

ARTICLE IV GENERAL REGULATIONS

The provisions of this Ordinance shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations. The dimensions and restrictions set forth in Schedule A are incorporated herein and made a part of this Ordinance.

SECTION 401 BUILDINGS, USES AND LOTS

A. One Principal Building and Use Per Lot - There shall not be more than one (1) principal building and one (1) principal use on any one (1) lot in the Agricultural- Residential (A-R), and the Residential (R) Districts except as provided for in the following:

1. An approved multifamily dwelling project,
2. A single family dwelling accompanying a non-residential use, or uses, permitted on a lot in Agricultural-Residential (A-R) and Residential (R) Districts, provided there is only one use of a commercial nature on the lot, or
3. A single family dwelling accompanying a non-residential use, or uses, requiring a Special Use Permit in Agricultural Residential (A-R) and Residential (R.) Districts, if approved by the Planning Board as part of the Special Use Permit Application Process, provided there is only one use of a commercial nature on the lot.

B. Yard and Open Space for Every Building

No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. Also, no yard or any other open space on one (1) lot shall be considered as a yard or open space for a building on any other lot.

C. Subdivision of a Lot

Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected so as not to violate any of the requirements of this Ordinance with respect to the existing building, including yards and other required spaces in connection therewith. No zoning permit shall be issued for the erection of a building on the new lot thus created unless there is full compliance with all the provisions of this

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Ordinance.

D. Irregularly Shaped Lots

Where a question exists as to the proper application of any of the requirements of this Ordinance to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the matter shall be referred to the Zoning Board of Appeals and dealt with in accordance with the applicable provisions of Section 807.

E. Lots Under Water or Subject to Flooding

1. No more than twenty-five percent (25%) of the minimum area requirements of a lot may be met by land which is under water or subject to periodic flooding.
2. Land which is under water and is open to use by persons other than the owner shall be excluded from the computation of the minimum area of a lot.
3. Land in the bed of a stream not exceeding five (5) feet in width at mean water level, and land in a pond not exceeding one hundred fifty (150) square feet in area shall not be considered as under water for the purpose of computing lot area.
4. Where any part of a lot is separated by the main body of water, such separate land shall not be included in computing lot area.

F. Required Road Frontage

No zoning permit shall be issued for any structure unless the lot on which that structure is to be built has the required frontage on a road, as defined herein, which frontage provides actual access to such structure, and which road has been suitably improved to Town Board standards or a bond posted therefore to the satisfaction of the Town Board or Planning Board, as provided for in Section 280a of Town Law.

G. Parts of Lot Not Counted Toward Area Requirements

No part of such lot less in width than one-half ($\frac{1}{2}$) of the minimum requirements for the district in which it is located shall be counted as part of the minimum required lot area.

H. Adjacent Lots

Where two (2) or more adjacent lots are at the time of the effective date of this Ordinance in the same ownership, they shall not be considered a single lot, unless they are described as one (1) parcel in a deed recorded at the Genesee County Clerk's Office.

I. Yards on Corner Lots

Any yard adjoining a street shall be considered front yard for the purpose of this Ordinance and shall comply with all the requirements for a front yard in the district in which located. The remaining yards shall be considered side yards.

**SECTION 402 SUPPLEMENTARY YARD REGULATIONS, STRIPPING
AND EXCAVATIONS**

A. Porches

No unroofed structures shall be considered part of a building insofar as yard requirements are concerned. A roofed porch shall be considered a part of the building in determining the yard requirements or amount of lot coverage.

B. Projecting Horizontal Architectural Features

Architectural features, such as window sills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than four (4) feet into any required yard.

C. Fire Escapes

Open fire escapes may extend into any required yard.

D. Visibility at Intersections

On a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three (3) feet in height, shall be erected, placed or maintained within the triangular area formed by the intersecting right-of-way lines and a straight line joining said road lines at points which are forty (40) feet distance from the point of intersection, measured along said road lines. This paragraph shall not apply to existing trees, provided that no branches are closer than six (6) feet to the ground.

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E. Swimming Pools

All swimming pools two (2) feet or greater in height shall be considered accessory buildings within the provisions of Section 403 of this Ordinance, and shall be set back from lot lines at least the minimum distance required for other buildings and structures. All pools requiring a permit shall have a barrier as required by the New York State Uniform Fire Prevention and Building Code.

F. Buffer Strip

Wherever a buffer strip is required by this Ordinance, it shall meet the following standards:

1. The Planning Board may require a buffer strip of at least ten (10) feet in width along any commercial or industrial lot line abutting a lot in a Residential or Agricultural-Residential District.
2. Be of evergreen planting of such type, height and spacing as, in the judgment of the Planning Board, will screen the activities on the lot from view of a person standing at street level on the adjoining residential lot. The plans and specifications for such planting shall be filed with the approved plan for the use of the lot.
3. A wall or fence of which the location, height, and design has been approved by the Planning Board, may be substituted for the required planting.

G. Open Space - Commercial-Industrial District

Where a Commercial-Industrial District abuts a Residential or Agricultural-Residential District, there shall be at least fifty (50) feet of open space within the Commercial or Industrial District along such abutting line, which open space may include a buffer strip pursuant to the provisions of Subsection F of this Section.

H. Stripping of Top Soil

1. Topsoil, defined for the purpose of this Ordinance, as the natural surface covering land to a depth of eight (8) inches, shall not be removed from a premise except as hereinafter provided in this Section.

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2. The provisions of this Section shall not apply to the removal or sale of alluvial deposits or of the materials excavated resultant from the establishment of a farm pond or to the excavation or gravel or other fill except that no gravel or fill shall be excavated less than two hundred (200) feet from any public road.
3. An application for a permit for the removal of topsoil shall state the details of the program for the rehabilitation and reconditioning of the land after stripping. Such program shall include the details of preparation of the surface of the soil and the fertilization, liming and seeding, or for the covering of not less than five (5) inches of topsoil conditioned, fertilized and seeded. The application shall be subject to review and approval of the Planning Board as to the sufficiency of the program. No permit shall be issued until the application shall have been reviewed by the Planning Board and approved by such Board as being sufficient to restore the land.
4. No permit shall be authorized or issued for an area in excess of five percent (5%) of the gross area of the premises during any one (1) calendar year.
5. Subsequent permits shall not be authorized or issued for any premises unless the provisions of this Section and the conditions of any previous application have been fulfilled to the satisfaction of the Planning Board.
6. No permit shall be authorized or issued for the stripping of topsoil, or from any premises on which any real property taxes have not been paid.
7. The Planning Board, for a premise of twenty (20) acres or less in area, may authorize the removal, in any one (1) calendar year, of topsoil in an amount greater than five percent (5%) of the area of the premises, but not to exceed ten percent of the gross area of the premises.

I. Excavation During Construction

In any construction, open excavations shall be limited to a maximum of sixty (60) days, with appropriate fencing, barricades or covering.

J. Height Exceptions

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1. District building height regulations shall not apply to flagpoles, radio or television antennae, transmission towers or cables, spires or cupolas, chimneys, elevator or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers, or any similar structures, provided that such structures are located on the roof and in their aggregate coverage occupy no more than ten percent (10%) of the roof area of the building and provide such structures pose no hazard to aircraft operations.
2. District building height regulations shall not apply to radio or television antennas and commercial communication antennas or towers provided such structures do not present a hazard to aircraft operations.

K. Fences

1. Residential Fences – Before a fence (other than a temporary one) that will compliment or be connected with a residential use shall be erected, altered or replaced, a zoning permit must be obtained from the Building Inspector. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all other structures and buildings, and in relation to all streets, lot property lines and yards. All residential fences shall adhere to Section 402 J, subsection 2. Residential fences shall be considered accessory uses and shall not be subject to the Site Plan Review process by the Planning Board.
2. Restrictions affecting Residential, Commercial and Industrial Fences.
 - a. Fences may be erected, altered or reconstructed to a height not to exceed eight (8) feet above ground level when located more than twenty-five (25) feet from the street right-of-way line.
 - b. Fences shall have a minimum setback of two (2) feet from the side and rear property lines.
 - c. These restriction shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.
 - d. No fence shall be erected in a special flood hazard area,

except for fences connected with an agricultural use when it can be demonstrated that such fence would not restrict the flow of flood waters nor have an adverse impact on any buildings.

- e. The finished side of the fence shall face the adjoining properties.

SECTION 403 LOCATION OF ACCESSORY BUILDINGS AND STRUCTURES

- A. Accessory buildings are permitted as follows:

One-story accessory building shall not be located closer than eight (8) feet to the rear and side lot lines in the rear yard area. Accessory buildings shall not be located in front of the principal building, i.e. the front yard.

- B. Accessory structures are permitted as follows:

- 1. Accessory structures, including antennas and satellite dishes, shall not be located closer than fifteen (15) feet to the rear and side lot lines in the rear yard area.
- 2. Production model Wind Energy Conservation Systems (windmills) may be located in the rear yard subject to the issuance of a special use permit by the Planning Board.

SECTION 404 NONCONFORMING USES, STRUCTURES AND LOTS

- A. Lawful Existing Uses or Structures

Except as otherwise provided in this Section, the lawful use of land or structures existing at the effective date of this Ordinance may be continued, although such use or structure does not conform to the regulations specified in this Ordinance for the zone in which such land or structure is located, provided, however:

- 1. That a nonconforming lot shall not be further reduced in size.
- 2. That a nonconforming building shall not be altered unless such alteration would tend to reduce the degree of nonconformance.
- 3. That a nonconforming use may not be expanded.

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4. No existing conforming use shall be changed to a nonconforming use.

B. Abandonment

A nonconforming use shall be abandoned when there occurs a cessation of any such use or activity and a failure on the part of the tenant or owner to reinstate such use within a period of one (1) year from the date of cessation or discontinuance.

C. Restoration and Repair

Nothing in this Ordinance shall prevent the restoration and repair or continuation of use of a nonconforming building destroyed or partly destroyed by a disaster, provided that restoration is commenced within eight months (8) after date of destruction and is completed within sixteen (16) months after date of destruction.

D. Reversion

No nonconforming use shall, if once changed into a conforming use, be changed back again to a nonconforming use.

E. Alterations

A nonconforming building may not be structurally altered during its life to an extent exceeding, in aggregate cost, fifty percent (50%) of the assessed value of the building unless said building is changed to conform to the requirements of this Ordinance.

F. District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming use existing therein or created thereby.

SECTION 405 USES NOT PERMITTED

A. Uses which are not allowed by this Ordinance are prohibited.

B. The internment of human bodies on private property is prohibited.

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- C. Junk, as defined in Section 202, will not be allowed to accumulate on any lot in any district. Junk left on the premises for more than thirty (30) days will be in violation of this ordinance unless a special permit is obtained pursuant to Section 610. Building materials for construction for which a legal permit has been obtained shall be exempt but must be removed upon completion of the construction.

SECTION 406 MINIMUM FLOOR AREA

- A. One (1) family dwellings shall have a floor area of at least seven hundred twenty (720) square feet.
- B. Two (2) family dwellings shall have a floor area of at least seven hundred twenty (720) square feet per unit.
- C. Multiple family dwellings shall have a floor area of at least six hundred (600) square feet per unit.

SECTION 407 DWELLING FRONT YARD GRADE

Surface grade of front yards of dwellings measured at the midpoint of the front wall, shall be at least one (1) foot above the elevation of the road's center line, unless adequate site drainage is provided otherwise and approved by the Town Highway Superintendent.

SECTION 408 STABLING FARM ANIMALS

- A. There shall be no stabling of farm animals or storage of manure, bulk storage of fertilizer, or similar odor or dust producing substance within the R District. Such stabling or storage shall be permitted in the A-R District provided the following restrictions are observed:
 - 1. No such stabling or storage shall take place within five hundred (500) feet of an R District.
 - 2. No such stabling or storage shall take place within one hundred (100) feet of a lot line.
 - 3. Before receiving approval to stable farm animals, the applicant shall be required to develop an animal waste disposal plan acceptable to the Genesee County Soil and Water Conservation District.

SECTION 409 LIGHTING

Any lights used to illuminate an off-street parking area, loading docks, etc. shall be so arranged as to reflect the light away from all adjoining property and public roadways.