of Appeals for an area variance without the necessity for a decision or determination of the Zoning Enforcement Officer.
- I. Final decision. The final decision by the Planning Board must be made within 62 days of the close of the public hearing, or where the public hearing has been waived, within 62 days of the formal acceptance of the application. The decision shall be in writing, specifying any conditions that may be attached to an approval, the reasons that the Planning Board approved, approved with modifications, or disapproved the proposal, and the motions/vote of the Planning Board. This time period may also be extended upon the mutual consent of the Planning Board and the applicant.
- J. Filing of decision. All decisions shall be filed in the office of the Town Clerk within five business days of final action, and a copy mailed to the applicant. Within 30 days of final action on any matter referred to the County Planning Board, the referring board shall file a report of the final action with the County Planning Board.
- K. Conditions on approval. In its approval, the Planning Board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a zoning permit for the application as are directly related to and incidental to a proposed site plan or special use permit approval. Upon approval of the project, any such conditions must be met in connection with the issuance of permits by the Zoning Enforcement Officer.

- L. Expiration of site plan reviews and special use permits. Site plan review decisions and special use permits shall expire one year from the date of issue unless substantial progress has been made towards carrying out the terms of Planning Board decision. The applicant shall have two years to complete the terms of the decision, or all work shall cease at the site. An extension may be allowed by the Zoning Enforcement Officer upon proof of necessity submitted by the applicant due to conditions unusual or beyond the control of the applicant. A special use permit shall expire if the special use shall cease for more than six months for any reason.

**§ 107-44. Guarantee for installation of improvements.**

- A. General. In order that the Town has the assurance that the construction and installation of such improvements as storm sewer, public water supply, sewage disposal, road signs, landscaping, parking, access facilities and roads will be properly constructed, the Planning Board will require the applicant to enter into one of the following agreements with the town:
- (1) Furnish bond executed by a surety company equal to the cost of construction of such improvements as are shown of the plans and based on an estimate furnished by the applicant, reviewed by legal counsel and the town engineer, and approved by the Planning Board;
  - (2) Deposit a certified check or bank draft or provide an irrevocable letter of credit in sufficient amount equal to the cost of construction of such improvements as shown on the plans and based on the above estimate.
- B. Conditions. Before the final site plan is approved, the applicant shall have executed a contract with the Town, and a performance bond, irrevocable letter of credit, or cashier's check or bank draft shall have been deposited covering the estimated cost of the required improvements that have been designated by the Planning Board. The guarantee shall be to the Town and shall provide that the applicant, his heirs, successors, and assigns, their agent or servants, will comply with all applicable terms, conditions, provisions, and requirements of this chapter; will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan. Any such bond shall require the approval of the Planning Board and legal counsel as to form, sufficiency, manner of execution and surety. Wherever a cashier's check or bank draft is made, the same shall be made payable to the Town.
- C. Extension of time. The construction or installation of any improvements or facilities, other than roads, for which guarantee has been made by the applicant, shall be completed within two years from the date of approval of the final site plan. The applicant may request an extension of time, provided that he can show reasonable cause for any inability to perform said improvements within the required time. The extension shall not exceed six months, at the end of which time the Town may use as much of the guarantee to construct the improvements as necessary. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

- D. Schedule of improvements. When a guarantee has been given pursuant to the preceding sections, the Town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, 10% of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion, inspection, and acceptance by the Town of all construction and installation covered by the check deposit or performance bond as outlined in the contract.
- E. Inspections. Periodic inspections during the installation of improvements shall be made by the Zoning Enforcement Officer to ensure conformity with the approved plans and specifications as contained in the contract and this chapter. The applicant shall notify the Zoning Enforcement Officer when each phase of improvements is ready for inspection. The applicant shall pay any applicable inspection fee established by the Town Board to the Town Clerk at least five days prior to the inspection. Upon acceptable completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his representative and such letter shall be sufficient evidence for the applicant to request the release by the Town of the portion of the guarantee as designated in the contract to cover cost of such work.
- F. Acceptance of facilities. When the Zoning Enforcement Officer, following final inspection of the improvements, certifies to the Planning Board that all installation and improvements have been completed in accordance with the contract, the Planning Board may, by resolution, proceed to accept the facilities for which bond has been posted or check deposited.
- G. Acceptance of roads. Acceptance of roads shall be pursuant to Town Law, Highway Law, and the Town Code of the Town of Watertown.

**§ 107-45. through § 107-46. (Reserved)**

**ARTICLE X**

**Specific Site Plan Review Design Guidelines for Neighborhood Commercial District**

**§ 107-47. Application.**

The site plan review guidelines in this article shall apply to all site plan review applications in the Neighborhood Commercial District.

- A. These guidelines shall be used in conjunction with the site plan review criteria found in § 107-42 as well as the design strategies outlined in the "County Route 202, Strategies for the Roadway Landscape" report completed for the Town of Watertown December 2008. A presubmission conference shall be required for all applications submitted for a site plan review in the Neighborhood Commercial District and shall be used to discuss rough conceptual drawings, proposed uses, the possible waiver of submission requirements, the review procedure and the criteria that the project must meet.

- B. Adherence to the design guidelines is expected to the maximum extent practicable. As such, the design guidelines should be factored in at the earliest stages of concept development. They are meant to convey a richer, more thoroughly articulated vision for development than can be conveyed by standard, inflexible zoning requirements. Because design guidelines cannot anticipate the unique conditions or opportunities present on individual properties, there may be occasions where a specific element of the guideline may not apply. In such cases, it is incumbent upon the applicant to propose solutions that are still in keeping with the spirit and intent of the larger principles of the guidelines.

**§ 107-48. Natural site design.**

Site design shall recognize and respect natural features and create a balance between new development and the environment. By building with existing topography, it becomes possible to integrate stormwater management into the design, lessen the amount of grading and erosion, and thereby lessen the environmental impact to surrounding areas. In addition, by incorporating the site's natural features into the site design, it becomes possible to create a development that fits into its context.

- A. Unique features of the landscape such as wetlands, streams and drainage ways, forest stands and significant topography shall be integrated into the site design.
- B. Natural drainage ways, contours and landforms should be respected and disturbance to these areas should be minimized.
- C. Existing mature trees should be maintained and species selected for planting should be appropriate for this region and microclimate.
- D. Development should minimize cut and fill, utilize gentle grading, and avoid abrupt grade transitions. Any grade changes shall be in keeping with the general appearance of neighboring development areas.
- E. Maintain a maximum of 50% impervious surfaces on the lot. Exceptions may be granted by the Planning Board if the applicant can demonstrate reasonable justification that the alternative is impractical, or the applicant has taken other measures deemed acceptable by the Planning Board.

**§ 107-49. Screening and buffering from main highway corridors and between adjacent uses.**

Visual screens are design elements that interrupt a visual field and are used to reduce the visual impact of structures and parking areas from the main highway corridors and improve the aesthetic quality of the highway. Visual screens are most successful and cost effective when developed as either mixed vegetation plantings or elevated ground surfaces, commonly referred to as earth berms. An important characteristic of visual screens is that they screen views but do not block views. Buffer areas between uses are important to mitigate impacts between incompatible uses.

- A. A landscaped buffer area of 35 to 50 feet wide shall be required at the property front lot line in order to screen structures from the main highway corridor.

- B. A landscaped buffer area of 30 feet wide at side and rear yards shall be required in order to mitigate impacts between incompatible uses.
- C. Planted berms shall be placed between parking areas and the main highway corridor.
- D. Shrubs and groundcovers shall provide visual screening in all seasons.
- E. The Planning Board has the right and authority to require replacement of screening which is damaged, diseased, dangerous, dead or dying, or which is deemed by the Planning Board to be insufficient in providing appropriate screening.

**§ 107-50. Access management and circulation.**

The design criteria for access management and circulation are meant to: minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in main highway corridors by preserving highway capacity; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; and create safe and comfortable circulation for pedestrians.

- A. Minimize entry points and curb cuts. Wherever feasible, maintain a minimum separation distance of 500 feet between access points along main highway corridor. Temporary curb cuts may be provided for individual sites along major highway corridors, as sites are developed. However, as additional sites are developed, such curb cuts may be abandoned in favor of a safe and conveniently located curb cut that serves multiple, adjoining businesses.
- B. Where multiple commercial development sites are located on private access roads off main highway corridor, applicant shall demonstrate access road easement is adequate to meet the needs of development and proper maintenance agreements are in place and acceptable to all property owners. When there is a change in commercial use, the Planning Board shall review easement and maintenance agreements in order to assess adequacy of both in light of new uses.
- C. Provide automobile connections to adjacent lots and development through marginal access roads and linked parking lots. Marginal access roads shall be required in those instances where the Planning Board finds that an excessive number of access points on the main highway corridor may occur thereby diminishing the level of service on that corridor, and in instances where general traffic circulation will be improved.
- D. Where possible, cluster buildings together to allow for a common entrance drive off main highway corridor and shared parking areas.
- E. Provide pedestrian walkway in thirty-five- to fifty-foot landscaped buffer area along main highway corridor, or other means of accommodating pedestrian traffic in a manner acceptable to the Planning Board, including paved shoulders on both sides of roadway wide enough to accommodate safe pedestrian walkability.
- F. Provide pedestrian connections between adjacent commercial developments through multi-use paths.

- G. Provide internal pedestrian connections (on site, from parking lots, to adjacent lots, etc.) through pedestrian walkways.

**§ 107-51. Parking area.**

Keeping the visual presence of the automobile in the background is one of the primary design strategies to create a more appealing development. And it is the most effective way to maintain a distinctive and desirable landscape.

- A. Parking areas shall be to the rear or sides of site structures. Exceptions may be granted by the Planning Board if the applicant can demonstrate reasonable justification that the alternative is impracticable, or the applicant has taken other measures deemed acceptable by the Planning Board.
- B. Parking areas of adjoining uses shall be connected to allow for convenient circulation between commercial uses and parking areas, and to maintain safety and efficiency on main highways by reducing traffic and multiple curb cuts. The town may require proof of shared parking agreements or easements. Planning Board may waive certain overall parking requirements if shared parking arrangements are made.
- C. Landscaped islands and other pervious surfaces on the site shall be used as opportunities to treat stormwater in an environmentally friendly manner and assist in water table recharge. Where feasible, pervious surfaces shall be used instead of impervious surfaces.
- D. Locate buildings to the front of the site and use appropriate setback and facade design to create an effective scale as it relates to the main roadway. Where a corner lot is being developed, buildings shall face onto main highway corridor.

**§ 107-52. Sign and lighting.**

Design.<sup>6</sup>

- A. Lighting should be appropriate to the rural setting. Include full shielding to eliminate glare and minimize lighting to preserve dark skies and limit light pollution.
- B. In general, lighting fixtures should not be taller than the buildings they illuminate.
- C. Locate utilities underground where practical. All above ground utility boxes and similar facilities should be clustered and screened with landscaping.

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6. Editor's Note: See Ch. 86, Signs.