

*Town of Amherst, NY
Wednesday, July 9, 2014*

Chapter 203. ZONING

PART 7.. GENERAL DEVELOPMENT STANDARDS

§ 7-1. Off-Street Parking, Loading and Stacking

- 7-1-1. **Purpose.** Off-street parking, loading and stacking requirements and regulations are established in order to achieve the following purposes:
- A. To relieve congestion so that streets can be utilized more fully for movement of vehicular traffic;
 - B. To promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen car movements in the vicinity of intensive pedestrian traffic;
 - C. To protect adjoining residential neighborhoods from on-street parking;
 - D. To promote the general convenience, welfare and prosperity of business, service, research, production and manufacturing developments which depend upon off-street parking facilities;
 - E. To insure that parking facilities are designed with careful regard to orderly arrangement, topography, landscaping and ease of access and developed as an integral part of an overall site design; and
 - F. To provide regulations and standards for the development of off-street parking, loading and stacking facilities in accordance with the objectives of the Comprehensive Plan.

7-1-2. **Scope of Regulations.** Off-street parking, loading and stacking facilities shall be provided as a condition precedent to occupancy of all buildings:

- A. Whenever a new building is constructed or new use established;
- B. Whenever an existing building is altered and there is an increase in the number of building units, seating capacity or floor area of the building; and
- C. Whenever an existing building is changed to a more intensive use requiring more off-street parking, loading or stacking facilities.

7-1-3. **Continuation of Facilities.** Off-street parking, loading and stacking facilities in existence on May 23, 2006 and those required shall be continued and maintained in operation and shall not be reduced below the requirements of this Ordinance during the period that the principal use is maintained, unless an equivalent number of spaces shall be provided for said use in another location. The Commissioner of Building shall review the provision of parking spaces, however the parking lot itself shall be reviewed in accordance with § 8-7.

7-1-4. **Rules for Computing Requirements.**

- A. **Fractional Requirements.** When units of measurement used in computing the number of required off-street parking, loading and stacking spaces result in the requirements of a fractional space, the nearest whole number of off-street parking spaces shall be required.
- B. **Employees.** Whenever parking requirements are based on the number of employees, it shall mean the maximum number of employees on duty on the premises at one time or any two successive shifts, whichever is greater.
- C. **Net Floor Area.** For the purpose of calculating the minimum requirements for off-street parking, net floor area shall be calculated according to the following:
 - (1) For a single story, single tenant building — 90 percent of gross floor area.
 - (2) For a multistory, single tenant building — 80 percent of gross floor area.

- (3) For a single story, multiple tenant building — 85 percent of gross floor area.
- (4) For a multistory, multiple tenant building — 75 percent of gross floor area.

D. **Seating Capacity.** The number of seating units installed or indicated on the plans, in restaurants and areas devoted to dining, shall not be less than one unit per 15 square feet of floor area; where units are not indicated on the plan, it shall be assumed that seating units will be provided at a ratio of one for each 10 square feet of floor area. Floor area constitutes the actual area of the assembly space not including accessory unoccupied space nor the thickness of walls.

E. **Parking for Single- and Multi-Use Buildings or Sites.**

- (1) A building occupied by one use shall provide the off-street parking spaces as required for the specific use. A building or group of buildings occupied by two or more uses, operating normally during the same hours, shall provide spaces for not less than the sum of the spaces required for each use.
- (2) For a shopping center, parking spaces shall be provided for the total net floor area of the building or buildings as set forth in the Schedule of Parking Requirements below, instead of the requirements based on each separate use.

[Amended 4-12-2010 by L.L. No. 2-2010]

F. **Unlisted Uses.** Upon receiving a development permit application for a use not specifically listed in the Schedule of Parking Requirements, the Commissioner of Building shall apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use or require a parking study in accordance with § 7-1-7, Alternative Parking Plan.

7-1-5. **No Reduction Below Requirement.** Existing parking and loading spaces may not be reduced below the requirements established in this Section without approval of an Alternative Parking Plan by the Commissioner of Building. Any change in use that increases applicable off-street parking or loading requirements will be deemed a violation of

this Code unless parking and loading spaces are provided in accordance with the provisions of this Section.

7-1-6. **Schedule of Parking Requirements.**

A. **Minimum Parking Requirements.** Off-street parking facilities shall be provided in quantities not less than set forth in the following schedule:

[Amended 2-4-2008 by L.L. No. 1-2008]

Schedule of Parking Requirements

OPEN USES	Required Parking Spaces
Agricultural use	1 per 2 employees on maximum shift
Resource extraction	1 per 2 employees on maximum shift
RESIDENTIAL USES	Required Parking Spaces
Attached dwelling	2 per dwelling unit
Dormitory, fraternity, sorority house	1 per 2 occupants
Manufactured home	2 per dwelling unit
Single-family detached dwelling	2 per dwelling unit, plus 1 per auxiliary unit
Two-family	2 per dwelling unit
PUBLIC AND CIVIC USES	Required Parking Spaces
Adult care facility	1 per employee, plus 1 per 3 units

Schedule of Parking Requirements

Auditoriums, gymnasiums, theaters, public assembly not otherwise listed	1 per 3 seats or per 3 persons of posted capacity if permanent seats are not installed
Boardinghouse	1 per employee, plus 1 per bed
Cemetery, columbaria, mausoleum, memorial park	1 per 50 internment plots
Community residential facility, group home	1 per employee (minimum of 2 spaces for community residences and 5 for intermediate care facility), plus 2 per facility vehicles, plus 1 per client vehicle, plus 4 visitor spaces
Community service	1 per 200 sf
Convalescent or nursing home, dwellings for elderly persons (65 or older)	1 per 3 beds, plus 1 per employee
Day care center, child	1 per employee plus 1 per 8 persons of licensed capacity
Hospital	1 per bed, including emergency room and ambulatory surgery, plus 1 per employee
Medical office or medical facility not otherwise listed	1 per 150 sf [Amended 1-16-2007 by L.L. No. 2-2007]
Parks or open space not otherwise listed	2 per acre, plus 1 per 250 sf of park building

Schedule of Parking Requirements

Passenger terminal	1 per 300 sf
Place of worship	1 per 3 seats or per 3 persons of posted capacity if permanent seats are not installed
Public and semi-public buildings	1 per 200 sf floor area devoted to office use
School, nursery or primary	2 per classroom or as required for assembly areas, whichever is higher
School, post-secondary	1 per 2 classroom seats, plus spaces required for assembly area
School, secondary	1 per classroom, plus spaces required for assembly area
Social service institution	1 per 2 employees on maximum shift, plus 1 per 3 beds
Taxi dispatch center	1 per employee, plus 2 visitor spaces
Telecommunication facility	1 per service vehicle
Utility, minor	None
Utility not otherwise listed	1 per facility, plus 1 per 250 sf, plus 1 per fleet vehicle
COMMERCIAL USES	Required Parking Spaces
Athletic, swim or health club	1 per 2 persons of posted maximum capacity

Schedule of Parking Requirements

Bowling alley	6 spaces per alley
Call center	1 per 100 sf
Car wash	1 space per 3 employees on maximum shift, plus 3 spaces per stall
Conservation, archery and gun clubs	Minimum 10 spaces
Dance, art, music or photo studio or classroom	1 per 75 sf of gross floor area devoted to activity
Funeral home or mortuary	20 per parlor
Go-cart track	2 per cart plus 1 per 60 sf of waiting area
Golf course	3 per hole, minimum 10 spaces
Golf driving range	1 per driving stall, plus spaces as required for retail activities
Hair, tanning, and other personal care services	2 per chair or operating station
Hotels, motels, tourist houses	1 space per room, plus 1 per 6 seats in restaurant/bar area, plus 1 per 5 persons of posted capacity in conference or meeting room
Indoor recreation not otherwise listed	1 per 250 sf of floor area devoted to activity, plus 1 per 3 seats or 3

Schedule of Parking Requirements

	persons of posted capacity if there are no seats
Miniature golf	1 per hole, plus spaces required for assembly space
Office, professional or not otherwise listed	1 per 200 sf of net floor area
Outdoor recreation fields (Football, soccer, baseball, bocce ball, etc.)	1 per 3 seats or per 3 recreation participants
Parking, commercial	1 space per employee on the maximum shift
Restaurant, take-out only	1 per 10 sf of take-out floor area [Amended 4-12-2010 by L.L. No. 2-2010]
Restaurant, bar, banquet hall, and dining area	1 per 3 seats, plus 1 per 100 sf for customer area or takeout
Retail sales and service not otherwise listed, not exceeding 2,000 square feet	7 per 1,000 sf of net floor area, minimum 5 spaces
Retail sales and service not otherwise listed, over 2,000 but less than 25,000 square feet	5.5 per 1,000 sf of net floor area
Shopping center and retail sales and service not	5 per 1,000 sf of net floor area, plus 1 per 5 seats in sit-down restaurants and theaters

Schedule of Parking Requirements

otherwise listed (25,000 to 200,000 square feet)	
Shopping center and retail sales and service not otherwise listed (200,000 to 600,000 square feet)	5 per 1,000 sf of net floor area, plus 1 per 5 seats in theaters
Shopping center and retail sales and service not otherwise listed (over 600,000 square feet)	5.5 per 1,000 sf of net floor area
Swimming pool, club or spa	1 per 50 sf of gross floor area and pool area devoted to activity
Tennis club	3 per court
Self-service storage	1 per 5,000 sf of area devoted to storage
Vehicle repair	5 spaces per bay plus 1 space per employee
Vehicles sales or rental	2 per 300 sf of gross floor area plus 1 per 2 employees on maximum shift
Vehicle service, limited (Automobile collision and repair shop)	2 spaces per bay, rack, stall or pit with a minimum of 6 spaces
Vehicle sales and service not otherwise listed	1 per employee, plus 1 per 200 sf

Schedule of Parking Requirements

INDUSTRIAL USES	Required Parking Spaces
Automobile junkyard	1 space per 2 employees on the maximum shift plus 10 spaces for customer parking
Industrial, heavy	1 space per employee
Industrial service, light	1 space per employee
Warehouse and storage occupancies	1 per 1,000 sf of gross floor area or 1 space per employee, whichever is greater
Waste-related service not otherwise listed	1 space per 2 employees plus 1 space per vehicle used in operation
Wholesale trade	1 space per employee

7-1-7. **Alternative Parking Plan.** An alternative parking standard may be approved by the Commissioner of Building for specific developments or uses that are deemed to require a different amount of parking than the standards shown in the Schedule of Parking Requirements. The Commissioner of Building shall establish conditions necessary to assure the adequacy of future on site parking when approving an alternate parking standard. Potential alternative parking plan approaches and specific regulations are described below. In the event that the Commissioner of Building determines that one of the following alternative approaches produces an inadequate number of parking spaces, the Commissioner of Building may require the provision of additional parking or may limit the occupancy of the subject building to the extent that the existing number of parking spaces is adequate. The Commissioner of Building shall have the authority to require a revised

study and analysis should conditions change that may result in a change in site parking conditions.

A. **Parking Study Option.** Parking studies may be required for specific uses that have characteristics that reduce the accuracy of standard requirements. Additionally, as an alternative, petitioners for uses that appear on the requirements table may choose to conduct a parking study to determine appropriate parking requirements. Many uses have widely varying parking demand characteristics, making it difficult to specify a single off-street parking standard. This option is intended to allow development to meet vehicle parking and transportation access needs by means other than providing parking spaces on-site in accordance with the Schedule of Parking Requirements.

(1) **Parking Study.** A petitioner may submit a parking study that provides justification for the number of off-street parking spaces proposed in a new development or expanded use if the proposed number does not meet the requirements of the Schedule of Parking Requirements above. A parking study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Commissioner of Building, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

(2) **Eligible Alternatives.** A number of specific parking and access alternatives may be considered, including off-site, shared or valet parking or the proximity of public transportation. The Commissioner of Building shall be authorized to consider and approve any alternative to providing off-street parking spaces on the site of the subject development if the petitioner demonstrates to the satisfaction of the Commissioner of Building that the proposed plan shall result in an equivalent or

better situation with respect to surrounding neighborhoods, town-wide traffic circulation or urban design than would strict compliance with otherwise applicable off-street parking standards.

- (3) **Review by Commissioner of Building.** The Commissioner of Building shall review the parking study and any other traffic engineering and planning data relevant to the establishment of an appropriate off-street parking standard for the proposed use. After reviewing the parking study, the Commissioner of Building shall establish a minimum off-street parking standard for the proposed use.

B. **Off-Site Parking.** Off-street parking spaces may be located on a separate lot from the lot on which the principal use is located if approved by the Commissioner of Building and if the off-site parking complies with the all of following standards.

- (1) **Ineligible Activities.** Off-site parking may not be used to satisfy the off-street parking standards for residential uses (except for guest parking) or convenience stores. Required parking spaces reserved for persons with disabilities shall not be located off-site.
- (2) **Location.** No off-site parking space may be located more than 500 feet from the primary entrance of the use served unless shuttle bus service is provided to the remote parking area. Off-site parking may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway is provided, or other traffic control or shuttle bus service is provided to the remote parking area. The noncontiguous lot shall contain an allowable principal use for the zoning district in which it is located.
- (3) **Zoning Classification.** Off-site parking areas serving uses located in nonresidential zoning districts shall be located in nonresidential zoning districts, except for restricted parking lots per § 7-1-9B(2)(b). Off-site parking areas serving uses located in residential zoning districts may be located in residential or nonresidential zoning districts.

(4) **Agreement for Off-Site Parking.** In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement will be required. An attested copy of the agreement between the owners of record shall be submitted to the Commissioner of Building for recordation on forms acceptable to the Commissioner of Building. Recordation of the agreement with the Erie County Clerk's Office shall take place before issuance of a building permit for any use to be served by the off-site parking area. The agreement shall run with the land until terminated with the approval of the Commissioner of Building. An off-site parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with this Section.

C. **Shared Use of Parking Facilities.** A nonresidential use may make arrangements with another nonresidential use that normally has different hours of operation to share off-street parking spaces if approved by the Commissioner of Building. The shared parking shall comply with all of following standards.

- (1) **Location.** Shared parking facilities shall be located within 500 feet from the primary entrance of all uses served.
- (2) **Zoning Classification.** Shared parking areas serving uses located in nonresidential zoning districts shall be located in nonresidential zoning districts, except for restricted parking lots per § 7-1-9B(2)(b). Shared parking areas serving uses located in residential zoning districts may be located in residential or nonresidential zoning districts.
- (3) **Shared Parking Study.** Those wishing to use shared parking as a means of satisfying off-street parking requirements shall submit a shared parking analysis to the Commissioner of Building that clearly demonstrates the feasibility of shared parking. The study shall be provided in a format acceptable to the Commissioner of Building. It shall address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking

turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

- (4) **Agreement for Shared Parking.** A shared parking plan shall be enforced through written agreement among the owners of record. An attested copy of the agreement shall be submitted to the Commissioner of Building for recordation on forms acceptable to the Commissioner of Building. Proof of recordation of the agreement with the Erie County Clerk's Office shall be presented to the Commissioner of Building prior to issuance of a Building Permit. A shared parking agreement may be revoked by the parties to the agreement only if off-street parking is provided pursuant to this Section. Should any of the uses be changed or the facilities discontinued, then the required spaces for the remaining use(s) shall be provided elsewhere as a condition precedent to the continuation of the subject use(s).

- D. **Valet Parking.** The Commissioner of Building may authorize valet parking as a means of satisfying otherwise applicable off-street parking standards, provided that the following conditions are met:
- (1) An automobile shall be retrievable from its parking space with the movement of a maximum of two additional vehicles;
 - (2) An equivalent number of valet spaces shall be available to replace the required parking spaces. Such valet spaces do not require individual striping, and may take into account the tandem or mass parking of vehicles. All valet parking areas shall meet the applicable requirements of § 7-2, Landscaping, Buffers and Screening.
 - (3) Valet parking drop-off locations shall meet the requirements of § 7-1-10, Vehicle Stacking Areas.

- E. **Transportation Management Plan.** The Commissioner of Building may authorize a reduction in the number of required off-street parking spaces for developments or uses that institute and commit to maintaining a transportation management program, in accordance with the standards of this Section.

- (1) **Required Study.** The petitioner shall submit a study to the Commissioner of Building that clearly indicates the types of transportation management activities and measures proposed. The study shall be provided in a format acceptable to the Commissioner of Building.
- (2) **Transportation Management Activities.** There shall be no limitation on the types of transportation management activities for which reductions may be granted from otherwise required off-street parking ratios. The following measures shall serve as a guide to eligible transportation management activities.
 - (a) **Transportation Coordinator.** The occupant of the development or use may appoint an employee to act as Transportation Coordinator with responsibility for disseminating information on ride-sharing and other transportation options may be cause for a reduction in otherwise applicable off-street parking requirements. In addition to acting as liaisons, Transportation Coordinators shall be available to attend meetings and training sessions with the Town or transit providers.
 - (b) **Off-Peak Work Hours.** Employers that institute off-peak work schedules, allowing employees to arrive at times other than the peak morning commute period, may be eligible for a reduction in otherwise applicable off-street parking requirements. The peak morning commute period is defined as 7:00-9:00 a.m.
 - (c) **Preferential Parking.** The provision of specially marked spaces for each registered car pool and van pool may be cause for a reduction in otherwise applicable off-street parking requirements.
 - (d) **Financial Incentives.** The provision of cash or in-kind financial incentives for employees commuting by car pool, van pool and transit may be cause for a reduction in otherwise applicable parking requirements.

7-1-8. Parking, Stacking and Loading Area Design Requirements.

Parking, stacking and loading areas and access driveways shall be designed, graded, constructed, altered and maintained as follows:

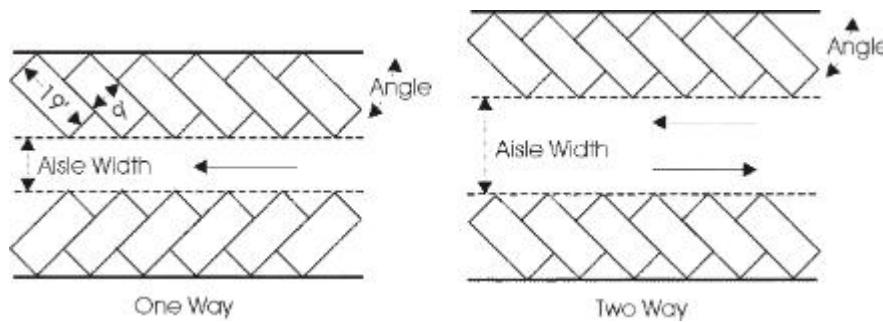
- A. **Grading and Paving.** Parking, stacking and loading areas and access driveways shall be graded and drained so that the surface water shall not be allowed to flow onto adjacent properties. Parking areas and driveways shall be constructed as required by the Building Construction Administration Code.
- B. **Features.** Parking, stacking and loading areas shall be arranged, marked and maintained as shown on the parking, loading and stacking plan approved as a part of the site plan in order to provide for orderly and safe parking, loading and storage of vehicles. The Planning Board may also require structural or landscape features, including, without limitation, bumper guards, curbs, walls or fences, to provide protection of property and persons and privacy and screening for adjacent land uses with visual, noise and air standards considered. A compact evergreen hedge, shrubs or other screening by a substantially solid fence between parking areas and the side or rear lot line of a residential district may also be required in accordance with the standards established in § 7-2.
- C. **Illumination.** Parking, loading and stacking areas shall be illuminated only to the extent necessary to insure the public safety and in accordance with § 7-3, Site Lighting.
- D. **Pedestrian Walks.** Pedestrian walks between parking areas and buildings shall be provided to assure pedestrians' safety.
- E. **Driveways to Parking, Loading and Stacking Areas.** Entrance and exit driveways serving parking, loading and stacking facilities, drive-in businesses, fee parking lots and public parking lots shall be provided in location, size and number so as to interfere as little as possible with the use of adjacent property and the flow of traffic on the streets to which they connect. Driveways located in nonresidential districts shall be located at least 10 feet from any residential zoning district.

7-1-9. Off-Street Parking Space and Parking Lot Design.

- A. **Parking Space Dimensions.**

- (1) Required off-street parking spaces shall have minimum dimensions of 9 feet in width by 19 feet in length. Parallel parking spaces shall have minimum dimensions of 9 feet by 22 feet.
- (2) Minimum aisle width shall be as follows:

Angle of Parking	Aisle Width (feet)	
	One Way	Two Way
Parallel	13 ft	
30 degrees	13 ft	
45 degrees	13 ft	24 ft
60 degrees	18 ft	
90 degrees	24 ft	



B. Parking Area Location.

- (1) **Residential Districts and Uses.** Enclosed or open parking facilities, as required, shall be provided on the same lot as the dwelling unit served.
- (2) **Business and Industrial Districts.**

- (a) **General.** Except for as provided in § 7-1-7C above, in all nonresidential districts, off-street parking, loading and stacking facilities shall be provided on the same lot as the principal use or on another nonresidentially zoned lot, the nearest point of which shall be within 200 feet from the nearest point of the building served or on another noncontiguous nonresidentially zoned lot when approved by the ZBA and located on a street classified as a major or minor arterial. The noncontiguous lot must contain an established allowable principal use for the zoning district in which it is located.
- (b) **Restricted Parking Lots Permitted Only in R-3, R-4, MFR-5 and MFR-6 Districts.** If the ZBA, after notice and public hearing in accordance with § 8-2-3 and after receiving a recommendation from the Planning Board, finds that the proposed parking, loading or stacking area in an R-3, R-4, MFR-5 and MFR-6 district to be accessory to a business use, it may authorize the Commissioner of Building to issue a permit for the parking, loading or stacking area in such residential districts, provided that the proposed parking, loading and stacking area:
- (i) Will not increase the congestion on adjoining residential streets in such a way as to promote a traffic hazard or a nuisance to adjoining residents;
 - (ii) Will be properly screened, lighted and designed so as to prevent nuisance to adjoining residents;
 - (iii) Will be landscaped as required by this Ordinance;
 - (iv) Will be suitable for the proposed use;
 - (v) Shall not provide more than 25 percent of the required parking, loading and stacking area;
 - (vi) At least 100 feet of said lot shall abut or be directly across the street or alley from the business use to which it is accessory;
 - (vii) Shall not extend more than 250 feet from the nearest property line of the business district;

- (viii) Shall be used for the purpose of passenger automobiles only, and no commercial repairs, sales or services shall be conducted thereon; and
- (ix) Shall be designed and constructed with driveways and parking areas that are located not less than 10 feet from any adjacent residential lot line.

C. **Parking Rooms.** Parking serving development over 100,000 square feet of gross floor area shall be visually and functionally segmented into several smaller parking areas. Each smaller parking area shall be approximately 180 or fewer parking spaces; the actual number of spaces required will be determined by the Commissioner of Building. Each smaller parking room shall be connected to an internal system of roadways. Outparcel and parking room access shall be taken from the internal system of roadways on the site.

[Amended 2-4-2008 by L.L. No. 1-2008]

D. **Parking Lot Walkways.** Parking Lot Pedestrian Medians with walkways leading to primary building entrances as designated by the Planning Director may be required by the Planning Board in parking lots containing more than 180 spaces in accordance with § 7-2-3A (3)(h).

7-1-10. **Vehicular Stacking Design Requirements.**

A. **Minimum Stacking Requirements.** In addition to minimum parking requirements established by § 7-1-6A above, the following stacking areas are required. The Commissioner of Building may require an analysis of stacking requirements be provided to determine if additional stacking spaces will be required for a specific use or location. The size of each stacking space shall be 20 feet in length by 9 feet in width.

Specific Use	Minimum Stacking Spaces	Measured From
Automated teller machine	3	Machine
Bank teller lane	4	Teller window

Specific Use	Minimum Stacking Spaces	Measured From
Car Wash, Coin	5 per stall	Entrance
Car Wash, Rapid	35 per stall	
Drive-In Photo Facilities	2 per service window	Service window
Gasoline pump island	2	Pump island
Restaurant, drive-through	6	Order box
	4	Order box to pick-up window
Other Drive-In Facilities	5, or as determined by Commissioner of Building	

B. **Location.** Stacking spaces may not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.

C. **Design.** Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the Planning Director for traffic movement and safety.

7-1-11. **Loading Facility Design Requirements.** Loading and unloading facilities shall be provided and maintained as long as such building is occupied or unless equivalent facilities are provided in conformance with the regulations of this Section.

A. **Allocation of Use.** Space required and allocated for any off-street loading facility shall not be used to satisfy the space requirements for off-street parking or stacking. An off-street loading space shall not be used for repairing or servicing of motor vehicles.

B. **Location of Facility.** All required loading facilities shall be related to the building and use to be served to provide for loading and off

loading of delivery and other service vehicles and shall be so arranged that they may be used without blocking or otherwise interfering with the use of accessways, parking or stacking facilities, public streets or sidewalks. A required loading space shall not face or be visible from the frontage street and shall not be located in a required front yard or a required side or rear yard if adjoining a residential district.

- C. **Access Driveways.** Each required off-street loading space shall be designed for vehicular access by means of a driveway or driveways to a public street in a manner which will least interfere with adjacent traffic movements and interior circulation.
- D. **Minimum Size Criteria.** A required off-street loading space shall be at least 12 feet wide by at least 20 feet in length. The above area shall be exclusive of the maneuvering space, and each loading facility shall have a vertical clearance of at least 14 feet.
- E. **Schedule of Required Loading Facilities.** Off-street loading spaces shall be provided as required below.

Use	Gross Floor Area (square feet)	Number of Loading Spaces
	Under 5,000	none
	5,000 — 50,000	1
Retail Sales and Service	50,000 — 100,000	2
	Each additional 100,000	1 additional space
Printing, warehouse and storage establishments	Under 40,000	2
	40,000 — 100,000	4

Use	Gross Floor Area (square feet)	Number of Loading Spaces
	Each additional 50,000	1 additional space
	Under 20,000	2
Industrial	20,000 — 40,000	4
	Each additional 25,000	1 additional space

F. **Unlisted Uses.** Any use not listed in § 7-1-11E may provide any number of loading spaces provided that such spaces are constructed in accordance with the standards of this subsection.

7-1-12. **Vehicle Parking and Storage on Parcels Used for Residential Purposes.**

A. Parking or storage of any vehicle or trailer being used for commercial purposes shall not be permitted on a residential parcel, except that one commercial vehicle, the rated capacity of which does not exceed 3/4-ton, may be parked inside or outside of a completely enclosed building. When parked outside of a completely enclosed building, the commercial vehicle shall not have any commercial advertisement affixed thereto.

B. In the S-A district, commercial vehicles shall be allowed only when directly associated with permitted principal uses on the same premises.

§ 7-2. Landscaping, Buffers and Screening

7-2-1. **Purpose.** It is the purpose of this Section to:

A. Protect and promote the public health, safety and general welfare by requiring the landscaping of all applicable development meeting the

criteria in § 8-7-1 including parking, stacking and loading areas (Vehicle Use Areas).

- B. Establish minimum standards and criteria for the landscaping of all applicable development to dissuade the unnecessary clearing and disturbing of land so as to preserve the natural and existing growth of vegetation and to replace removed vegetation or plant new vegetation indigenous to the Western New York region.
- C. Reduce the effects of wind and air turbulence, heat and noise, and the glare of motor vehicle lights and parking area lights.
- D. Provide unpaved areas for the absorption of surface waters.
- E. Reduce the level of carbon dioxide and airborne pollutants and return oxygen to the atmosphere.
- F. Prevent soil erosion.
- G. Provide shade.
- H. Conserve and stabilize property values and to otherwise facilitate the creation of a convenient, attractive and harmonious community.
- I. Relieve the blighted appearance of parking areas.
- J. Generally preserve a healthful and pleasant environment.
- K. Implement the policies of the Comprehensive Plan.

7-2-2. **General Provisions.**

- A. All developments subject to site plan review in accordance with § 8-7 shall meet the requirements of this Section. A separate landscape plan shall be submitted and approved, approved with conditions or denied as a part of this review procedure.
- B. The landscape plan shall be prepared by a licensed landscape architect unless the landscape plan is submitted as part of a minor site plan as defined in § 8-7. The contents of the landscaping plan shall be established by the Planning Director.
- C. A revised site plan shall not diminish the landscaping of the site below the requirements of this section.

7-2-3. **Landscape Regulations.**

A. **Standards and Criteria.**

(1) **General Requirements.**

- (a) Required landscaped areas shall be designed as an integral part of the site development and shall be dispersed throughout the development site and VUA.
- (b) Landscaping shall provide screening for adjacent land uses in accordance with § 7-2-4 below, with visual, noise and air quality factors considered.
- (c) Vegetation shall be compatible with soil conditions on the development site and the regional climate.
- (d) Existing and natural features and vegetation shall be preserved and incorporated in the landscaped area wherever possible.
- (e) The primary emphasis of the landscape treatment shall be on trees. Shrubbery, hedges, grass and other vegetation may be used to complement the use of trees but shall not be the sole contribution to the landscape treatment.
- (f) Plastic or other types of artificial plantings or vegetation shall not be permitted.
- (g) All large and small deciduous trees planted shall have a minimum caliper of two and one-half inches, measured six inches above the ground. All large deciduous trees planted in multi-stem form shall have a minimum height of 12 feet above the finished grade. All small deciduous trees planted in multi-stem form shall have a minimum height of 10 feet above the finished grade. All coniferous trees planted shall have a minimum height of five feet above the finished grade. All ornamental trees planted shall have a minimum caliper of one and three-quarters inches measured six inches above the ground. All ornamental trees planted in multi-stem form shall have a minimum height of eight feet above the finished grade. All shrubs planted shall have a minimum height of 24 inches above the ground except when being used as a ground cover. All evergreen shrubs used for screening shall have a minimum height of 48 inches (4 feet) above the finished grade.

- (2) **Required Landscaped Area Adjacent to Buildings.** A landscaped area with a minimum average width of three feet shall be provided between the proposed principal use building and any off-street parking or internal access road with the exception of building entrances/exits, drive-throughs and covered pedestrian walkways. A minimum of 50 percent of this landscaped area shall be planted with small trees, shrubs, perennials or combinations thereof. The balance of the landscaped area not planted with trees, shrubs or perennials shall be lawn or groundcover (see subsection (3) below).

[Amended 4-12-2010 by L.L. No. 2-2010; 8-1-2011 by L.L. No. 19-2011]

- (3) **Interior Landscaped Area.**
 (a) Minimum interior landscaped areas shall be provided in accordance with the following table.

Parking Area	Minimum Interior Landscaped Area (percent of Parking Area)
0 — 2,999 Square Feet	0%
3,000 — 7,500 Square Feet	5%*
7,501 — 43,560 Square Feet	5%
More than 43,560 Square Feet (one acre)	10%

*

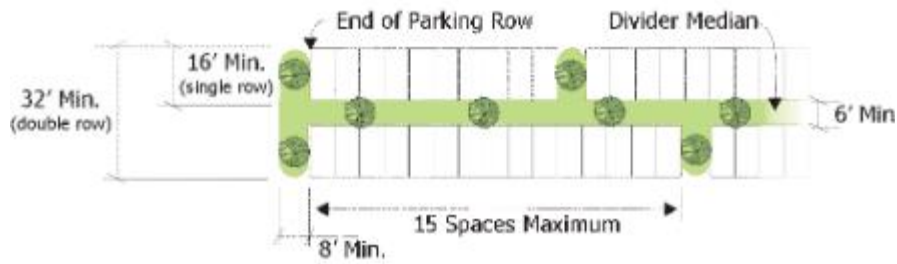
Parking Area	Minimum Interior Landscaped Area (percent of Parking Area)
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For Parking Areas of 7,500 square feet or less, where the configuration of the site permits, yard area at least 5 feet wide in excess of the minimum required yard in the district shall be credited to the interior landscaped area requirement.

- (b) An interior landscaped island shall be provided for every 15 spaces. Each island shall have a minimum width of eight feet inside the curb and a minimum length of 16 feet for a single row and 32 feet for a double row. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees or facilitate snow plowing if approved by the Planning Board or Planning Director, as applicable.

[Amended 4-12-2010 by L.L. No. 2-2010]

- (c) All rows of spaces shall terminate in a landscaped island. Each island shall conform to the specifications described in (b) above. Terminal island intervals may be modified in order to preserve existing trees or facilitate snow plowing if approved by the Planning Board or Planning Director, as applicable.
- (d) Divider medians may be substituted for landscaped islands described in (b) above. Divider medians are landscaped areas located between rows of parking spaces, between parking spaces and driveways or between areas of parking. Divider medians shall have a minimum width of six feet.



- (e) A minimum of one large deciduous tree shall be provided for each landscaped island that exceeds 128 square feet. One additional large deciduous shade tree shall be provided within landscaped islands for each 100 square feet in excess of 128 square feet. The Planning Board or Planning Director may, permit the substitution of smaller ornamental trees within landscaped islands. A minimum of 2 small ornamental trees shall be provided for each landscaped island that exceeds 128 square feet. One additional small ornamental tree shall be provided within landscaped islands for each 90 square feet in excess of 128 square feet.
- (f) A minimum of one large deciduous shade tree shall be planted for every 200 square feet of landscaped area within any divider median, planted individually or in groups separated by a maximum of 40 feet. The Planning Board or Planning Director may, permit the substitution of smaller ornamental trees within divider medians. A minimum of one small ornamental tree shall be provided for every 90 square feet of landscaped area within any divider median.
- (g) When divider medians and mid row islands have a width of 10 feet or greater, evergreen trees may be provided in addition to large deciduous trees. Evergreen trees should be spaced a maximum of 10 feet on center.
- (h) Parking Lot Pedestrian Medians (as required by § 7-1-9D) shall have a minimum dimension of 16 feet and contain a

concrete walkway with a minimum width of six feet.

Planting areas with a minimum width of five feet shall be provided on both sides of the walkway. At each point the walkway crosses a parking lot or internal driveway, the walkway shall be clearly defined through a change in the texture, color or height of the paving materials.

- (i) In addition to trees, all landscaped islands and divider medians shall be landscaped with grass, groundcover, shrubs or other landscape material acceptable to the Planning Board or Planning Director.
- (j) All interior landscaped areas shall have a minimum planting soil depth of three feet and be free from all forms of construction debris and foreign material.
- (k) All islands and medians shall have six inch high concrete curbing as a minimum to protect plant materials from damage.
- (l) The dimensions of all islands and medians shall be measured from the landscaped side of the curb.

B. Preservation of Existing Trees.

- (1) Efforts shall be made to preserve trees in a manner consistent with the Town of Amherst Tree Law (also known as Chapter **179** of the Amherst Town Code, as amended) and subsections (2) through (4) of this Section.
- (2) An existing tree can qualify for credit in accordance with subsection (4) of this Section if it meets all of the following criteria:
 - (a) The tree is healthy, free from disease, damage or active insect infestation which is potentially lethal to the tree;
 - (b) The tree is not a variety that has weak or brittle wood, or one which has excessive or noxious seed, pollen or fruit;
 - (c) The tree is expected to live for a minimum of 10 years;
 - (d) The tree is not seriously deformed or contorted; and
 - (e) The tree is preserved in accordance with Section (3) below.
- (3) A root protection zone shall be established around any tree which is identified on the landscape plan as a tree to be

preserved. The root protection zone is identified by creating a circle around the tree, the size of which is determined by providing one foot of radius for every inch of diameter of the tree measured at breast height (DBH). The root protection zone shall be marked in the field with a physical barrier such as temporary fencing or other means which shall prevent construction activities from occurring within the tree root protection zone. Methods for preserving and protecting existing trees shall be included as part of the landscape plan.

- (4) Existing trees preserved in accordance with this Section will be credited towards the fulfillment of a portion of the requirements for tree planting contained in these regulations in accordance with the following schedule:

Size of Existing Tree that is Preserved

Deciduous Trees (DBH)	Evergreen Trees (height)	Credits Toward Number of Required New Trees
Less than 4 in.	Less than 5 ft.	0.5
4 in. or more but less than 6 in.	5 ft. or more but less than 10 ft.	1
6 in. or more but less than 12 in.	10 ft. or more but less than 15 ft.	2
12 in. or more	15 ft. or more	3

- (5) The diameter of a single-stem tree that has a crotch between two feet and four and one-half feet above the ground shall be measured at the narrowest point between the ground and the crotch. The size of multi-stem trees shall be determined by

adding together the diameter of the three largest stems as measured four and one-half feet above ground level.

7-2-4. **Buffers and Screening.**

A. **General**

[Amended 2-4-2008 by L.L. No. 1-2008; 8-1-2011 by L.L. No. 19-2001; 12-12-2011 by L.L. No. 29-2011; 12-12-2011 by L.L. No. 30-2011]

- (1) The portion of the required front yard area which cannot be utilized for parking, loading, stacking or driveways shall be suitably landscaped and maintained by the owner in accordance with § 7-2-4A(2) of these regulations.

[Amended 11-5-2012 by L.L. No. 17-2012]

- (2) Vehicle Use Areas (VUAs) located adjacent to a public street shall be screened from the street with tree and shrub plantings, earthen berms, walls or a combination of these methods so as to establish an effective visual screen which is not less than 36 inches above the grade at the adjacent VUA within two years of installation. A minimum of one large deciduous tree, two small deciduous/ornamental trees or three evergreen trees or any combination thereof shall be planted within the required yard area for each 40 linear feet of frontage along a street.
- (3) Standards for dumpsters and other refuse collection container areas are provided in § 7-2-4D.

[Amended 11-5-2012 by L.L. No. 17-2012]

- (4) Standards for mechanical equipment, utility structures, multiple meter boards, generators, air conditioning units and Reduced Pressure Zone (RPZ) backflow preventor hot boxes are provided in § 7-2-4C.
- (5) Developments shall provide sufficient buffering and screening for the VUA. Buffering and screening may consist of trees and shrubs existing on the site prior to development. Supplemental plantings may be required in addition to the existing vegetation as determined by the Planning Board or Planning Director in order to improve the screening properties of the buffer. Buffering and screening may also consist of tree and shrub

plantings, earthen berms, fences, walls or a combination of these methods so as to establish an effective visual screen. When fences or walls are utilized for screening, trees and other plant materials (shrubs, vines, ground covers, perennials) shall also be used. Standards for landscaping are provided in § 7-2-4B.

[Amended 11-5-2012 by L.L. No. 17-2012]

(6) All fences provided or required shall have an attractive, finished appearance facing any public right-of-way or adjacent property.

B. Minimum Impact of Screening Required. The following table and criteria shall be used to determine the level of screening between adjoining land uses. Single Family Residential districts include the R-R, S-A, R-1, R-2, R-3, CR-3A, TR-3 and R-4 districts. Multifamily Residential districts include the MFR-4A, MFR-5, MFR-6, MFR-7 and MHR-8 districts. For circumstances falling outside of these categories, the level of screening required will be determined during site plan review. For the RC district, the amount of screening required will be determined during site plan review.

[Amended 2-4-2008 by L.L. No. 1-2008; 12-12-2011 by L.L. No. 30-2011; 2-24-2014 by L.L. No. 5-2014]

Existing Adjacent Zoning

Proposed Land Use	SF Res.	MF Res.	Office	Commercial	Industrial	Com Faci
MF Res.	High	Medium	High	High	High	High
Office	High	High	Low* Medium†	Medium	Medium	Medi
Commercial	High	High	Medium	Low* Medium†	Low* Medium†	Medi
Industrial	High	High	Medium	Low* Medium†	Low* Medium†	Medi

Existing Adjacent Zoning

Proposed Land Use	SF Res.	MF Res.	Office	Commercial	Industrial	Com Faci
Public and Civic	High	High	Medium	Medium	Medium	Low* Medi

Key:* = 0-3 acres † = 3+ acres (proposed use)

- (1) **High Impact Screening.** When the proposed development is considered to have a high impact on the existing adjacent zoning according to the table in § 7-2-4B, one of the following methods for buffering and screening shall be provided between the VUA and the nearest property line.

[Amended 11-5-2012 by L.L. No. 17-2012]

- (a) Buffering and screening may consist of healthy trees and shrubs existing on the site prior to development providing that they form an immediately effective visual screen at least 36 inches above the grade at the adjacent VUA and that the existing trees and shrubs are thoroughly protected from damage during construction by establishing a work limit line on all site plan drawings. The work limit line shall be delineated in the field prior to site clearing in the vicinity of the required yard area. Supplemental plantings may be required in addition to the existing vegetation as determined by the Planning Board or Planning Director in order to improve the screening properties of the buffer.
- (b) Buffering and screening may consist of an earthen berm, masonry/stone wall or opaque wooden/vinyl fence with a minimum height of 36 inches above the grade at the adjacent VUA and one medium impact landscape screen evenly distributed within the required yard area (refer to Medium Impact Screen table below).

- (2) **Medium Impact Screening.** When the proposed development is considered to have a moderate impact on the existing adjacent zoning according to the table in § 7-2-4B, one of the following methods for buffering and screening shall be provided between the VUA and the nearest property line.

[Amended 11-5-2012 by L.L. No. 17-2012]

- (a) Buffering and screening may consist of healthy trees and shrubs existing on the site prior to development, providing that they form an immediately effective visual screen at least 36 inches above the grade at the adjacent VUA and that the existing trees and shrubs are thoroughly protected from damage during construction by establishing a work limit line on all site plan drawings. The work limit line shall be delineated in the field prior to site clearing in the vicinity of the required yard area. Supplemental plantings may be required in addition to the existing vegetation as determined by the Planning Board or Planning Director in order to improve the screening properties of the buffer.
- (b) Buffering and screening may consist of either: (1) one medium impact landscape screen evenly distributed throughout the required yard area; or (2) an earthen berm, masonry/stone wall or opaque wooden/vinyl fence with a minimum height of 36 inches above the grade at the adjacent VUA and one low impact landscape screen evenly distributed throughout the required yard area (refer to Medium and Low Impact Screen tables below).

Medium Impact Landscape Screen Options

Plant Type	Screen 1	Screen 2	Screen 3	Screen 4
Large Deciduous Trees	1/25 L.F.	1/40 L.F.	1/50 L.F.	1/50 L.F.
	o	o	1/60 L.F.	1/60 L.F.

Medium Impact Landscape Screen Options

Plant Type	Screen 1	Screen 2	Screen 3	Screen 4
Small Deciduous/Ornamental Trees				
Evergreen (Coniferous) Trees	o	1/40 L.F	1/15 L.F	1/20 L.F
Evergreen & Deciduous Shrubs	1/5 L.F	1/5 L.F	o	1/15 L.F

- (c) Screen One shall be utilized only when yard area is less than 10 feet in width.
- (d) Trees and shrubs shall be provided based on number of linear feet per applicable side or rear yard.
- (e) Fractions of trees or shrubs shall be rounded to the nearest whole number.

(3) **Low Impact Screening.** When the proposed development is considered to have a low impact on the existing adjacent zoning according to the table in § 1-1-1B, one of the following methods for buffering and screening shall be provided within the required minimum rear and side yards for the VUA's (for yard dimensions, refer to the Dimensional Standards for each zoning district).

- (a) Buffering and screening may consist of healthy trees and shrubs existing on the site prior to development, providing that they form an immediately effective visual screen at least 36 inches above the grade at the adjacent VUA and that the existing trees and shrubs are thoroughly protected from damage during construction by establishing a work

limit line on all site plan drawings. The work limit line shall be delineated in the field prior to site clearing in the vicinity of the required yard area. Supplemental plantings may be required in addition to the existing vegetation as determined by the Planning Board or Planning Director in order to improve the screening properties of the buffer.

- (b) Buffering and screening may consist of one low impact landscape screen evenly distributed within the required yard area (refer to low impact screen table below).

Low Impact Landscape Screen Options

Plant Type	Screen 1	Screen 2	Screen 3	Screen 4
Large Deciduous Trees	1/40 L.F	1/60 L.F	1/80 L.F	1/75 L.F
Small Deciduous/Ornamental Trees	0	0	1/100 L.F	1/75 L.F
Evergreen (Coniferous) Trees	0	1/50 L.F	1/25 L.F	1/50 L.F
Evergreen & Deciduous Shrubs	1/10 L.F	1/10 L.F	0	1/20 L.F

- (c) Trees and shrubs shall be provided based on number of linear feet per applicable side or rear yard.
- (d) Fractions of trees or shrubs shall be rounded to the nearest whole number.

C. Screening of Mechanical Equipment.

- (1) Properties which may be viewed from residential uses, public streets or public park areas shall screen all roof, ground and wall mounted mechanical equipment (utility structures, multiple

meter boards, generators, air conditioning units, backflow preventor [RPZ] hot boxes, etc.) from view at ground level of the property line.

- (2) All mechanical equipment shall be limited to that area shown on an approved site and development plan.
- (3) Roof-mounted mechanical equipment shall be screened or arranged so as to not be visible from residential uses, public streets or park areas and be shielded from view on four sides. Screening shall consist of materials consistent with the principal building materials, and may include metal screening or louvers which are painted to blend with the principal building.
- (4) Wall or ground-mounted equipment screening shall be constructed of:
 - (a) Planting screens; or
 - (b) Brick, stone, reinforced concrete, or other similar masonry materials; or
 - (c) Redwood, cedar, preservative pressure treated wood, or other similar materials; and
 - (d) All fence posts shall be rust-protected metal, concrete-based masonry or concrete pillars, or an equivalent material as approved by the Commissioner of Building.

D. Dumpsters and Other Refuse Containers. The following standards shall apply to dumpsters and other refuse collection areas in the R-4, MFR-4A, MFR-5, MFR-6, MFR-7, MHR-8 and nonresidential districts.

[Amended 12-12-2011 by L.L. No. 29-2011]

- (1) All dumpster areas shall be limited to that area shown on an approved site and development plan. Such areas Dumpsters and other refuse containers may be located between the front face of the building and the adjacent roadway only with the approval of the Planning Board or Planning Director, as applicable.
- (2) Dumpster containers, other refuse containers, and all refuse shall be visually screened on all sides from adjacent properties and private or public rights of way with an opaque material,

which may include shrubs, walls, fences or berms. Materials and dumpsters stored in said areas shall not protrude above the screen.

- (3) Where vegetative material is used, said material shall form an opaque screen within two years from the time of first planting.
- (4) When dumpster enclosure gates are used to address (2) above, the gate shall consist of materials that visually conceal 100 percent of the contents of the enclosure. Gates shall remain in the closed position except when the dumpster is being loaded or unloaded or when access to the interior of the enclosure is needed for maintenance or other purposes.
- (5) Dumpster containers and other refuse containers in residential districts shall meet the setbacks established in § 3-15-6.
- (6) The setbacks for dumpsters in nonresidential districts shall be five (5) feet from the property line of adjacent nonresidential districts and ten (10) feet from the property line of adjacent residential districts.

7-2-5. **Parking Credits for Landscaping.** The Planning Board or Planning Director, as applicable, may reduce the minimum number of off-street parking spaces required in § 7-1-6 by not more than 25 percent, provided that the land area so removed is not used to meet the landscape area required in this Section and is used exclusively for landscaping in accordance with the standards and criteria of this Section. If, at any time thereafter, the applicable site plan approval authority determines that the land area so removed is suitable for and is needed to provide necessary off-street parking, it may order the installation of such parking. The issuance of any Certificate of Occupancy or Certificate of Compliance shall be deemed conditional upon the possible requirement for the future installation of the additional off-street parking, upon such order by the applicable site plan approval authority. Failure to comply with such order within the time fixed thereby shall constitute a violation of this Ordinance.

7-2-6. **Existing Development.** Where an existing development that requires site plan review proposes an increase in the Parking Area of 3,000 or more square feet, the proposed site plan shall provide interior

landscaped areas for the added Parking Area as required by § 7-2-3A(3). The proposed site plan shall also provide buffering and screening for the added Parking Area consistent with the standards in § 7-2-4.

7-2-7. **Enforcement and Maintenance.**

- A. All landscaped areas required and/or permitted by these regulations shall be maintained and preserved according to the approved landscape plan. Landscaped areas shall be kept free of trash, litter, weeds and other such materials.
- B. All plant materials provided for a development in accordance with the approved landscape plan shall be in a healthy and vigorous growing condition, exhibit good form, and display in excess of 75 percent leaf cover, as determined by the Division of Forestry, in order to be considered acceptable for the purposes of compliance with the site plan at the time of inspection for Certificate of Occupancy or Certificate of Compliance. All plant materials which are considered to be unacceptable for the purposes of compliance with these regulations shall be replaced with acceptable plant material prior to the issuance of a final Certificate of Occupancy or Certificate of Compliance.
- C. Trees which existed on the site prior to development and are identified on the landscape plan as trees to be preserved cannot be removed during construction without first obtaining a Tree Removal Permit or an amendment to the site plan. The removal of existing trees to be preserved without Town approval shall be considered a violation of the Town of Amherst Tree Law, also known as Local Law 8-1992, as amended.
- D. After the issuance of a final Certificate of Occupancy or Certificate of Compliance, plant materials which die or are not maintained in a healthy and growing condition with at least 50 percent leaf cover shall be replaced within the next growing season with plantings of a similar nature. Plantings intended to serve as a visual screen which die or are not maintained in a healthy and growing condition after three years from the date of issuance of the final Certificate of Occupancy or Certificate of Compliance shall be replaced with

plantings of a size and nature sufficient to achieve the visual screen intended.

- E. All trees shall be planted in accordance with the methods illustrated by the planting details required to be shown on the approved landscape plan. Trees not planted in accordance with these methods will not be considered acceptable for the purposes of compliance with the Site Plan and shall be replanted in accordance with the methods illustrated in the details, or the method of planting otherwise corrected so as to be acceptable to the Town prior to the issuance of a final Certificate of Occupancy or Certificate of Compliance. Where tree stakes and guy wires are used, they shall be removed from newly planted trees no sooner than 12 months after planting and no later than 18 months after planting.
- F. Inspections required by this Section shall be the responsibility of the Division of Forestry.

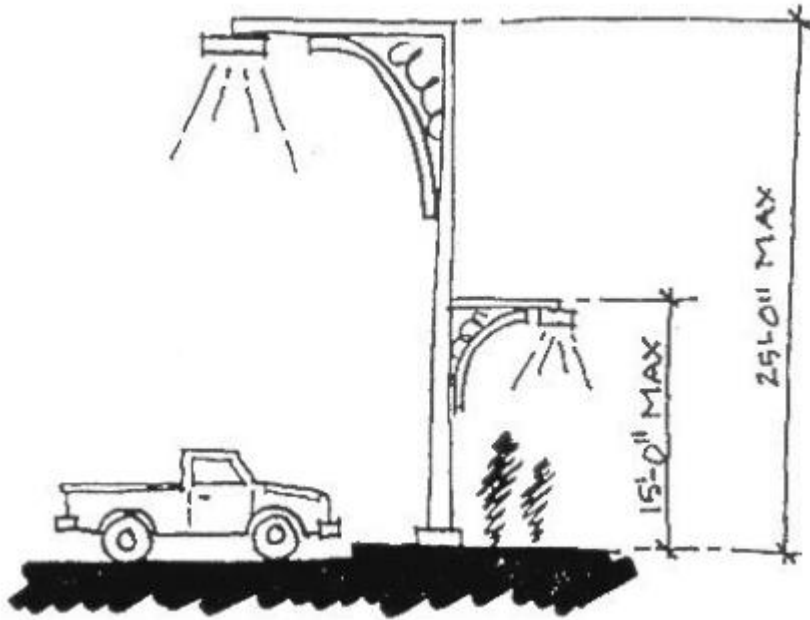
§ 7-3. Site Lighting

7-3-1. **Purpose.** Nonresidential and multifamily buildings and projects shall be designed to provide safe, convenient, and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be integrated and designed so as to enhance the visual impact of the project on the community and/or should be designed to blend into the surrounding landscape. Lighting fixtures shall be designed, sized and located so as not to cast direct rays of light upon adjoining premises or cause glare hazardous to pedestrians or persons using adjacent public streets. Illumination shall not be used for the purpose of advertising or attracting attention to the principal use, except as permitted by § 7-8, Sign Regulations.

7-3-2. **Applicability.** A site lighting plan shall be required during review of any nonresidential or multifamily site and development plan. The contents of the site lighting plan shall be established by the Planning Director.

7-3-3. **Site Lighting Design Requirements.** Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This can be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

- A. **Fixture (Luminaire).** The light source shall be concealed and shall not be visible from any street right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures. Only architectural lighting may be directed upward provided that all other provisions of this Section are met.
- B. **Fixture Height.** Lighting fixtures shall be a maximum of 25 feet in height within parking lots and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. For additional requirements, see § 7-3-5A.
- C. **Light Source (Lamp).** The same light source type shall be used for the same or similar types of lighting on any one site throughout any development. See § 7-3-6 for prohibited light sources.



- D. **Mounting.** Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.
- E. **Footing.** All footings for light poles shall have an attractive architectural treatment, as determined by the Commissioner of Building, or be located entirely below finished grade so as not to be visible.
- F. **Limit Lighting to Periods of Activity.** The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Commissioner of Building to conserve energy, provide safety, and promote compatibility between different land uses.

7-3-4. **Illumination Level.**

- A. Illumination levels shall be measured in footcandles.
- B. All site lighting shall be designed so that the level of illumination, as measured in footcandles at any one point, meets the standards in the table below.

C. Minimum and maximum levels are measured on the pavement within the lighted area. Average level is the overall, generalized ambient light level, and is measured as a not-to-exceed value. The average level shall be calculated using only the area of the site intended to receive illumination.

Lighting Type	Lighting Level (footcandles)		
	Minimum	Average	Maximum
Architectural	0.0	1.0	5.0
Canopy Area	2.0	10.0	15.0
Multifamily Parking Lots	0.20	1.0	8.0
Nonresidential and Multifamily Entrances and Exits	1.0	5.0	15.0
Nonresidential Parking Lots	0.2	1.5	10.0
Security	0.2	1.0	10.0
Vehicle Sales, Rental and Leasing	0.2	3.0	15.0
Walkways, Landscape or Decorative	0.2	0.8	5.0

D. All outdoor lighting shall be designed and located such that the maximum illumination measured in footcandles at the property line does not exceed 0.2 on adjacent residential use, and 0.5 on adjacent commercial sites and public rights-of-way.

E. No direct light source shall be visible at the property line at ground level or above.

F. Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

7-3-5. **Lighting Required for Specific Uses.**

A. **Sites Adjacent to Residential Uses.**

[Amended 1-16-2007 by L.L. No. 2-2007]

- (1) All lights shall be shielded so as to deflect light away from any residential use.
- (2) Illumination at the public right-of-way line when a nonresidential use is across the public right-of-way from a residential use shall not exceed one footcandle.
- (3) All light fixtures located within 50 feet of any residential use shall not exceed 15 feet in height.
- (4) Unless properly shielded, security lighting fixtures such as wall packs shall not face a residential use.

B. **Canopy Area Lighting.** All development that incorporates a canopy area over fuel sales, automated bank machines, or similar installations shall use a recessed lens cover flush with the bottom surface of the canopy that provides a cutoff or shielded light distribution. Areas under a vehicular canopy shall have an average of 10 foot candles as measured at ground level at the inside of the outside edge of the canopy.

C. **Automated Teller Machines.** An automated teller machine (ATM) shall be illuminated in accordance with the ATM Safety Act (NYS Banking Law, Article II-AA).

7-3-6. **Prohibited Light Sources.** Except as otherwise provided in this Section, the following light sources and light fixtures and sources shall not be used within the Town where the direct light emitted is visible from adjacent areas.

- A. Low-pressure sodium and mercury vapor light sources.
- B. Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources.
- C. Searchlights and other high-intensity narrow-beam fixtures.

D. Lighting fixtures that have flashing, rotating, moving, pulsing or alternating colored sources, except between Thanksgiving Day and January 15, as provided in § 7-8, Sign Regulations.

§ 7-4. Outdoor Storage and Display

7-4-1. **General.** Outdoor display and storage shall be allowed in nonresidential districts in accordance with this Section. Any merchandise, material or equipment situated outdoors in nonresidential districts shall be subject to the requirements of this Section.

7-4-2. **Allowed Outdoor Storage and Display.**

A. Three types of outdoor storage and display shall be allowed in the districts designated in the Table below.

[Amended 4-12-2010 by L.L. No. 2-2010]

Category	Districts			
	NB	GB, SC	CS, MS	RD, GI
Outdoor Display	✓	✓	✓	
Limited Outdoor Storage		✓	✓	✓
General Outdoor Storage			✓	✓

B. Allowed outdoor storage and display shall meet the vehicle use area setbacks provided in each district or a minimum of 20 feet from any lot line, whichever is greater.

C. In the NB district, all outdoor display shall be returned to a completely enclosed structure when the associated business is not open.

D. In the ST district, outdoor storage and display shall not be permitted except for the measurement of climatic effects on stored materials. No such storage area shall be located in any required front, side or rear yard.

7-4-3. **Categories of Outdoor Storage and Display.**

A. **Outdoor Display.**

- (1) Outdoor display constitutes the display of items actively for sale.
- (2) Outdoor display shall be allowed adjacent to a principal building wall and may only extend a distance no greater than five feet from the wall. Such display shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building and sidewalk.
- (3) Outdoor display may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.

B. Limited Outdoor Storage.

- (1) Limited outdoor storage is temporary storage of goods in individual packaging and not in storage containers. Organic materials stored on pallets are considered limited outdoor storage.
- (2) Limited outdoor storage shall not exceed 1,000 square feet or 10 percent of the total site area (whichever is greater), except in the CS and GI districts where additional outdoor storage and display is allowed provided that the storage and display is completely screened from view outside the site by a solid opaque wall or fence at least six feet in height. Such area may extend from the principal building, but not for a distance greater than 50 feet.
- (3) Limited outdoor storage may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.
- (4) Limited outdoor storage shall not be allowed in required off-street parking spaces.

C. General Outdoor Storage.

- (1) General outdoor storage consists of all remaining forms of outdoor storage not classified as outdoor display or limited outdoor storage, including the storage of combustible or flammable liquids, items stored in shipping containers, conexes and semi-trailers not attached to a truck.
- (2) General outdoor storage shall be allowed in unlimited quantity, provided that the storage area is completely screened from any

public right-of-way or adjacent residentially zoned property and meets the location restrictions below.

- (3) No general outdoor storage shall be permitted within the following areas:
 - (a) The public right-of-way;
 - (b) Any required landscape area;
 - (c) A required front or side setback;
 - (d) Between a front setback and the building front;
 - (e) Between a side setback along a public right-of-way and any structure; and
 - (f) Any required off-street parking areas.
- (4) Areas intended for general outdoor storage shall be paved, or have an alternate surface as approved by the Commissioner of Building.

7-4-4. **Exceptions.**

- A. Vehicles for sale as part of a properly permitted vehicle sales use (including boats and manufactured housing) shall not be considered merchandise, material or equipment subject to the restrictions of this Section. Such vehicles shall be located and displayed on a paved vehicle use area, or on an alternate surface as approved by the Commissioner of Building, clearly indicated on the site plan, and screened under the same requirements for a parking lot.
- B. Waste generated on-site and deposited in ordinary refuse containers shall not be subject to the restrictions of this Section.

§ 7-5. Fences and Walls

- 7-5-1. No fence or wall in a residential district shall exceed six feet in height, except where it abuts a nonresidential district, in which event it shall not exceed eight feet in height, provided, however, that a fence or wall not exceeding 12 feet in height enclosing a tennis court shall be permitted. For the purpose of screening, the Planning Board or Planning Director as applicable, may require fences, vegetation or other appropriate material in nonresidential districts where they abut residential districts

to assure privacy for adjacent land uses with visual, noise and air quality factors considered.

[Amended 8-1-2011 by L.L. No. 19-2011]

7-5-2. With the exception of those used for screening loading docks, dumpsters, refuse containers, outdoor storage and mechanical equipment as required by this Ordinance, no fence or wall in a nonresidential district shall exceed eight feet in height.

[Amended 12-12-2011 by L.L. No. 29-2011]

7-5-3. No fence or wall, other than a necessary retaining wall, over three feet in height shall extend into the front yard of any lot, except in an industrial district. For the purposes of administration of this Section, the front yard of a principal structure shall be the yard abutting the street that is directly associated with the primary entrance to the structure.

7-5-4. The height of all fences or walls shall be measured from the average finished grade as determined by the Commissioner of Building. Average height should generally follow the lay of the land.

§ 7-6. Access and Circulation

7-6-1. **Location of Existing and Planned Transit Routes.** Any proposed development shall take into account the location of existing and planned transit routes and provide vehicular and pedestrian connections to any transit points within or adjacent to the development.

7-6-2. **Street, Road and Highway Barricades.** Unless authorized by the Planning Board, the erection or maintenance of a barricade preventing access to or from a town highway or private road or street on or adjacent to such property shall not be permitted. Any barricade installed shall comply with the provisions of § 7-6-7B.

7-6-3. **Public Access.** No use shall be permitted to take direct access to a street except as permitted in this Section.

A. **Local Streets.** All residential uses may take direct access to local streets. Nonresidential uses shall not take direct access to local streets, except when no higher street classification is available.

- B. **Collector Streets.** No single-family dwelling shall take direct access to collector streets, except when no local street is available.
- C. **Arterial Streets.** No residential use, other than multifamily, shall take direct access to major or minor arterial streets. When uses take access to an arterial street, the point of access shall be directly across from another existing point of access, or spaced at least 200 feet from any intersecting street or other point of access to the arterial.

7-6-4. **Private Access.** Buildings and land shall either abut a dedicated street or be arranged in groups or clusters so that groups or clusters abut a dedicated street for the required lot width, provided that:

- A. Each building is accessible by means of a private street to service and emergency vehicles.
- B. The standards of design and construction for private streets shall meet applicable town specifications for public streets unless modified by the approved site plan.
- C. The location, design and construction of all utilities meet all applicable specifications and are adequate to serve the needs of the group or cluster.
- D. The procedures for the preservation and maintenance of private streets, pedestrian ways and common open space comply with all applicable laws.

7-6-5. **Private Access Easements.**

- A. **Cross-Access.** Private cross-access easements may be required across any lot fronting on an arterial or collector street in order to minimize the number of access points and facilitate access between and across individual lots. The easement shall meet the following design requirements.
 - (1) If a parcel is to be developed for any nonresidential land use, a cross-access easement shall be provided to adjoining properties that front on the same street and that are, or may be, developed as nonresidential land uses. The easement shall be clearly identified on any site plan submitted pursuant to this Ordinance. The easement shall be filed with the Erie County Clerk's Office for recordation.

- (2) Cross-access easements shall have a minimum width of 24 feet and shall be generally parallel to the street right-of-way line abutting both parcels. Access easement facilities shall be maintained by the property owner.
- (3) The property owner shall provide appropriate documentation of a good faith effort to extend the access easement through all immediately abutting properties. If such an effort fails, the portion of the easement on the subject site shall be developed and designed to provide for future connection to the neighboring properties.
- (4) Where a cross-access easement is granted, no permanent structures that would interfere with the proposed access shall be permitted in the easement. Some improvements such as medians and parking islands may be constructed within an access easement if it has been demonstrated that adequate circulation and cross access has been accomplished, and that all applicable standards of this Ordinance have been met.
- (5) All cross-access improvements shown on a site plan shall be constructed and stubbed, and future development of adjacent property shall complete a connection to any existing stub.
- (6) The Planning Board may waive the requirement for a cross-access easement required above in those cases where unusual topography or site conditions would render such an easement of no useable benefit to adjoining properties.
- (7) The Planning Board may approve the closure of a cross-access easement in those cases where adjoining parcels are subsequently developed with a residential use.

B. **Shared Access.** A joint private access easement may be required between adjacent lots fronting on arterial and collector streets in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots. The location and dimensions of said easement shall be determined by the Planning Board or Director, as applicable. *So in original.*

[Amended 2-4-2008 by L.L. No. 1-2008]

7-6-6. **Access Design Requirements.**

- A. **Minimum Access.** Each parcel of land which lawfully exists and which abuts a street right-of-way shall be permitted at least one access point, except where otherwise restricted by the Town.
 - B. **Additional Access.** The Planning Board may require more than one access point onto a collector or arterial street for a single parcel during site plan review provided that the number and location of access points onto local streets and the additional access points onto collector and arterial streets shall be approved by the highway authority having jurisdiction over the roadway from which access is being taken.
 - C. **Width of Access.** The width of access driveways shall be determined by the highway authority having jurisdiction over the roadway from which access is being taken. However, in no case shall an individual driveway width be greater than 45 feet, except that the width of a landscaped center median shall not count towards this standard.
 - D. **Closure or Relocation of Existing Access Points.** The Planning Board, in conjunction with the authority having jurisdiction over the roadway from which access is being taken, shall have the authority to require the closure or relocation of existing access points where multiple access points to the site are available.
 - E. **Curb Cuts at Intersections.** A curb cut for a corner parcel at the intersection of any streets shall be located the maximum practical distance from the intersection point of the rights-of-way of the intersecting streets, without intrusion into any required buffer. The number and location of the curb cuts shall be approved by the highway authority having jurisdiction over the street from which access is being taken.
- 7-6-7. **Fire Apparatus Access Road Requirements.** All developments shall be required at least one means of fire apparatus access. Developments exceeding the thresholds set forth in § 7-6-7C shall require at least two means of fire apparatus access. Access lanes shall be placed a distance apart equal to not less than one half of the maximum overall diagonal dimension of the property or area to be served (measured in a straight line between access points).

A. Aerial Fire Apparatus Access Road Dimensions.

- (1) **Height.** Where required, buildings or portions of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.
- (2) **Width.** Fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height.
- (3) **Proximity to Building.** At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to the building. Such access shall be either paved as part of the sidewalk system or be part of the parking lot pavement. Required access routes shall not be used as snow storage areas that would impede emergency access. If such access is part of the parking lot pavement, these areas shall be striped or otherwise delineated with pavement markings and "No Parking" signs to prevent parked cars or delivery vehicles from impeding emergency access.

B. Fire Apparatus Road Gates.

- (1) The minimum gate width shall be 20 feet.
- (2) Gates shall be of the swinging or sliding type and of a triangular shape.
- (3) Construction of gates shall be of materials that allow manual operation by one person.
- (4) Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
- (5) Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the code

official. Locking device specifications shall be submitted for approval by the code official.

- C. Approval of a site plan or subdivision, including individual phases of a site plan or subdivision, shall not be granted where a cul-de-sac, dead-end or any street with only one point of access from an improved public right-of-way exceeds 800 feet in length as measured along the center line from the single point of access at the public right-of-way to the end of the proposed right-of-way. The length of an entrance island for the street shall be included in the overall length of the cul-de-sac, dead-end or street regardless of the width of the street on either side of the entrance island.

[Added 4-21-2008 by L.L. No. 3-2008]

§ 7-7. Provisions for Flood Hazard Reduction

7-7-1. **Findings.** The Town Board of the Town of Amherst finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Amherst and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Section is adopted.

7-7-2. **Purpose.** It is the purpose of this Section to promote the public health, safety and general welfare and to minimize public and private illnesses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;

- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify and maintain for participation in the National Flood Insurance Program.

7-7-3. **Objectives.** The objectives of this Section are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To provide that developers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

7-7-4. **Definitions.**

APPEAL

A request for a review of the Local Administrator's interpretation of any provision of this Part or a request for a variance.

AREA OF SHALLOW FLOODING

A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding

is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-30, A99, V, VO, VE or V1-30. It is also commonly referred to as the "base floodplain" or "100-year floodplain."

BASE FLOOD

The Flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT

That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL

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

BUILDING

See "structure."

CELLAR

The same meaning as "basement."

COASTAL HIGH-HAZARD AREA

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

DEVELOPMENT

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

ELEVATED BUILDING

A nonbasement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zones V1-30, VE or V, *So in original.* to have the bottom of the lowest horizontal structure member of the elevated floor elected above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X or D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

FEDERAL EMERGENCY MANAGEMENT AGENCY

The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FHBM)

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY

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

FLOOD OR FLOODING

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

1. The overflow of inland or tidal waters; or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD OR FLOODING

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

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY

See "Flood Elevation Study."

FLOODPLAIN OR FLOOD-PRONE AREA

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

FLOODPROOFING

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

FLOODWAY

Same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair facilities. The term does not include long-term storage, manufacturing, sales or service facilities.

HIGHEST ADJACENT GRADE

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

HISTORIC STRUCTURE

Any structure that is:

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

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a

registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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

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

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

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

LOCAL ADMINISTRATOR

Is the person appointed by the community to administer and implement this Part by granting or denying development permits in accordance with its provisions.

LOWEST FLOOR

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

MEAN SEA LEVEL

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

NATIONAL GEODETIC VERTICAL DATUM (NGVD)

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION

Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation and includes any subsequent improvements to such structure.

ONE-HUNDRED-YEAR FLOOD

The same meaning as "base flood."

PRINCIPALLY ABOVE GROUND

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

RECREATIONAL VEHICLE

A vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY

Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the federal emergency management agency in a flood insurance study or by other agencies as provided in 7-7-6C(2).

SAND DUNES

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

START OF CONSTRUCTION

The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of

streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing of the manufactured home to its permanent site.

SUBSTANTIAL DAMAGE

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

SUBSTANTIAL IMPROVEMENT

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

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE

A grant of relief from the requirements of this Part which permits construction or use in a manner that would otherwise be prohibited by this Part.

7-7-5. General Provisions.

- A. **Lands to Which This Part Applies.** This Section shall apply to all areas of special flood hazard within the jurisdiction of the Town of Amherst.
- B. **Basis for Establishing the Areas of Special Flood Hazard.**

- (1) The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance study, Town of Amherst, New York, Erie County," dated October 16, 1992, with Flood Insurance Rate Maps as enumerated on Map Index No. 3602260001 through 0016, dated October 16, 1992, and the following Letters of Map Revision: (a) FEMA Case No. 95-02-15P, issued on August 17, 1995, which corrected an error in flood way mapping on Panel 0009; (b) FEMA Case No. 95-02-037P, effective May 8, 1996, which incorporates a revised hydraulic analysis of Ellicott Creek affecting Panel 0015.
- (2) The above documents are hereby adopted and declared to be a part of this Section and are filed at the Offices of the Town Clerk and the Building, Engineering, and Planning Departments.

C. Interpretation, Conflict with Other Laws.

- (1) This Section includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- (2) In their interpretation and application, the provisions of this Section shall be held to be minimum requirement, adopted for the promotion of the public health, safety and welfare. Whenever the requirement of this Section 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.

D. Penalties for Noncompliance.

- (1) No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this Section and any other applicable regulations. Any infraction of the provisions of this Section by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this

Section or fails to comply with any of its requirement shall be punished in accordance with the provisions of 8-16-1, Penalties of Violation, of this Ordinance.

- (2) Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Amherst from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Section for which the developer and/or owner has not applied for and received an approved variance under § 8-13 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

E. Warning and Disclaimer of Liability. The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the Town of Amherst, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

7-7-6. Administration.

- A. Designation of Local Administrator.** The Commissioner of Building is hereby appointed Local Administrator to administer and implement this Section by granting or denying development permits in accordance with its provisions.
- B. Establishment of the Development Permit.** A floodplain development permit shall be obtained before the start of construction or any other development, including the placement or replacement of manufactured homes or recreational vehicles, within the area of special flood hazard within the jurisdiction of the Town of Amherst as established in paragraph 7-7-5B(1) above.

Application for a development permit shall be made on forms furnished by the local Administrator and may include, but not be limited to: plans, in triplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

- (1) **Fees.** All applications for a floodplain development permit shall be accompanied by an application fee as specified in the Schedule of Fees. In addition, the Town of Amherst reserves the right to recover from the permittee all reasonable costs necessary for review, approval and inspection of this project.
- (2) **Application Stage.** The following information is required, where applicable:
 - (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
 - (b) Elevation in relation to mean sea level to which any residential or nonresidential structure will be floodproofed;
 - (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 7-7-7C;
 - (d) Certificate from a licensed professional engineer or architect that the floodproofed structure will meet the floodproofing criteria where applicable in § 7-7-8; and
 - (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (3) **Construction Stage.** Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or

architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

C. Duties of the Local Administrator. Duties of the Local Administrator shall include, but not be limited to:

(1) Permit Application Review.

- (a) Review of all development permit applications to determine that the requirements of this Section have been satisfied.
- (b) Review of all development permit applications to determine all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (c) Review of all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this Section, "adversely affects" means physical damage to adjacent and other properties. An engineering study may be required of the petitioner for this purpose.
- (d) If there is no adverse affect, then the permit shall be granted consistent with the provisions of this Section.
- (e) If there is an adverse affect, then flood damage mitigation measures shall be made a condition of the permit.
- (f) Review all development permits for compliance with the provisions of § 7-7-7E, Encroachments.

(2) Use of Other Base Flood and Floodway Data. When base flood elevation data has not been provided in accordance with § 7-7-5B above, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 7-7-7D(4) in order to administer § 7-7-8, Specific Standards, and § 7-7-9, Floodways.

(3) Information to be Obtained and Maintained.

- (a) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures and whether or not the structure contains a basement or cellar.
 - (b) For all new or substantially improved floodproofed structures:
 - (i) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (ii) Maintain the floodproofing certifications required in § 7-7-4 and § 7-7-8.
 - (c) Maintain for public inspection all records pertaining to the provisions this Section including variances when granted and certificates of compliance or occupancy.
- (4) **Alteration of Watercourses.**
- (a) Notify adjacent communities and the NYS Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
 - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (5) **Interpretation of FIRM Boundaries.**
- (a) The Local Administrator shall have the authority to make interpretation when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
 - (b) Base flood elevation data established pursuant to § 7-7-5B or (1)(f) above, when available, shall be used to accurately delineate the areas of special flood hazard.
 - (c) The Local Administrator shall use flood information from any other authoritative source, including historical data, to

establish flood elevations within the areas of special flood hazard when base flood elevations are not available.

(6) **Stop-Work Orders.**

- (a) All floodplain development found ongoing without a floodplain development permit shall be subject to the issuance of a stop-work order by the Local Administrator. Disregard of a stop-work order shall subject the violator to the penalties described in subsection 7-7-5D of this Section.
- (b) All floodplain development found noncompliant with the provisions of this Section and/or the conditions of the floodplain development permit shall be subject to the issuance of a stop-work order by the Local Administrator.

(7) **Inspections.** The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of the development permit and/or any variance provisions.

(8) **Certificate of Compliance or Occupancy.**

- (a) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance or occupancy has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Section.
- (b) All other development occurring within the designated areas of special flood hazard will have upon completion a certificate of compliance or occupancy issued by the Local Administrator.
- (c) All certifications shall be based upon the inspections conducted subject to (7) above and/or any certified elevations, hydraulic information, floodproofing, anchoring

requirements or encroachment analysis which may have been required as a condition of the approved permit.

7-7-7. **General Standards.** In all areas of special flood hazard, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated in accordance with § 7-7-8B. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (3) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated and anchored to resist flotation, collapse or lateral movement. Recreational vehicles shall be elevated in accordance with § 7-7-8B.

B. Construction Materials and Methods.

- (1) All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvement shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When

- designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
 - (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided by the permit petitioner for subdivision proposals and other proposed developments, including proposals for manufactured home and recreational vehicle parks and subdivisions greater than either three lots or five acres.
- (5) In all areas of special flood hazard in which base flood elevation data are available pursuant to (4) or § 7-7-5 and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (6) In all areas of the special flood hazard where floodway data are provided or available pursuant to § 7-7-5, the requirements of § 7-7-9, Floodways, shall apply except as provided in (7) below.
- (7) Notwithstanding any other provisions of this Part, certain development in Zones A1-30, AE and AH may be permitted to increase the water surface elevation of the base flood (e.g.

dams, levees, etc.), provided that the Town of Amherst endorses application to the Federal Emergency Management Agency (FEMA), the permit petitioner provides all necessary data and analyses and pays all fees, and FEMA approval is received.

E. Encroachments.

- (1) All proposed development in riverine areas where no flood elevation data are available (unnumbered A Zones) shall be reviewed as set forth in § 7-7-6C(1), Permit Application Review, to determine the effects of the encroachment on the flood-carrying capacity of the stream. The Local Administrator may require submission of additional technical analyses and data necessary to complete the determination.
- (2) The Local Administrator shall require within Zones AH and AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

7-7-8. **Specific Standards.** In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 7-7-5, Basis for Establishing the Areas of Special Flood Hazard and § 7-7-6C(2), Use of Other Base Flood Data, the following standards are required:

A. Residential Construction. New construction and substantial improvements of residential structures shall be constructed in accordance with Paragraphs A or B as follows:

(1) **Paragraph A.**

- (a) In Zones A1-30, AE and AH, have the lowest floor (including basement or cellar) elevated to or above the base flood elevation.
- (b) In all areas of special flood hazard, have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be

certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
 - (iii) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (c) Within any AO Zone, have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM [at least two feet if no depth number is specified].
- (d) Within any A Zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.
- (2) **Paragraph B.** When the Local Administrator has determined that the flood depth, measured from the base flood elevation to the original grade, is five feet or less for developable lots that are contiguous to land above the base flood level and three feet or less for other lots; and where the flood velocities are five feet per second or less; the local Administrator may issue building permits for residential structures containing basements in Zones A1-30, AH, AO or AE, provided that such structures shall:
- (a) Be designed and built so that any basement area together with attendant utilities and sanitary facilities below the floodproofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from flooding to the floodproofed design level, and shall be designed so that

minimal damage will occur from floods that exceed that level. The floodproofed design level shall be an elevation one foot above the level of the base flood where the difference between the base flood and the five-hundred-year flood is three feet or less and two feet above the level of the base flood where the difference is greater than three feet.

- (b) Have the top of the floor of any basement area no lower than five feet below the elevation of the base flood.
- (c) Have the area surrounding the structure on all sides filled to or above the elevation of the base flood. Fill must be compacted with slopes protected by vegetative cover.
- (d) Have a registered professional engineer or architect develop or review the building's structural design specifications and plans, including consideration of the depths, velocity and duration of flooding and type and permeability of soils at the building site, and certify that the basement design and methods of construction proposed are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- (e) Be inspected by the building inspector or other authorized representative of the community to verify that the structure is built according to its design and those provisions of this Section which are verifiable.

B. Manufactured Homes and Recreational Vehicles.

- (1) A manufactured home that is placed or substantially improved on a site in an A1-30, AE or AH Zone that is either:
 - (a) Outside of a manufactured home park or subdivision;
 - (b) In a new manufactured home park or subdivision as herein defined in § 2-1;
 - (c) In an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (d) In an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood; shall be elevated

on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (2) A Manufactured home to be placed or substantially improved on a site located in an A1-30, AE or AH Zone, in a manufactured home park or subdivision, as herein defined, that is not subject to the provisions of paragraph (1) above, shall be elevated so that either:
 - (a) The lowest floor of the manufactured home is at or above the base flood elevation; or
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system.
- (3) New construction or substantial improvements of manufactured homes in Zone A, where no base flood elevation data are available, shall be elevated at least three feet above the highest adjacent grade.
- (4) All recreational vehicles placed on-site for longer than 180 consecutive days and not fully licensed and ready for highway use must be elevated in accordance with (1), (2) or (3).
- (5) Manufactured homes and recreational vehicles, on-site for longer than 180 consecutive days, with fully enclosed areas below the lowest floor, must meet the requirement of either paragraphs A(1)(b)(ii) or A(2).

C. Nonresidential Construction.

- (1) In Zones A1-30, AE and AH, new construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (a) Have the lowest floor (including basement or cellar) elevated to or above the base flood elevation; or

- (b) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) In an AO Zone, all new construction and substantial improvement shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM [at least two feet if no depth number is specified].
 - (3) In an A Zone, when no base flood data are available, have the lowest floor elevated at least three feet above the highest adjacent grade.
 - (4) If the structure is to be elevated, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically (without human intervention) equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
 - (5) If the structure is to be floodproofed: A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in

accordance with accepted standards of practice for meeting the provisions of paragraph § 7-7-8C(1)(b), including the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

- (6) The Local Administrator shall maintain on record a copy of all such certificates noted in this Section.

7-7-9. **Floodways.** Located within areas of special flood hazard are areas designated as floodways (see § 2-4). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 7-7-5 or, when applicable, § 7-7-6C(2), all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

7-7-10. **Variance Procedure.**

A. Appeals Board.

- (1) The ZBA, as established by the Town of Amherst, shall hear and decide appeals and requests for variances from the requirements of this Section.
- (2) The ZBA shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Local Administrator in the enforcement or administration of this Section.
- (3) Those aggrieved by the decision of the ZBA may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing a floodplain variance, the ZBA shall consider all technical evaluations, all the relevant factors, all the standards specified in this Section and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;

- (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and street and bridges.
- (5) Upon consideration of the factors of paragraph (4) above and the purposes of this Section, the ZBA may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
- (6) The Local Administrator shall maintain the records of all appeal actions, including technical information, and report any

variances to the Federal Emergency Management Agency upon request.

B. Conditions for Variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half of an acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in paragraph (4) above have been fully considered. As the lot size increases beyond the one-half of an acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (a) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and
 - (b) The variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by the Town for new construction and substantial improvement and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (a) The criteria of paragraphs (1), (4), (5) and (6), of this subsection are met; and
 - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if an increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) A showing of good and sufficient cause;

- (b) A determination that failure to grant the variance would result in exceptional hardship to the petitioner; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense or create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any petitioner to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

§ 7-8. Sign Regulations

Note: See § 8-10 and § 8-11 for additional sign regulations. **[Added 4-12-2010 by L.L. No. 2-2010]**

- 7-8-1. **Purpose.** Sign regulations, including provisions to control the type, design, size, location, motion, illumination and maintenance, are designed to achieve the following purposes:
- A. To protect property values, create a more attractive economic and business climate and protect the physical appearance of the community from the effects of inharmonious and out-of-scale signs.
 - B. To preserve the scenic and natural beauty of designated areas and provide a more enjoyable and scenic community.
 - C. To reduce signs or advertising distractions or obstructions that may contribute to traffic accidents.
 - D. To provide reasonable, yet appropriate, conditions for advertising goods sold or services rendered in business districts by relating the size, type and design of signs to the type of establishment.
 - E. To control signs so that their appearance will be aesthetically harmonious with the overall design of the area.
 - F. To reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way.

G. To curb the deterioration of natural beauty in the community's environment.

7-8-2. **Prohibited Signs.** All signs not expressly permitted or exempt from regulation under this Section are prohibited in all districts. Such signs include, but are not limited to:

- A. Banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices or strings of lights are prohibited.
- B. Rotating or revolving signs;
- C. Beacons;
- D. Signage on motor vehicles that:
 - (1) Are inoperable; or
 - (2) Do not display a current vehicle inspection sticker or license plate; or
 - (3) Are not principally used as a mode of transportation for business purposes; or
 - (4) Are conspicuously parked or located on a lot or public right-of-way for 24 hours.
- E. Signs, as regulated by this Ordinance, used to attract attention to an object, product, place, activity, institution, organization or business not available or located on the premises where the sign is located.
- F. Signs advertising or identifying a business which is no longer operating. Any sign accessory or incidental to a business shall be removed within 30 days after the business ceases to operate;
- G. Roof signs placed, inscribed or supported upon or above the highest part of the roofline except such directional devices as may be required by the FAA;
- H. Signs that create a traffic hazard by obstructing the view at any street intersection or by design resemblance through color, shape or other characteristics common to traffic control devices;
- I. Signs that encroach into the clear sight triangle as described in § 2-5-1; and
- J. Signs in the public right-of-way or on other public property.

7-8-3. **Signs Exempt from Regulation.**

A. **Exempt Signs.** The following signs shall be exempt from regulation under this Section and shall not require a building permit for a sign as described in § 8-10.

- (1) Signs erected and maintained pursuant to and in discharge of any governmental function;
- (2) Signs prohibiting trespassing;
- (3) Integral, decorative or architectural features of building, except letters or trademarks;
- (4) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located;

B. **Signs Not Requiring a Permit.** The following signs shall be exempt from regulation under this Section and shall not require a building permit for a sign as described in § 8-10, provided that the sign meets the additional standards given below.

Sign

Type/Definition/Standards Illustration

ADDRESS SIGN

A sign that identifies the occupant and address of a residential structure.



Standards:

- (1) There shall be only one address sign indicating the name and address of the occupants of a dwelling.
- (2) Such sign shall not exceed two square feet in area.

Sign**Type/Definition/Standards Illustration**

- (3) Such sign shall not be internally illuminated.

CONSTRUCTION SIGN

Any freestanding sign intended to provide information about current construction on a site and the parties involved in the project.

**Standards**

- (1) There shall be only one on-premises construction sign indicating the project name and the names of the architect, engineer, contractor and participating public and governmental agencies and officials.
- (2) Such sign shall not exceed 32 square feet in area.
- (3) Such sign shall be a maximum of 15 feet in height.

Sign**Type/Definition/Standards Illustration**

-
- (4) Such sign shall be located a minimum of 25 feet from the lot line and 75 feet from any dwelling not within the project.
-

FUEL PUMP SIGN

A sign attached to a fuel pump advertising the cost of fuel.

Standards:

- (1) The total area of fuel pump signs shall not exceed one square foot per pump.
- (2) Operational and payment instructions on the face of the pump shall be exempt from this limitation.

**HANGING SIGN**

A sign that hangs perpendicular to a building wall and is supported by or attached to the underside of a structure canopy, covered

Sign**Type/Definition/Standards Illustration**

entrance or walkway, awning or marquee.

Standards:

- (1) Only one hanging sign shall be permitted per customer entrance.
- (2) The bottom edge of such signs shall be located a minimum of eight feet above the finished grade.
- (3) Such sign shall not exceed two square feet in area.
- (4) Such sign shall have a maximum vertical dimension of 18 inches.

**HOME OCCUPATION SIGN**

A sign attached to the wall of a permitted home-based business.

Standards:

- (1) There shall be only one non-illuminated home

Sign**Type/Definition/Standards Illustration**

occupation sign that is physically attached to the exterior wall of the dwelling.

- (2) Such sign shall not exceed two square feet in area.
- (3) The home occupation with which the sign is associated shall meet the requirements of § 6-8-6.

**INCIDENTAL SIGN**

A sign that includes information assisting in the flow of vehicular traffic.

Standards:

- (1) Incidental signs shall not exceed two square feet in area.
- (2) Such sign shall be used to direct and guide traffic and parking on private property.
- (3) Such sign shall not bear any advertising.



Sign**Type/Definition/Standards Illustration**

MENU BOARD SIGN

A permanently mounted sign displaying the bill of fare for a drive-through or drive-in restaurant.

**Standards:**

- (a) The text of the sign shall not be legible from the public right-of-way or any adjacent residential district.
- (b) There shall be a maximum of two menu board signs per drive through lane.
- (c) Each menu board sign shall not exceed 36 square feet in area.

POLITICAL SIGN

A temporary sign that supports or opposes any political candidate, political issue, political referendum or political party.

Standards:

Sign**Type/Definition/Standards Illustration**

- (1) Political signs shall be placed only on private property.
- (2) Such signs shall not block any intersection clear sight triangle.
- (3) Such signs shall be removed within seven days after an election.

**REAL ESTATE SIGN**

A temporary sign that advertises the sale or lease of the premises on which it is located.

Standards:

- (1) There shall be only one on-premises real estate sign for each building or lot advertising the sale, rental or lease of the premises on which the sign is displayed.
- (2) Such sign shall not be illuminated.
- (3)



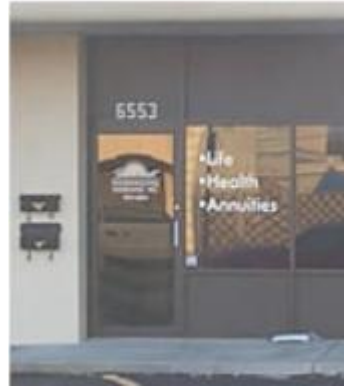
Sign**Type/Definition/Standards Illustration**

Such sign shall be removed within 15 days after property closing or lease signing.

- (4) Such sign shall not exceed eight square feet per face in residential districts.
- (5) Such sign shall not exceed 32 square feet in area in nonresidential districts.
- (6) One additional real estate sign shall be allowed on a site abutting more than one roadway.

WINDOW SIGN

A temporary, non-structural sign affixed to the interior of a window or door or any other sign inside the building containing a message legible from the public right-of-way or adjacent property clearly intended for public recognition outside the building.



Sign**Type/Definition/Standards Illustration**

Standards:

No window sign or advertising poster shall occupy more than 20 percent of the area of an individual window area.

7-8-4. **Signs Requiring a Permit.** Upon issuance of a building permit for a sign in accordance with § 8-10, Building Permit for Signs, the following signs are shall be permitted subject to the following requirements.

Sign**Type/Definition/Standards Illustration**

BUILDING SIGNS

AWNING SIGN

A sign painted on, attached to or otherwise displayed on an awning. This sign type does not include canopies over gas pumps.

**Standards:**

- (1) No such signs shall exceed 20 percent of the area of each awning or canopy (top plus all sides).

FASCIA SIGN

Sign**Type/Definition/Standards Illustration**

BUILDING SIGNS

A sign attached to the soffit or under the fascia of a building.

**Standards:**

- (1) A maximum of one sign for each establishment or enterprise shall be permitted.
- (2) The bottom edge of such signs shall be located a minimum of eight feet above the finished grade.
- (3) Such signs shall not exceed 18 square feet in area.

MARQUEE SIGN

A sign attached to the face of a marquee and not projecting above or beneath said marquee face. A marquee is a permanent roof-like structure that projects from the wall of a



Sign**Type/Definition/Standards Illustration**

BUILDING SIGNS

building and may overhang the public way.

Standards:

- (1) No more than one marquee sign shall be permitted for each building frontage that includes an entrance serving the general public.
- (2) Such sign shall not extend beyond the top or sides of the building.
- (3) Such sign shall not be oriented toward any residential district.
- (4) Such signs shall not project into any adjacent right-of-way, unless approved by the appropriate federal, state, county, or local highway official.
- (5) The bottom of such signs shall be a

Sign**Type/Definition/Standards Illustration**

BUILDING SIGNS

minimum of eight feet
above the walkway.

PROJECTING SIGN

A sign attached
perpendicular to a building
or other structure. This
definition shall not include
hanging signs.

**Standards:**

- (1) Only one projecting sign is permitted per building frontage with an entrance available to the general public.
- (2) Such sign shall not exceed 16 square feet in area.
- (3) Such signs shall not project into any adjacent right-of-way, unless approved by the appropriate federal, state, county, or local highway official.
- (4)

Sign**Type/Definition/Standards Illustration**

BUILDING SIGNS

The bottom of such signs shall be a minimum of eight feet above the walkway.

WALL SIGN

A sign integral with or attached to and supported by the exterior wall of a building.

Standards:

- (1) A wall sign shall not project above or beyond the ends of the building or its parapet or the highest point of the roof, whichever is higher.
- (2) Such sign shall not project more than 12 inches from the exterior supporting wall.
- (3) On a multi-occupancy building, each occupant with an outside entrance serving the



Sign**Type/Definition/Standards Illustration**

BUILDING SIGNS

general public may have a separate wall sign. Corner tenants with a second outside entrance in a side wall shall be allowed one additional wall sign.

- (4) Such sign shall have a maximum area in accordance with the table in § 7-8-8A.
- (5) In the R-R, S-A and AG districts, a wall sign may be used in connection with a roadside stand to advertise the sale of produce on farms within this district, provided that the produce being sold is produced on the farm or by the occupant of the farm. The sign face area shall not exceed 32 square feet. The sign shall be removed when the roadside stand is not in use.
-

Sign**Type/Definition/Standards Illustration****FREESTANDING SIGNS****GROUND SIGN**

A sign supported by uprights or braces placed upon or in the ground and not attached to any building.

Standards:

- (1) One ground sign shall be permitted for each individual building not a part of a multiple development.
- (2) For properties with multiple non-local street frontage where a pole sign is permitted, a ground sign may be placed along each other non-local street frontage.
[Amended 2-4-2008 by L.L. No. 1-2008]
- (3) Such sign shall be no higher than eight feet above the average finished grade and



Sign**Type/Definition/Standards Illustration**

FREESTANDING SIGNS

- shall be permanently attached to the ground.
- (4) Such sign shall not exceed 100 square feet in total face area.
- (5) Such sign shall be located a minimum of 25 feet from any nonresidential lot or 50 feet from any residential lot and 15 feet from a street right-of-way.
- (6) At each location where motor vehicle fuels are sold at retail, 32 square feet of additional face area limited to advertising the brand name and price of the fuel shall be permitted. This area may be used for a separate ground sign or as an addition to the face area of a ground sign otherwise permitted in this

Sign**Type/Definition/Standards Illustration**

FREESTANDING SIGNS

Section. In no event shall more than 16 square feet of this allowed area be displayed or added to any single face area.

- (7) In the R-R, S-A and AG districts, a ground sign may be used in connection with a roadside stand to advertise the sale of produce on farms within this district, provided that the produce being sold is produced on the farm or by the occupant of the farm. The sign face area shall not exceed 32 square feet. The sign shall be removed when the roadside stand is not in use.
-

MESSAGE CENTER SIGN

**[Amended 7-6-2010 by
L.L. No. 9-2010]**

Sign**Type/Definition/Standards Illustration****FREESTANDING SIGNS**

Any sign which contains an illuminated, programmable message or graphic, whether fixed or moving.

**Standards:**

- (1) Message center signs may only be included as a part of a permitted freestanding sign.

[Amended 8-1-2011 by L.L. No. 19-2011]

- (2) The information displayed on a message center sign for advertisement purposes shall remain static for a period of no less than ten minutes. The display of time and temperature information may change at no less than one minute intervals.
- (3) The transition between successive

Sign**Type/Definition/Standards Illustration****FREESTANDING SIGNS**

messages shall be instantaneous and shall not contain such visual effects as fading, dissolve, flashing, or animation.

- (4) Each message displayed shall be complete in itself, without continuation in content to the next message or to any other sign.

POLE SIGN

A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is a minimum of eight feet above the finished grade of a paved walk, drive, or parking area.

Standards:

- (1) One pole sign for each individual building not part of a multiple development shall be



Sign**Type/Definition/Standards Illustration****FREESTANDING SIGNS**

permitted in the General Business (GB), Commercial Service (CS) and Motor Service (MS) districts; or one pole sign for each multiple development in the General Business (GB) or Shopping Center (SC) districts.

[Amended 9-21-2009 by L.L. No. 14-2009]

- (2) Such sign shall not exceed 25 feet in height.
- (3) Such sign shall be located a minimum of 50 feet from an adjacent residential lot line.
- (4) Such sign shall not project over any public right-of-way or lot line.
- (5) The pole support for such signs shall be fully

Sign**Type/Definition/Standards Illustration****FREESTANDING SIGNS**

encased or skirted. A sign with a single support shall have a minimum support width of 30 percent and a maximum support width of 50 percent of the width of the sign face. Each support for a sign with double supports shall be a minimum of 15 percent of the width of the sign.

[Amended 4-12-2010 by L.L. No. 2-2010]

- (6) For properties with multiple non-local street frontage, one pole sign is permitted. A ground sign may be placed along each other non-local street frontage.
- (7) One identification pole sign not exceeding 160 square feet in face area and only

Sign**Type/Definition/Standards Illustration****FREESTANDING SIGNS**

-
- advertising the name of the multiple development itself may be erected in the SC district.
- (8) The size of a single face area for the pole sign in the SC district shall not exceed 96 square feet.
- (9) The face area of the pole sign in the SC district shall be in addition to the maximum face area otherwise allowed.
- (10) At each location where motor vehicle fuels are sold at retail, 32 square feet of additional face area limited to advertising the brand name and price of the fuel shall be permitted. This area may be used for a separate ground sign or as an addition to the face area of a

Sign**Type/Definition/Standards Illustration****FREESTANDING SIGNS**

ground or pole sign otherwise permitted in this Section. In no event shall more than 16 square feet of this allowed area be displayed or added to any single face area.

SUBDIVISION IDENTIFICATION SIGN

A sign indicating the name of the subdivision or residential development.

Standards:**All Permitted Districts**

- (1) A subdivision or residential development identification sign shall be maintained in good repair by a homeowners association.
- (2) Such sign shall be located a minimum of 10 feet from any lot



Sign**Type/Definition/Standards Illustration**

FREESTANDING SIGNS

line and not in a clear vision triangle.

[Amended 2-4-2008 by L.L. No. 1-2008; 4-12-2010 by L.L. No. 2-2010]

Single-Family Districts

- (1) One non-internally illuminated permanent subdivision identification sign may be permitted for each side of a subdivision or residential development entryway.
- (2) Such sign shall not exceed 32 square feet in area and eight feet in height.

Multifamily Districts

- (1) One non-internally illuminated permanent identification sign may be permitted at each

Sign

Type/Definition/Standards Illustration

FREESTANDING SIGNS

entrance to the development.

- (2) Such sign shall not exceed 20 square feet in area and six feet in height.

Sign Type/Definition/Standards

Illustration

MISCELLANEOUS SIGNS

DIRECTORY SIGN

A sign or group of signs attached to a building or freestanding which identifies or directs traffic to the business, owner, address, or occupation of a group of businesses.

Standards:

- (1) Only one directory sign shall be permitted at each entrance, and one additional directional sign elsewhere on the premises.
- (2) No such sign shall exceed 16 square feet in area.
- (3)



Sign Type/Definition/Standards	Illustration
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MISCELLANEOUS SIGNS

Additional internal directory signs not visible from the street may be permitted as part of a master sign plan.

- (4) Such sign may contain business names with arrows or other directional information.
- (5) Such signs shall be permitted in the SC district provided that the property shall be a maximum of 12 acres in land area.

7-8-5. **Sign Lighting Standards.**

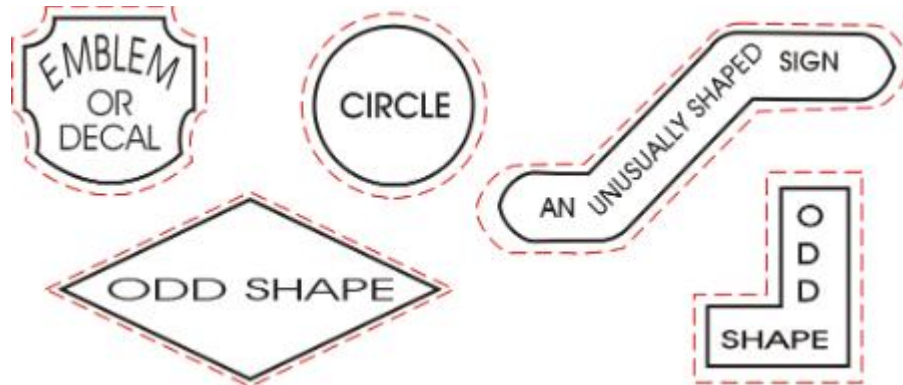
- A. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights.
- B. In no event shall any illuminated sign or lighting device be placed so as to permit its beams and illumination to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- C. The full number of illuminating elements of a sign shall be kept in working condition or immediately repaired or replaced.

7-8-6. **Sign Area Computation.** The following principles shall control the computation of sign area and sign height.

A. **Computation of Area of Individual Signs.**

- (1) The area of a sign face shall be computed as the area of the smallest square, circle, rectangle, or triangle that will encompass the extreme limits of the writing, representation,

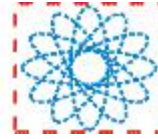
emblem, or other display, together with any material or color determined by the Commissioner of Building to form an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The supporting structure or bracing of a sign shall be omitted in measuring the area of the sign unless such structure or bracing is made part of the message or face of the sign.



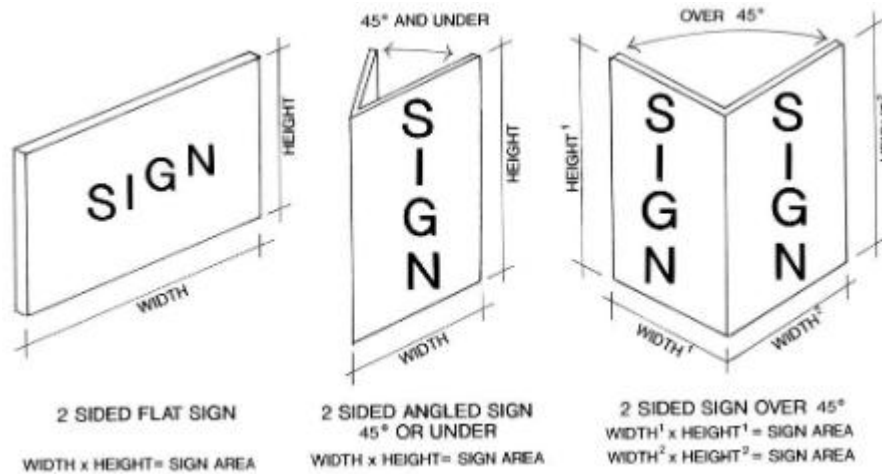
- (2) Where a sign consists of individual letters, words or symbols attached to a surface, building, canopy, awning or wall, the sign area shall be the area of the smallest rectangle which completely encompasses all such letters, words or symbols and any accompanying background of a color different than the color of the wall.



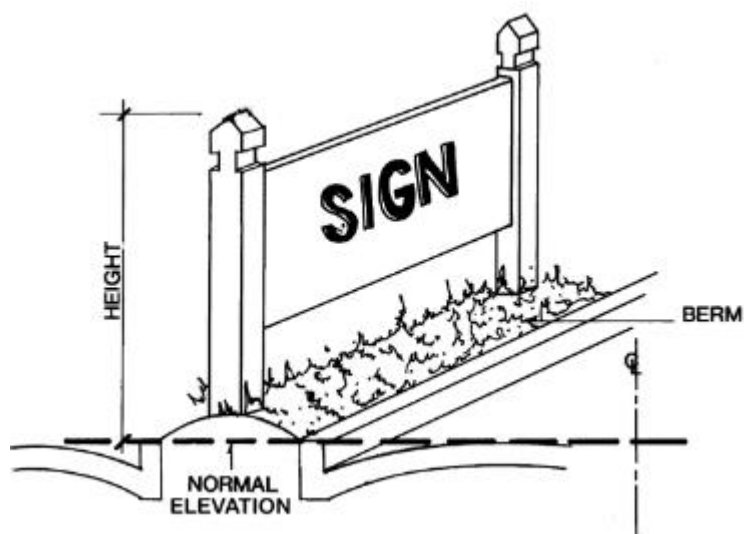
CHANNEL LETTERS



- B. **Computation of Area of Multi-faced Signs.** The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back or at an angle of less than 45 degrees and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.



- C. **Computation of Height.** The height of a sign shall be computed as the mean distance from the base(s) of the sign at finished grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.



7-8-7. Permitted Signs Table.

Sign Type	Residential Districts	Business Districts*	Industrial Districts	All Other Districts
Signs Not Requiring a Permit				
Address sign	✓	✓	✓	✓
Construction sign	✓	✓	✓	✓
Incidental sign		✓	✓	✓
Fuel pump sign		✓	✓	✓
Home occupation sign	✓			✓
Political sign	✓	✓	✓	✓

Sign Type	Residential Districts	Business Districts*	Industrial Districts	All Other Districts
Real estate sign	✓	✓	✓	✓
Window sign		✓	✓	✓

Signs Requiring a Permit

Building Signs

Awning sign		✓	✓	✓
Fascia sign		✓	✓	✓
Hanging sign		✓	✓	✓
Marquee sign		✓	✓	✓
Projecting sign		✓	✓	✓
Wall sign		✓	✓	✓

Freestanding Signs

Ground sign		✓	✓	✓
Message center sign		✓		✓

**[Amended
8-1-2011
by L.L.]**

Sign Type	Residential Districts	Business Districts*	Industrial Districts	All Other Districts
No. 19-2011]				
Pole sign [Amended 8-1-2011 by L.L. No. 19-2011]		✓ **		✓ **
Subdivision identification sign	✓			
Miscellaneous Signs				
Directory sign		✓	✓	✓
<p>* In the SC district, in addition to the pole sign described in § 7-8-4, only wall, ground, hanging, fascia, and permanent changeable letter signs shall be permitted.</p> <p>** Pole signs are not permitted in the OB, NB, or TNB overlay districts.</p> <p>*** Message center signs are not permitted in the -TNB overlay district. [Added 8-1-2011 by L.L. No. 19-2011]</p> <p>Ground, wall and awning signs only are permitted in the LW-1 District. [Added 6-4-2012 by L.L. No. 13-2012]</p>				

7-8-8. **Permitted Sign Area.**

A. **All Signs.** The maximum area of all signs, excluding those that are exempt, shall be related to the height of the building above the finished grade and the length of the wall of the building facing the nearest street. The total maximum face area for all signs shall not exceed X square feet per linear foot of building frontage where X equals the values in the following table. Lots fronting on two or more streets are allowed to calculate all street frontages into the allowable allocation. The allowance included in the prior sentence shall not be applicable to any Controlled Access Highway as detailed in § 120-5 of the Code of the Town of Amherst or any other street where vehicular access is not permitted including, but not limited to, the New York State Thruway (I-90), the Youngmann Expressway (I-290) and the Lockport Expressway (I-990).

[Amended 12-12-2011 by L.L. No. 31-2011]

Sign Area (square feet) per Linear Foot

District	Under 2 Stories	2 Stories	Over 2 Stories
RD, ST, GI	1.00	1.25	1.50
GB, SC	2.00	2.00	2.00
MS, CS	1.50	1.75	2.00
NB, OB	0.75	1.00	1.25
CF, RC	0.50	0.50	0.50

**[Amended 2-24-2014
by L.L. No. 5-2014]**

B. **Pole Signs.** The maximum total face area for a pole sign shall be determined by the street frontage of the lot. Where the lot fronts on more than one street, the frontage shall be the length of the

longest side. The size of any single face shall not exceed 50 percent of the total area permitted. Total face area in excess of 32 square feet shall be charged against the maximum face area.

Street Frontage (feet)	Total Face Area (square feet)
Under 200	64
200 to 349	96
350 to 499	128
500 to 750	160
Over 750	192

C. A permitted public and civic use located in a residential district shall be allowed a maximum of 32 square feet of total sign area. Ground and wall signs shall be permitted and shall not contain a message center sign. Such signs shall be located a minimum of 25 feet from any lot line.

[Amended 4-12-2010 by L.L. No. 2-2010]

7-8-9. Coordinated Sign Plan.

- A. Coordinated Sign Plans shall be required for all existing and newly proposed multiple developments in accordance with § 8-11.
- B. The purpose of this Plan is to detail the standards for uniformity which the development proposes to live up to, and to state the manner in which the design criteria and standards for uniform sign set forth in this Section shall be met.
- C. Building permits for signs for individual businesses within the development (and therefore subject to the Coordinated Sign Plan) shall be approved by the Commissioner of Building, following Coordinated Sign Plan approval.
- D. All signs shall conform to the approved Coordinated Sign Plan on file with the Town. It shall be the responsibility of the owner of the

development to ascertain that the most updated version is on file for purposes of this Ordinance.

7-8-10. Temporary Signs.

A. Exterior portable or temporary signs shall be limited to a maximum sign area of 32 square feet per face and erected, used or maintained only after obtaining a temporary building permit for a sign in accordance with § 8-10. A temporary building permit for a sign shall be issued for the following purposes only:

- (1) New business enterprises for a period not exceeding 30 days;
- (2) Celebration of the first anniversary date of a new business enterprise for a period not exceeding 30 days;
- (3) Business enterprises which have lost the use of an existing sign by reason of fire or other catastrophe, for a period not exceeding 30 days;
- (4) To replace a conforming or legally nonconforming sign during construction activities related to public improvements that has been removed in order to improve the public right-of-way, the time limitation of which shall be established by the Commissioner of Building;
- (5) Limited activities in connection with the principal use or activity on the premises, for a period not exceeding seven days; or
- (6) Signs advertising the price of merchandise displayed outdoors, not exceeding 24 square feet in face area.

B. No more than two temporary building permits for signs shall be issued within any calendar year for any business on the premises. Temporary signs shall not be allowed within multiple developments as defined in § 2-4, except as provided in 7-8-10A(1), (2) and (3).

[Amended 1-16-2007 by L.L. No. 2-2007]

7-8-11. Construction and Maintenance of Signs. Every sign shall at all times be in a safe and structurally sound condition and maintained by replacement of defective or worn parts, painting, repainting and cleaning. The Commissioner of Building shall require compliance with all standards of this Ordinance. If the sign does not comply with adequate safety standards, it shall be removed.

- A. **Abandoned Signs.** Except as otherwise provided in this Ordinance, any sign which is located on property which becomes vacant and unoccupied for a period of three consecutive months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises. Failure to remove an abandoned sign shall be a violation of this Ordinance.
- B. **Dangerous or Hazardous Signs.**
- (1) No person shall maintain or permit to be maintained on any premises owned, occupied or controlled by such person any sign which is either not structurally sound or creates an electrical hazard. Any such sign shall be removed or repaired by the owner or user of the sign or the owner of the premises.
 - (2) Overhead wires or exposed wires on a sign or its supporting members are prohibited.
- C. **Unlawful Signs.** No person shall erect on any premises owned or controlled by such person or use any sign which does not comply with the provisions of this Ordinance.
- D. **Street Improvement Projects.** Any sign projecting over a public right-of-way which was subject to removal or relocation at the owner's expense, pursuant to a permit or other ordinance of the town, shall be removed by the owner or altered at the owner's expense to comply with the regulation of this Ordinance if, as the result of or after completion of a street improvement project, the sign does not or would not comply with the provisions of this Section.

§ 7-9. Performance Standards

Any use shall comply with the performance standards set forth below. Any use already established in such districts shall not be altered, added to or otherwise modified so as to conflict with, or further conflict with, the

performance standards set forth below for the district in which such use is located. The Town may select and arrange for an independent survey by a person qualified in the particular field to determine whether or not any structure or use complies with the performance standards and the costs for the services shall be paid by the owner or user.

- 7-9-1. **Incineration Facilities.** All incineration facilities shall be enclosed within an approved structure and shall be provided with devices for prevention of emission of smoke, odors, chemical or particulate matters and shall conform to the regulations of Part III, § 3.1 to and including § 3.15 of Bulletin 82, National Board of Fire Underwriters, or any applicable federal, state or county requirements. No garbage, rubbish, waste matter or empty containers shall be permitted outside of buildings.
- 7-9-2. **Dust-Smoke.** The emission of smoke, soot, fly ash fumes, dust and other types of air pollution borne by the wind shall be controlled so that the rate of emission and quantity deposited shall not be detrimental to or endanger the public health, safety, comfort, welfare or adversely affect property values.
- 7-9-3. **Glare and Heat.** Any operation producing intense glare or heat shall be conducted in such a manner so that the glare or heat shall be completely imperceptible from any point along a lot line.
- 7-9-4. **Fissionable, Radioactive or Electrical Disturbance.** No activities shall be permitted which utilize fissionable or radioactive materials if their use results at any time in the release or emission of any fissionable or radioactive material into the atmosphere, the ground or sewerage systems, and no activities shall be permitted which emit electrical disturbance affecting the operation of any equipment other than that of the creator of such disturbance.
- 7-9-5. **Odorous Matter.** The emission of odorous matter in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.
- 7-9-6. **Toxic or Noxious Matter.** The emission of toxic, noxious or corrosive fumes or gases which would be injurious to property, vegetation, animals or human health at or beyond the boundaries of the lot occupied by the use shall not be permitted.

7-9-7. **Vibration.** Every use shall be so operated that the ground vibration inherently and recurrently generated by said use is not perceptible without instruments, at any point along any property line of the lot on which the use is located.

7-9-8. **Bird Hazards.** In order to reduce bird hazards to air traffic in the vicinity of the Greater Buffalo Niagara International Airport, all buildings hereafter constructed in the area of the town east of the Village of Williamsville and south of Wehrle Drive shall be designed so as to eliminate water standing on the roofs. No roof shall be colored black.

§ 7-10. Bulk Storage of Combustible or Flammable Liquids

All bulk combustible liquids over 660 gallons in residential districts, and 1,000 gallons in all other districts; or flammable liquids over a temporary portable tank storage of 660 gallons, shall be stored underground per the National Fire Protection Association Pamphlet #30. Any above ground tank installed shall be protected from leaks and or spills by a double wall storage tank or proper diking, per the national Fire Protection Association Pamphlet #30. The Commissioner of Building shall have discretionary authority to approve larger aboveground storage facilities in accordance with National Fire Protection Association standards. In accordance with the requirements of § 7-4-3C, all tanks installed above ground shall be completely screened from any public right-of-way.