
PART 1: INTRODUCTORY PROVISIONS

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ARTICLE 10: ENACTMENT

§ 285-10.1 ORDAINING CLAUSE

Whereas all the procedures, notices and hearings required by law have been complied with, now therefore the Village Board of the Village of East Aurora ordains, enacts and publishes the following Chapter establishing zoning regulations for the Village of East Aurora, New York, and providing for the enactment, administration and amendment thereof pursuant to the provisions of New York State Village Law, Article 7.

§ 285-10.2 APPLICABILITY

The regulations of this zoning law apply to all development, public or private, within the corporate limits of the Village of East Aurora unless otherwise expressly stated in this zoning law.

§ 285-10.3 PURPOSE

There is hereby established a comprehensive zoning plan for the Village of East Aurora, which is set forth in the text, map and table that constitute this Chapter. Said plan is adopted for the purpose set forth in New York State Village Law, Article 7.

§ 285-10.4 TITLE

This Chapter shall be known and may be cited as the "Zoning Code of the Village of East Aurora, New York." For convenience, it is also referred to throughout this Chapter as the "zoning law" or "zoning code."

§ 285-10.5 WHEN EFFECTIVE

This Chapter shall be in effect immediately upon adoption and publication as provided by law.

§ 285-10.6 VALIDITY

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is declared by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other portion of this Chapter. The Village Board hereby declares that it would have adopted every section, subsection, paragraph, sentence, clause and phrase of this Chapter regardless of the fact that any other section, subsection, paragraph, sentence, clause or phrase is declared invalid.

§ 285-10.7 TRANSITIONAL PROVISIONS

- A. **Applications Prior to Effective Date.** Development applications that were submitted in complete form and are pending approval before the effective date will be reviewed wholly under the terms of the zoning law in effect immediately before the effective date, unless a formal written request is submitted in writing by the applicant requesting review under this zoning law. The applicant's request for this zoning law to be applied, once submitted, may not be changed.
- B. **Permits Granted Prior to Effective Date.** Any building, development or structure for which a building permit was issued before the effective date may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not fully comply with provisions of this zoning law. If building is not commenced and diligently pursued within the time allowed under the original permit or any extension granted, then the building, development or structure must be constructed, completed and occupied only in strict compliance with the standards of this zoning law.
- C. **Continuance of Violations.** Any violation of the previous zoning law will continue to be a violation under this zoning law and be subject to penalties and enforcement under New York State Village Law. If the use, development, construction or other activity that was a violation under the previous law complies with the express terms of this zoning law, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date of this Chapter. The adoption of this zoning law does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous law that occurred before the effective date of this Chapter.
- D. **Continuing Nonconformities.** Any nonconformity under the previous zoning law will also be nonconformity under this zoning law, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist. If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning law, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.

ARTICLE 11: ESTABLISHMENT OF DISTRICTS

§ 285-11.1 DISTRICTS ESTABLISHED

The Village of East Aurora is hereby divided into the following zoning districts:

- A. Residential Districts (See Article 20).
 - 1. Single-Family Residential (SFR) District
 - 2. Low Density Residential (LDR) District
 - 3. General Residential (GR) District
 - 4. Limited Commercial Residential (LCR) District
- B. Commercial Districts (See Article 21).
 - 1. General Commercial (GC) District
 - 2. Neighborhood Commercial (NC) District
 - 3. Village Center (VC) District
- C. Manufacturing Districts (Article 22).
 - 1. General Manufacturing (GM) District
 - 2. Village Manufacturing (VM) District
- D. Overlay and Special Purpose Districts (Article 23).
 - 1. Mid-Main Overlay (MMO) District
 - 2. Open Space (OS) District

§ 285-11.2 ZONING MAP

- A. Said districts are bounded and defined as shown on the "Zoning Map of the Village of East Aurora," which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Chapter. The Zoning Map will show the effective date of this Chapter and of each subsequent amendment to said map and shall be duly certified by the Village Clerk.
- B. District boundary lines are intended to follow property lines or the extensions thereof, center lines of streets or highways or other lines that are located on the map by appropriate descriptions and dimensions

ARTICLE 12: APPLICATION OF REGULATIONS

§ 285-12.1 GENERAL APPLICATION

Except as hereinafter provided:

- A. No building or land shall hereafter be used, occupied or altered and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.
- B. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space similarly required for another building.
- C. No lot, yard, setback, parking area or other space shall be so reduced in area, dimensions or capacity as to make the said area, dimension or capacity less than the minimum required under this Chapter. If it is already less than the minimum required under this Chapter, said area, dimension, or capacity shall not be further reduced.

§ 285-12.2 AREAS NOT INCLUDED WITHIN A DISTRICT

In any case where property has not been specifically included within a district, such property is hereby declared to be in the same district as the most restricted adjoining area. In the case of any area hereinafter annexed to the Village, such area shall be classified as a Single-Family Residential (SFR) District, unless otherwise specified at the time of annexation.

§ 285-12.3 CONFLICT WITH OTHER REGULATIONS

- A. In their interpretation and application, the provisions of this Chapter, shall be held to be the minimum requirements adopted for the promotion of the public health, community values, safety or other general welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other applicable law, ordinance, regulation or private agreement, the most restrictive, or that imposing the higher standards, shall govern.
- B. All approvals given by Village bodies shall be in compliance with the Village Code. Should any approval be given that is in conflict with the Village Code, the underlying Village Code provisions shall apply.
- C. The Village does not enforce or maintain a record of private agreements. This zoning law is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this zoning law impose a greater restriction than imposed by a private agreement, the provisions of this zoning law will control. If the provisions of a valid, enforceable private agreement impose a greater restriction than this zoning law, the provisions of the private agreement will control.

PART 2: ZONING DISTRICT FRAMEWORK

ARTICLE 20: RESIDENTIAL DISTRICTS

ARTICLE 21: COMMERCIAL DISTRICTS

ARTICLE 22: MANUFACTURING DISTRICTS

ARTICLE 23: OVERLAY & SPECIAL PURPOSE DISTRICTS

ARTICLE 20: RESIDENTIAL DISTRICTS

§ 285-20.1 RESIDENTIAL DISTRICTS ESTABLISHED

- A. The residential districts are listed in Table 20.1 below. When this zoning law refers to residential districts it is referring to one of the following:

TABLE 20.1: RESIDENTIAL DISTRICTS

Residential District Name	Abbreviation & Map Symbol
Single-Family Residential	SFR
Low Density Residential	LDR
General Residential	GR
Limited Commercial Residential	LCR

- B. The residential district names and map symbols are intended to provide a general indication of what is allowed in the district by denoting the intensity, scale, and/or type of uses permitted.

§ 285-20.2 RESIDENTIAL DISTRICT PURPOSE STATEMENTS

- A. **Single-Family Residential (SFR) District.** The purpose of the SFR District is to support the vision and goals contained within the Village’s adopted Comprehensive Plan through the preservation and enhancement of the existing, traditional single-family neighborhoods. The intent of this District is to permit the construction and/or reconstruction of single-family detached dwellings that do not compromise the existing residential character and pedestrian-friendly setting of the Village’s neighborhoods. Future development and investment should continue the existing traditional neighborhood development pattern, generally consisting of owner-occupied, single-family detached homes, unobstructed front yards, and pedestrian-scaled streetscapes (e.g. with sidewalks, street lighting, street trees, etc.).
- B. **Low Density Residential (LDR) District.** The purpose of the LDR District is to provide for housing choice as outlined in the Village’s adopted Comprehensive Plan and allow for a transitional zone between established single-family neighborhoods and mixed-density residential areas. These neighborhoods may contain a mix of single- or two-family homes, townhouses, and multi-family dwellings with no more than four dwelling units per structure. The LDR District is intended to recognize the need for varying housing styles and densities in certain residential areas to foster a suitable transition and buffer between established neighborhoods, new development, and limited commercial areas.
- C. **General Residential (GR) District.** The GR District is intended to allow for the greatest level of flexibility in residential development within the Village. Newly constructed and redeveloped neighborhoods in the GR District should reflect the traditional character and walkability of the Village’s existing neighborhoods, while also providing for a mix of housing types and densities as provided for in the adopted Comprehensive Plan for East Aurora.

- D. **Limited Commercial Residential (LCR) District.** The purpose of the LCR District is to accommodate the broadest range of housing choice in immediate and close proximity to supporting commercial shops and services in accordance with the Village's adopted Comprehensive Plan. Proposed development or redevelopment in this District shall employ techniques to minimize negative impacts on established lower density residential areas and neighboring properties. The specific objectives of the LCR District are as follows:
1. To establish a transition zone between commercial districts and residential districts, particularly along Main Street and other higher volume traffic corridors.
 2. To protect established residential neighborhoods from the type of land use associated with more intense commercial operations, including but not limited to, large, unscreened, or highly visible parking areas; high levels of traffic; illumination; noise; and odors that could be detrimental to the characteristics of the residential neighborhood.
 3. To permit transitional uses, those by nature or level and scale of activity, and act as a transition or buffer zone between two or more incompatible uses (such as auto-related uses and single-family residences).
 4. To provide opportunities for new mixed-use developments, alternatives for the conversion of dwellings, and new construction in areas that are undergoing change and may be more viable as commercial or mixed-use as opposed to exclusively residential in character.
 5. To ease the transition between residential and commercial areas by providing for a mix of residential and nonresidential uses with development standards that foster economic development and convenient services for area residents, while maintaining compatibility with nearby residential areas.
 6. To promote a pattern of land use suitable for the development of professional and business offices and limited service, retail and commercial activities.

§ 285-20.3 RESIDENTIAL USE LISTS

Uses are allowed in residential districts within the Village in accordance with Table 20.3 below.

- A. Uses identified with a "P" in the table are permitted as-of-right in the zoning district, subject to compliance with all other applicable standards of this zoning law.
- B. Uses identified with a "SP" in the table may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 52 of this Chapter.
- C. Uses not listed and those identified with a "-" are expressly prohibited.

TABLE 20.3: RESIDENTIAL DISTRICT USE LISTS

Land Use	Zoning District			
	SFR	LDR	GR	LCR
Residential				
1. Single-Family Dwellings	P	P	P	P
2. Two-Family Dwellings or Townhomes	-	P	P	P
3. Multi-Family Dwellings, New Construction	-	-	SP	SP ¹
4. Multi-Family Dwellings, By Conversion	-	SP ¹	SP ¹	SP ¹
5. Mobile Home Parks	-	-	SP	-
6. Nursing Homes or Assisted Living Facilities	-	P	P	P
7. Bed & Breakfasts	SP	SP	SP	SP
8. Home Occupations	P	P	P	P
9. Upper Floor Dwelling Units	-	-	-	P
10. Accessory Uses or Structures	P	P	P	P
11. Accessory Dwelling Unit	SP	SP	SP	SP
Institutional/Other				
12. Places of Worship	P	P	P	P
13. Nonprofit or Membership Based Clubs	-	-	-	P
14. Schools, Public or Private	P	P	P	P
15. Family Day Care Home	SP	SP	SP	SP
16. Museums or Libraries	-	-	SP	SP
17. Public Parks or Playgrounds	P	P	P	P
18. Municipal Structure or Use	P	P	P	P
19. Parking Area (Not on same lot as the use it serves)	-	-	-	-
Commercial				
20. Professional or Medical Offices	-	-	-	P ²
21. Dance, Art, Music, or Photo Studios	-	-	-	P ²
22. Funeral Homes or Parlors	-	-	-	P ²
23. Retail Stores	-	-	-	P ²
24. Dining Facilities Ancillary to a Permitted Use	-	-	-	SP
25. Permitted Uses Exceeding 2,500 SF Building Footprint	-	-	-	SP
26. Mixing of Permitted Uses in a Single Structure	-	-	-	SP
27. Nonresidential Accessory Uses or Structures	-	-	-	P

Notes:

- (1) Provided the number of dwelling units per multi-family dwelling does not exceed 4.
- (2) Provided the building footprint of such use does not exceed 2,500 square feet.

§ 285-20.4 RESIDENTIAL LOT & YARD REQUIREMENTS

The lot and yard requirements listed in Table 20.4 below shall apply to the residential districts within the Village.

TABLE 20.4: RESIDENTIAL DISTRICT LOT & YARD REQUIREMENTS

Land Use	Zoning District			
	SFR	LDR	GR	LCR
A. Minimum Lot Size				
Single-Family Dwelling	10,500 SF	9,000 SF	10,500 SF	9,000 SF
Two-Family Dwelling	-	10,500 SF	12,000 SF	10,500 SF
Multi-Family Dwelling	-	5,000 SF/DU ¹	5,000 SF/DU ¹	4,500 SF/DU ¹
Nonresidential Use	13,000 SF	13,000 SF	13,000 SF	13,000 SF
B. Minimum Lot Width				
Single-Family Dwelling	70 Feet	70 Feet	70 Feet	70 Feet
Multi-Family Dwelling	-	100 Feet	100 Feet	100 Feet
Nonresidential Use	100 Feet	100 Feet	100 Feet	100 Feet
C. Front Yard²				
Residential Use	20 Feet MIN 60 Feet MAX	20 Feet MIN 60 Feet MAX	20 Feet MIN 75 Feet MAX	20 Feet MIN 75 Feet MAX
Nonresidential Use	20 Feet MIN 75 Feet MAX	20 Feet MIN 75 Feet MAX	20 Feet MIN 75 Feet MAX	20 Feet MIN 75 Feet MAX
Accessory Use/Structure	-	-	-	-
D. Minimum Rear Yard				
Residential Use	20 Feet	20 Feet	20 Feet	20 Feet
Nonresidential Use	25 Feet OR 50 Feet ³	25 Feet OR 50 Feet ³	25 Feet OR 50 Feet ³	25 Feet OR 50 Feet ³
Accessory Use or Structure	5 Feet	5 Feet	5 Feet	5 Feet
E. Minimum Side Yard				
Residential Use	10 Feet	8 Feet	10 Feet	8 Feet
Nonresidential Use	20 Feet	15 Feet	15 Feet	15 Feet
Accessory Use/Structure	5 Feet	5 Feet	5 Feet	5 Feet

Notes:

- (1) SF/DU indicates square feet per dwelling unit.
- (2) Or the average front yard space (with +/- 1 foot Margin) on the block.
- (3) When adjacent to a residential use, the larger yard requirement shall apply.

§ 285-20.5 RESIDENTIAL BULK REQUIREMENTS

The bulk requirements listed in Table 20.5 below shall apply to all uses within the residential districts of the Village.

TABLE 20.5: RESIDENTIAL DISTRICT BULK REQUIREMENTS

Land Use	Zoning District			
	SFR	LDR	GR	LCR
A. Maximum Building Height¹				
Single/Two-Family Dwelling	35 Feet	35 Feet	35 Feet	35 Feet
Multi-Family Dwelling	-	35 Feet	35 Feet	35 Feet
Nonresidential Use	40 Feet	40 Feet	40 Feet	40 Feet
Accessory Use/Structure	15 Feet	15 Feet	15 Feet	15 Feet
B. Maximum Lot Coverage				
Single/Two-Family Dwelling	35%	35%	35%	35%
Multi-Family Dwelling	-	30%	35%	30%
Nonresidential Use	30%	30%	35%	35%
Accessory Use/Structure	25% of Rear Yard	25% of Rear Yard	25% of Rear Yard	25% of Rear Yard

Note:

(1) Or the average building height (with +/- 1 foot margin) on the block.

§ 285-20.6 ADDITIONAL REGULATIONS

All other applicable requirements of this Chapter, including but not limited to Regulations for Certain Uses (Article 31) and Development Standards (Part 4), shall also apply to uses in the residential districts of the Village.

ARTICLE 21: COMMERCIAL DISTRICTS

§ 285-21.1 COMMERCIAL DISTRICTS ESTABLISHED

- A. The commercial districts are listed in Table 21.1 below. When this zoning law refers to commercial district it is referring to one of the following:

TABLE 21.1: COMMERCIAL DISTRICTS

Commercial District Name	Abbreviation & Map Symbol
General Commercial	GC
Neighborhood Commercial	NC
Village-Center Commercial	VC

- B. The commercial district names and map symbols are intended to provide a general indication of what is allowed in the district by denoting the intensity, scale, and/or type of uses permitted.

§ 285-21.2 COMMERCIAL DISTRICT PURPOSE STATEMENTS

- A. **General Commercial (GC) District.** The purpose of the GC District is to accommodate a mix of uses that cater to Village residents, travelers and tourists, while also implementing the recommendations of the Village’s adopted Comprehensive Plan. The GC District is intended to designate areas for the development of larger scale commercial activities that depend upon relatively significant volumes of motor vehicle traffic. In addition to accommodating vehicular traffic, development within the GC District shall incorporate bicycle and pedestrian amenities and circulation, including linkages to adjacent activity centers and neighborhoods. Development within this District shall employ proper design and buffering techniques of parking facilities, bicycle racks, access points, and structures to create welcoming gateways into the Village.
- B. **Neighborhood Commercial (NC) District.** The purpose of the NC District is to facilitate increased economic development opportunity along major corridors within the Village that have, or traditionally have, presented residential character in the architectural detailing and design of original structures. The intent of the district is not only to permit the continuance of residential uses in these areas, but also to include commercial use operations of limited scale and intensity. New construction and/or the conversion of structures originally built for residential purposes is allowable, provided the residential character and walkability are maintained.
- C. **Village Center (VC) District.** The purpose of the VC District is to maintain and enhance the character and vibrancy of the Village’s uptown and downtown in a manner that is consistent with the traditional, early 20th century Main Street as demonstrated in the Village’s Commercial Design Guidelines. The VC District allows for flexibility in the location, design and use of structures and land to foster a dense concentration of activity with a high degree of amenities that creates a comfortable streetscape for visitors arriving on foot, bicycle, or by motor vehicle. Future development and investment in the VC District shall be consistent with and positively

contribute to the existing pedestrian-friendly environment and historic character with respect to building and site design.

§ 285-21.3 COMMERCIAL USE LISTS

Uses are allowed in commercial districts within the Village in accordance with Table 21.3 below.

- A. Uses identified with a “P” in the table are permitted as-of-right in the zoning district, subject to compliance with all other applicable standards of this zoning law.
- B. Uses identified with a “SP” in the table may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 52 of this Chapter.
- C. Uses not listed and those identified with a “-” are expressly prohibited.

TABLE 21.3: COMMERCIAL DISTRICT USE LISTS

Land Use	Zoning District		
	GC	NC	VC
Residential			
1. Single-Family Dwellings	SP	P	P
2. Two-Family Dwellings or Townhomes	SP	P	P
3. Multi-Family Dwellings, New Construction	-	SP ¹	-
4. Multi-Family Dwellings, By Conversion	SP	SP ¹	SP
5. Nursing Homes or Assisted Living Facilities	SP	SP	SP
6. Bed & Breakfasts	-	P-SP	P-SP
7. Home Occupations	P	P	P
8. Upper Floor Dwelling Units	P	P	P
9. Residential Accessory Uses or Structures	P	P	P
Institutional/Other			
10. Places of Worship	P	P	P
11. Nonprofit or Membership Based Clubs	P	P	P
12. Schools, Public or Private	-	P	P
13. Day Care Centers, Child or Adult	P	P	P
14. Museums or Libraries	-	P	P
15. Public Parks or Playgrounds	SP	SP	SP
16. Municipal Structure or Use	P	P	P
17. Parking Area (Not on same lot as the use it serves)	SP	-	SP

*** TABLE CONTINUED ON NEXT PAGE***

TABLE 21.3: COMMERCIAL DISTRICT USE LISTS

Land Use	Zoning District		
	GC	NC	VC
Commercial			
18. Professional or Medical Offices	P	P	P
19. Financial Institutions	P	P	P
20. Hotels or Inns	SP	SP	SP
21. Motels	-	-	-
22. Restaurants	SP	SP ²	SP
23. Take-Out Restaurants	SP	SP ²	SP
24. Taverns and Bars	SP	SP ²	SP
25. Breweries or Distilleries	SP	SP ²	SP
26. Vehicle Sales	P	SP ²	SP
27. Vehicle Service or Repair Shops	P	SP ²	SP
28. Gasoline Service Stations	P	SP ²	SP
29. Car Washes	SP	SP ²	SP
30. Laundromats or Dry-Cleaners	P	SP ²	SP
31. Newspaper or Printing Shops	P	P ²	P
32. Dance, Art, Music, or Photo Studios	P	P ²	P
33. Funeral Homes or Parlors	P	P ²	SP
34. Indoor Entertainment Facilities	SP	SP ²	SP
35. Indoor Recreational Facilities	SP	SP ²	SP
36. Repair or Service Shops	P	P ²	P
37. Retail Stores or Personal Service Establishments	P	P ²	P
38. Wholesale Stores	P	SP ²	SP
39. Animal Grooming Shops	P	P ²	SP
40. Animal Hospitals or Veterinary Clinics	-	SP ²	SP
41. Kennels	-	-	-
42. Broadcast Facilities	P	SP ²	SP
43. Telecommunications Facilities	SP	SP	SP
44. Mixing of Permitted Uses in a Single Structure	P	P	P
45. Drive-Throughs Ancillary to Permitted Use ³	SP	-	SP
46. Dining Facilities Ancillary to Permitted Use	SP	SP	SP
47. Outdoor Sales or Storage Ancillary to Permitted Use	SP	SP	SP
48. Nonresidential Accessory Uses or Structures	P	P	P

Notes:

- (1) Provided the number of dwelling units per multi-family dwelling does not exceed four.
- (2) Provided the use occupies an existing building footprint of no more than 5,000 square feet.
- (3) Except that drive-through establishments operated in conjunction with any restaurant, eating place, food service operation or beverage or liquor store shall not be permitted in any zoning district.

§ 285-21.4 COMMERCIAL LOT & YARD REQUIREMENTS

The lot and yard requirements listed in Table 21.4 below shall apply to all commercial districts within the Village.

TABLE 21.4: COMMERCIAL LOT & YARD REQUIREMENTS

Land Use	Zoning District		
	GC	NC	VC
A. Minimum Lot Size			
Single-Family Dwelling	9,000 SF	9,000 SF	9,000 SF
Two-Family Dwelling	10,500 SF	10,500 SF	10,500 SF
Multi-Family Dwelling	3,500 SF/DU ¹	3,500 SF/DU ¹	3,500 SF/DU ¹
Nonresidential Use	13,000 SF	35,000 SF	10,000 SF
B. Minimum Lot Width			
Single-Family Dwelling	60 Feet	50 Feet	40 Feet
Two-Family Dwelling	70 Feet	70 Feet	60 Feet
Multi-Family Dwelling	100 Feet	75 Feet	75 Feet
Nonresidential Use	100 Feet	75 Feet	50 Feet
C. Front Yard			
Residential Use	25 Feet MIN 75 Feet MAX	10 Feet MIN 25 Feet MAX	0 Feet MIN 25 Feet MAX
Nonresidential Use	10 Feet MIN 75 Feet MAX	10 Feet MIN 50 Feet MAX	0 Feet MIN 10 Feet MAX
Accessory Use/Structure	-	-	-
D. Minimum Rear Yard			
Residential Use	15 Feet	15 Feet	15 Feet
Nonresidential Use	10 Feet OR 25 Feet ²	25 Feet	10 Feet OR 25 Feet ²
Accessory Use or Structure	5 Feet	5 Feet	5 Feet
E. Minimum Side Yard			
Residential Use	10 Feet	10 Feet	10 Feet
Nonresidential Use	10 Feet	10 Feet	0 Feet OR 10 Feet ²
Accessory Use/Structure	5 Feet	20 Feet	5 Feet

Notes:

- (1) SF/DU indicates square feet per dwelling unit.
- (2) When adjacent to a residential use, the larger yard requirement shall apply.

§ 285-21.5 COMMERCIAL BULK REQUIREMENTS

The bulk requirements listed in Table 21.5 shall apply to all commercial districts within the Village.

TABLE 21.5: COMMERCIAL DISTRICT BULK REQUIREMENTS

Land Use	Zoning District		
	GC	NC	VC
A. Maximum Building Height¹			
Single/Two-Family Dwelling	35 Feet	35 Feet	35 Feet
Multi-Family Dwelling	35 Feet	35 Feet	35 Feet
Nonresidential Use	45 Feet	40 Feet	SPR ²
Accessory Use/Structure	15 Feet	15 Feet	15 Feet
B. Maximum Lot Coverage³			
Single/Two-Family Dwelling	35%	35%	35%
Multi-Family Dwelling	35%	35%	35%
Nonresidential Use	50%	40%	SPR ²
Accessory Use/Structure	25% of Rear Yard	20% of Rear Yard	20% of Rear Yard

Notes:

- (1) Or the average building height (with +/- 1 foot margin) on the block.
- (2) SPR indicates that the bulk requirements of any newly constructed building and maximum lot coverage for any building or use shall be subject to review and approval through the Site Plan Review process (Article 51).
- (3) Or the average lot coverage on the block.

§ 285-21.6 ADDITIONAL REGULATIONS

All other applicable requirements of this Chapter, including but not limited to Regulations for Certain Uses (Article 31) and Development Standards (Part 4), shall also apply to uses in the Village’s commercial district

ARTICLE 22: MANUFACTURING DISTRICTS

§ 285-22.1 MANUFACTURING DISTRICTS ESTABLISHED

- A. The Village’s manufacturing districts are listed in Table 22.1 below. When this zoning law refers to a manufacturing district it is referring to one of the following:

TABLE 22.1: MANUFACTURING DISTRICTS

Manufacturing District Name	Abbreviation & Map Symbol
General Manufacturing	GM
Village Manufacturing	VM

- B. The manufacturing district names and map symbols are intended to provide a general indication of what is allowed in the district by denoting the intensity, scale, and/or type of uses permitted.

§ 285-22.2 MANUFACTURING DISTRICT PURPOSE STATEMENTS

- A. **General Manufacturing (GM) District.** The purpose of the GM District is to permit the operation of light commercial, industrial, manufacturing, and distribution activities within the Village in a manner that is consistent with the Village’s adopted Comprehensive Plan. Development within a GM District should be campus-style in building design and layout and should facilitate internal pedestrian circulation systems that are linked to external walkways, where practicable. Manufacturing and industrial uses allowable within this District shall employ techniques to minimize negative impacts on adjacent non-industrial districts (including, but not limited to traffic, parking, glare, noise, dust, odor, etc.), especially established residential districts and environmentally sensitive areas. The construction of new residential dwellings is not permitted within the GM District.
- B. **Village Manufacturing (VM) District.** The purpose of the VM District is to permit the operation of low impact industrial and commercial uses within the Village on smaller lot sizes than permitted in the General Manufacturing (GM) District. Due to the increased allowable density of the VM District and its general proximity to established neighborhoods and activity centers of the Village, all uses shall be properly screened and buffered from adjacent residential properties. Unless otherwise stated in this Chapter, industrial and manufacturing uses permitted within the VM District shall operate within a fully enclosed structure, with limited external operations or storage visible from the public right of way or adjacent residential properties.

§ 285-22.3 MANUFACTURING USE LISTS

Uses are allowed in manufacturing zoning districts within the Village in accordance with Table 22.3 below.

- A. Uses identified with a “P” in the table are permitted as-of-right in the zoning district, subject to compliance with all other applicable standards of this zoning law.
- B. Uses identified with a “SP” in the table may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 52 of this Chapter.
- C. Uses not listed and those identified with a “-” are expressly prohibited.

TABLE 22.3: MANUFACTURING DISTRICT USE LISTS

Land Use	Zoning District	
	GM	VM
Residential		
1. Single-Family Dwellings	- 1	- 1
2. Two-Family Dwellings or Townhomes	- 1	- 1
3. Multi-Family Dwellings	- 1	- 1
4. Home Occupations	SP	SP
5. Upper Floor Dwelling Units	SP	SP
6. Residential Accessory Uses or Structures	P	P
Institutional/Other		
7. Places of Worship	SP	P
8. Nonprofit or Membership Based Clubs	SP	P
9. Schools, Public or Private	SP	SP
10. Day Care Centers, Child or Adult	-	-
11. Museums or Libraries	-	-
12. Public Parks or Playgrounds	SP	-
13. Municipal Structure or Use	P	P
14. Parking Area (Not on same lot as the use it serves)	SP	SP

Note:

- (1) Any residential dwelling existing prior to the adoption date of this Chapter shall be considered a permitted use.

*** TABLE CONTINUED ON NEXT PAGE***

TABLE 22.3: MANUFACTURING DISTRICT USE LISTS

Land Use	Zoning District	
	GM	VM
Commercial		
15. Professional or Medical Offices	P	P
16. Breweries or Distilleries	P	P
17. Restaurants or Take-Out Restaurants	-	SP
18. Taverns or Bars	-	SP
19. Vehicle Sales	SP	-
20. Vehicle Repair or Service Shops	SP	SP
21. Car Washes	SP	-
22. Laundromats or Dry-Cleaners	SP	SP
23. Newspaper or Printing Shops	P	P
24. Dance, Art, Music, or Photo Studios	P	P
25. Indoor Entertainment Facilities	SP	SP
26. Outdoor Entertainment Facilities	SP	-
27. Indoor Recreational Facilities	SP	SP
28. Outdoor Recreational Facilities	SP	-
29. Retail Stores or Personal Service Establishments	-	SP
30. Repair or Service Shops	-	SP
31. Wholesale Stores	SP	SP
32. Farm/Agricultural Goods Sales or Service	SP	SP
33. Adult Uses	SP	-
34. Animal Grooming Shops	P	-
35. Animal Hospitals or Veterinary Clinics	P	-
36. Kennels	SP	-
37. Broadcast Facilities	P	-
38. Telecommunications Facilities	SP	SP
39. Mixing of Permitted Uses in a Single Structure	P	P
40. Dining Facilities Ancillary to Permitted Use	SP	SP
41. Outdoor Storage or Sales Ancillary to Permitted Use	P	SP
42. Nonresidential Accessory Uses or Structures	P	P
Manufacturing/Industrial		
43. Manufacturing, Processing, or Production Facilities	P	P
44. Packaging Facilities	P	P
45. Research and Development Facilities	P	P
46. Junkyards	-	-
47. Self-Storage Facilities	P	-
48. Outdoor Storage or Sales Ancillary to Permitted Use	P	SP

§ 285-22.4 MANUFACTURING LOT & YARD REQUIREMENTS

The lot and yard requirements listed in Table 22.4 below shall apply to the manufacturing districts within the Village.

TABLE 22.4: MANUFACTURING LOT & YARD REQUIREMENTS

Land Use	Zoning District	
	GM	VM
A. Minimum Lot Size		
Residential Use	-	-
Nonresidential Use	43,560 Square Feet	13,000 Square Feet
B. Minimum Lot Width		
Residential Use	-	-
Nonresidential Use	100 Feet	50 Feet
C. Front Yard		
Residential Use	-	-
Nonresidential Use	25 Feet MIN 75 Feet MAX	10 Feet MIN 25 Feet MAX
Accessory Use/Structure	-	-
D. Minimum Rear Yard		
Residential Use	-	-
Nonresidential Use	15 Feet OR 50 Feet¹	5 Feet OR 25 Feet¹
Accessory Use or Structure	10 Feet	5 Feet
E. Minimum Side Yard		
Residential Use	-	-
Nonresidential Use	15 Feet OR 50 Feet¹	5 Feet OR 25 Feet¹
Accessory Use/Structure	5 Feet	5 Feet

Note:

(1) When adjacent to a residential use, the larger yard requirement shall apply.

§ 285-22.5 MANUFACTURING BULK REQUIREMENTS

The bulk requirements listed in Table 22.5 below shall apply to the manufacturing districts within the Village.

TABLE 22.5: MANUFACTURING BULK REQUIREMENTS

Land Use	Zoning District	
	GM	VM
A. Maximum Building Height		
Residential Use	-	-
Nonresidential Use	45 Feet	40 Feet
Accessory Use/Structure	15 Feet	10 Feet
B. Maximum Lot Coverage		
Residential Use	-	-
Nonresidential Use	30%	45%
Accessory Use/Structure	20% of Rear Yard	20% of Rear Yard

§ 285-22.6 ADDITIONAL REGULATIONS

All other applicable requirements of this Chapter, including but not limited to Regulations for Certain Uses (Article 31) and Development Standards (Part 4), shall also apply to uses in the manufacturing districts of the Village.

ARTICLE 23: OVERLAY & SPECIAL PURPOSE DISTRICTS

§ 285-23.1 OVERLAY & SPECIAL PURPOSE DISTRICTS ESTABLISHED

- A. The Village’s overlay and special purpose districts are listed in Table 23.1 below. When this zoning law refers to an overlay or special district it is referring to one of the following:

TABLE 23.1: OVERLAY & SPECIAL PURPOSE DISTRICTS

Overlay/Special Purpose District Name	Abbreviation & Map Symbol
Mid-Main Overlay	MMO
Open Space	OS

- B. The overlay and special purpose district names and map symbols are intended to provide a general indication of the geographic area, intensity, scale, and/or type of uses permitted.

§ 285-23.2 MID-MAIN OVERLAY (MMO) DISTRICT

- A. **Purpose and Intent.** The purpose of the MMO District is to preserve the integrity of the traditional, residential character that exists along the designated Mid-Main Street area. The essence of the MMO District’s character consists of buildings with traditional architectural style and variety on lot sizes consistent with the existing residential character, including an abundance of trees and landscaping. Future investment in the MMO District shall preserve and enhance the overall walkability and historic character of the Village. To the greatest extent practicable, the restoration and reuse of existing structures is required. The demolition of existing structures is prohibited, unless it is determined by the Village Board that demolition is necessary to protect the health, safety, and welfare of the public.
- B. **Use, Lot, Yard, and Bulk Requirements.** The permitted uses of the MMO District and associated lot, yard, and bulk requirements shall be determined by the underlying zoning district unless otherwise noted in this Chapter.
- C. **Yard Landscaping Requirements.** All front yard areas shall be maintained as landscaped greenspace, except for driveways and sidewalks. The rearmost 10 feet of all rear yards shall be maintained as landscaped greenspace.
- D. **Accessory Structures.** Accessory structures shall be located in the rear yard, no closer than 10 feet to the main structure or any lot line.
- E. **Existing Structures.** Any lot or structure established within the MMO District prior to the adoption date of this Chapter shall maintain its existing lot size, width, front yard, rear yard, and side yard measurements for both principal and accessory uses or structures. Any desired change to these conditions shall require review and approval pursuant to Article 51 (Site Plan Review) of this Chapter.

- F. **Newly Constructed Buildings.** Any new buildings proposed within the MMO District shall conform to the standards of Table 23.2 below.

TABLE 23.2: NEW BUILDING CONSTRUCTION STANDARDS

Building/ Structure Dimension	Requirement
Maximum Width	50 Feet
Maximum Footprint	5,000 Square Feet
Minimum Footprint	1,500 Square Feet
Maximum Height	2 and ½ Stories or 35 Feet
Accessory Structure	

- G. **Garage Doors.** Overhead or other vehicle entry doors shall not be located on the primary façade of any building.
- H. **Tree Requirements.** The following tree requirements shall apply to all lots within the MMO District and shall be implemented at the responsibility and expense of the property owner.
 1. All dead trees shall be removed from the premises.
 2. Each tree that dies of disease or natural causes shall be replaced by a tree of the same or similar species measuring at least one and a half inches in caliper and six feet in height.
 3. Each living tree that is removed for building or site improvements shall be replaced by two trees of the same or similar species measuring at least one and a half inches in caliper and six feet in height.
 4. All property shall include a minimum of one tree per 1,500 square feet of pervious area on the lot.
- I. **Parking Restrictions.** The following shall apply to all off-street parking areas within the MMO District.
 1. All uses are exempt from the off-street parking requirements of Section 40.6; however, all other requirements of Article 40 shall still apply.
 2. Parking areas shall be located in the rear yard, where practicable.
 3. No parking area is permitted within 10 feet of the side lot line or 15 feet of the rear lot line.
 4. No parking areas may be provided on any lot which is not improved by a building.
 5. Nonconforming parking areas may be resurfaced provided there is no change in the size or location of the lot.
- J. **Additional Regulations.** All other applicable requirements of this Chapter, including but not limited to Regulations for Certain Uses (Article 31) and Development Standards (Part 4), shall also apply to uses in the MMO District.

§ 285-23.3 OPEN SPACE (OS) DISTRICT

- A. **Purpose and Intent.** The purpose of the Open Space (OS) District is to preserve and enhance the Village’s open spaces and recreational areas by restricting development that would not otherwise be compatible with or respect the natural environment. The intent of this District is to ensure ample passive and active recreational opportunities for residents and visitors and identify areas of valued green space. Areas designated under the OS District include, but are not limited to, privately or publicly owned parks, recreational areas, natural wildlife areas, creeks or streams, and cemeteries.
- B. **Permitted Use List.** Uses are allowed in the OS District in accordance with Table 23.3(B).
 - 1. Uses identified with a “P” are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this zoning law.
 - 2. Uses identified with a “SP” may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 52.
 - 3. Uses not listed and those identified with a “-” are expressly prohibited.

TABLE 23.3(B): OPEN SPACE DISTRICT USE LIST

Land Use	Zoning District OS
1. Public Parks or Playgrounds	P
2. Natural Wildlife or Open Space Areas	P
3. Cemeteries	P
4. Botanical Gardens, Arboreta, or Conservatories	SP
5. Farms or Agricultural Activities	SP
6. Outdoor Recreation Facilities	SP
7. Indoor Recreation Facilities	SP
8. Outdoor Entertainment Facilities	SP
9. Indoor Entertainment Facilities	SP
10. Commercial Facilities, Incidental to Recreational Use	SP
11. Cultural Facilities, Such as a Museum or Observatory	SP
12. Golf Course	-
13. Outdoor Lighting, For Recreational Area Use After Dusk	SP
14. Parking Areas, Not Located on the Same Lot as the Use to be Served	SP
15. Municipal Structure or Use	P
16. Accessory Structure or Use	SP

- C. **Lot, Area, and Yard Requirements.** The following lot, area, and yard requirements shall apply to the OS District within the Village.

TABLE 23.3(C): OPEN SPACE LOT & YARD REQUIREMENTS

Land Use	Zoning District OS
A. Minimum Lot Size	3 Acres
B. Minimum Lot Width	100 Feet
C. Minimum Front Yard¹	35 Feet
D. Minimum Side Yard¹	15 Feet OR 50 Feet²
E. Minimum Rear Yard¹	15 Feet OR 50 Feet²

Notes:

- (1) Only applicable to structures, equipment, or other constructed and/or installed facilities on a lot.
- (2) When adjacent to a residential use, the larger yard requirement shall apply.

- D. **Dimensional and Bulk Requirements.** The following bulk requirements shall apply to the OS District within the Village.

TABLE 23.3(D): OPEN SPACE BULK REQUIREMENTS

Land Use	Zoning District OS
A. Maximum Building Height	
Primary Use or Structure	25 Feet
Accessory Use or Structure	15 Feet
B. Maximum Lot Coverage	15%

- E. **Additional Regulations.** All other applicable requirements of this Chapter, including but not limited to Regulations for Certain Uses (Article 31) and Development Standards (Part 4), shall also apply to uses in the Open Space District.

PART 3: SUPPLEMENTARY REGULATIONS

ARTICLE 30: REGULATIONS FOR LOTS

ARTICLE 31: REGULATIONS FOR CERTAIN USES

ARTICLE 32: STORMWATER MANAGEMENT

ARTICLE 30: REGULATIONS FOR LOTS

§ 285-30.1 LOT FOR EVERY DWELLING; LOT FRONTAGE ON STREET

Every building used as a dwelling shall be located on a lot; and, except for permitted accessory dwellings, there shall be not more than one such building on a lot. No dwelling shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway as provided in New York State Village Law Section 7-736. Such immediate frontage shall have a minimum width of 15 feet.

§ 285-30.2 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Chapter shall not apply to:

- A. Churches, schools and other public buildings when permitted in any residential district, provided that the yard requirements are complied with.
- B. Church spires, belfries, cupolas and domes, monuments, chimneys, smokestacks, flagpoles, water tanks, elevator penthouses, and conveyors provided that the aggregate horizontal area of such parts shall not exceed 20% of the ground floor area of the main building.
- C. Parapet walls not over four feet high.

§ 285-30.3 FENCES

- A. Fences shall be permitted in all districts, provided the height of a fence does not exceed:
 - 1. Six feet where located behind the rear wall of the dwelling or other main building; or
 - 2. Four feet where located to the side or in front of the main building.
- B. In any district, no fence shall be located within 18 inches of the street right-of-way line and/or sidewalk.

§ 285-30.4 CORNER LOTS

- A. In the case of a corner lot in any residential district, all buildings shall comply with the front yard requirements for each street. The interior yards shall be considered side yards.
- B. In the case of a corner lot in any commercial or manufacturing district which abuts a lot in any residential district, all buildings on such corner lot shall have a setback from the street on which the lot in the residential district fronts equal to 60% of the front yard requirement of the residential district.

§ 285-30.5 CORNER VISIBILITY

Within the triangle formed by two intersecting street lines and a line joining points on such street lines 30 feet from their intersection, no fence, wall, hedge or dense foliage shall be erected, planted or maintained between the heights of two feet and six feet in any residential district. Open type fences less than 10% solid may be four feet high.

§ 285-30.6 LOT SIZE EXCEPTIONS FOR LOTS OF RECORD

Except for lots which have a lot width of less than 50 feet or have a lot area of less than 7,500 square feet, the lot width and lot area requirements of this Chapter shall be automatically waived to permit the erection of a single-family dwelling on any lot which was of record ownership at the time this Chapter became effective and which was then in ownership separate from any adjoining land in the same block frontage. The development of such dwelling shall be subject to site plan review in accordance with Article 51 of this Chapter.

§ 285-30.7 USABLE OPEN SPACE FOR RESIDENCE IN COMMERCIAL OR MANUFACTURING DISTRICTS

In any case, in any commercial or manufacturing district where any building or portion thereof is used for residential purposes, 400 square feet of open space per dwelling unit shall be provided exclusively for recreation and household service activities.

§ 285-30.8 PROJECTIONS INTO YARDS

The following structures shall be allowed within required yards:

- A. The ordinary projection of window sills, belt courses and other ornamental features to an extent of not more than six inches.
- B. Balconies, bay windows, cornices, chimneys and roof projections not to exceed three feet.
- C. A retaining wall of any height deemed necessary by a licensed professional.
- D. Unenclosed or non-weatherproofed porches in rear yards, but not more than 25% of the required depth of such yard.
- E. Unenclosed steps not extending above the floor level of the first story, provided such steps are at least five feet from any lot line.
- F. A paved terrace, provided that such terrace is unroofed and without walls and at least five feet from any lot line.

ARTICLE 31: REGULATIONS FOR CERTAIN USES

§ 285-31.1 PURPOSE & APPLICABILITY

- A. The purpose of this Article is to place requirements on certain uses that have a greater potential to adversely impact surrounding properties but may be desirable and compatible provided proper control and regulation. These requirements are intended to promote the public health, general safety, and neighborhood character of the immediate neighborhood and the larger community.
- B. The following requirements are applicable to all uses, permitted and specially permitted, noted in this Chapter. Uses allowable by special permit must obtain Village Board approval via the special use permit process (Article 52) prior to operation. Uses permitted by right do not require Village Board approval, provided they meet all applicable requirements set forth in this Article.
- C. No authorization for a special use permit or building permit shall be granted by the Village Board or CEO for any use listed in this Section unless it is determined that the proposed use also meets the additional regulations required in this Section.

§ 285-31.2 ACCESSORY DWELLING UNITS.

- A. **Purpose.** The purpose of regulating accessory dwelling units is to:
 - 1. Create new housing units while respecting the look and scale of single-family residential development;
 - 2. Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
 - 3. Allow more efficient use of existing housing stock, and public infrastructure;
 - 4. Provide a mix of housing options that responds to changing family needs and smaller households;
 - 5. Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods; and
 - 6. Promote a broader range of affordable housing.
- B. **Parcel Restrictions.**
 - 1. One accessory dwelling unit with no more than one bedroom is permitted on a single parcel in addition the primary single-family dwelling unit.
 - 2. Under no circumstances may a detached accessory dwelling unit be separated from or subdivided from the parcel containing the primary residential unit.

C. Owner-Occupancy Requirements.

1. One of the dwelling units on the parcel shall be occupied by one or more owners of the property as a permanent residence for at least six months out of the year and at no time may receive rent for more than one unit on the parcel.
2. The property owner(s) shall sign an affidavit before a notary public affirming that the owner occupies either the principal residential unit or the accessory dwelling unit and submit it to the CEO.
3. When a parcel containing an accessory dwelling unit is sold or ownership transferred, the new owner(s), if they wish to continue to rent or lease one of the units, must within 30 days of the sale, sign a new affidavit before a notary public stating that they will occupy one of the dwelling units on the parcel as their primary residence and submit it to the CEO.
4. The individual sale of any accessory dwelling unit apart from the principal use is strictly prohibited.

D. Additional Regulations.

1. The accessory dwelling unit shall be a complete, separate housekeeping unit containing both kitchen and bath and must meet all New York State Uniform Code Requirements.
2. Any new separate outdoor entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building for an accessory dwelling unit that is in or attached to the primary residential unit. This provision shall not apply to detached accessory dwelling units.
3. An accessory dwelling unit shall be designed to maintain the architectural design, style, appearance, and character of the primary residential unit. Any addition must be consistent with the existing façade, roof pitch, siding and windows of the primary residential unit. Any addition shall not exceed the height of the primary structure.

§ 285-31.3 ACCESSORY STRUCTURES & USES

A. General Requirements.

1. Accessory structures or uses shall be clearly incidental to the primary structure or use in size and function.
2. No accessory structure or use shall be established or constructed until the primary structure or use is constructed.
3. Accessory uses and structures considered to be similar in nature to those listed in this Section and deemed appropriate by the CEO may also be allowed in the Village.
4. In any district, no accessory structure shall be used for residence purposes except as permitted in Section 285-31.2 of this Chapter (Accessory Dwelling Units).
5. In any residential district, no access driveway to or from a commercial or industrial use shall be deemed to be an accessory use.
6. In any district, automobile wrecking shall not be deemed to be an accessory use.

B. Permitted Residential Accessory Structures or Uses.

1. Detached deck, patio, or terrace.
2. Detached residential garage or carport.
3. Attached residential garages, carports, decks and terraces located behind the front building line of the primary structure.
4. Child's playground or playhouse.
5. Plant nursery, home garden, or greenhouse.
6. Enclosed storage structure.
7. Fence or wall, subject to the provisions of Section 285-30.3 of this Chapter.
8. Handicapped access ramp, installed permanently, provided it does not obstruct access to required parking.
9. Electric vehicle charging stations when located within an enclosed structure or behind the front building line of the primary structure.
10. Solar energy systems, provided they are located on the roof of the structure and do not cause the structure to exceed maximum building height requirements. Solar energy systems may be located on the ground with special use permit approval by the Village Board.
11. Wind energy systems, provided they are located in the rear yard and conform to the setback and height restrictions of the district in which it is located. Wind energy systems may be located on the roof of a structure with special use permit approval by the Village Board.

C. Permitted Nonresidential Accessory Structures and Uses.

1. Decks, patios, and terraces.
2. Detached garage, when located behind the front building line of the primary structure.
3. Enclosed storage structure.
4. Fence or wall.
5. Handicapped access ramp, installed permanently, provided it does not obstruct access to required parking.
6. Electrical vehicle charging stations, subject to the provisions of off-street parking areas in this Chapter.
7. Solar energy systems, provided they are located on the roof of the structure and do not cause the structure to exceed maximum building height requirements. Solar energy systems may be located on the ground with special use permit approval by the Village Board.
8. Wind energy systems, provided they are located in the rear yard and conform to the setback and height restrictions of the district in which it is located. Wind energy systems may be located on the roof of a structure with special use permit approval by the Village Board.
9. Walkup service windows facing any public right-of-way when accessory to a permitted retail sales and service use. Pedestrian safety, access, and connectivity shall be addressed on site.

§ 285-31.4 ADULT USES

- A. **Legislative Intent.** Buildings and establishments operated as adult uses are determined to be detrimental and harmful to the health, safety, and general welfare of the community. In order to promote the health, safety, morals and general welfare of the residents of the Village of East Aurora, including property values, community character, quality of life, business climate and the

prevention of crime, this Article is intended to restrict adult uses to nonresidential, nonbusiness and noncommercial areas of the Village, and otherwise regulate their operation. Moreover, in that the operational characteristics of adult uses increase the deleterious impact on a community when such uses are concentrated, this Article is intended to promote the health, safety, morals and general welfare and good order of the residents of the Village of East Aurora by regulating the concentration of such uses. This Article is not intended to control the content of materials purveyed and is not an attempt to restrict the constitutional right to free speech.

- B. **Restrictions.** Adult uses, including adult bookstores, adult motion picture theaters, adult mini-motion picture theaters and adult entertainment establishments as defined by this Code, shall be permitted subject to the following restrictions.
 - 1. No such adult uses shall be located within 1,500 feet of another existing adult use.
 - 2. No such adult use shall be located within 200 feet of the boundaries of residential or commercial zoning district.
 - 3. No such adult use shall be located within 500 feet of a preexisting school, church or other similar place of worship.
 - 4. No such adult use shall be located in any zoning district except the GM District.
- C. **Prohibition Regarding Public Observation.** No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specific sexual activities or specified anatomical areas from any public way or from any property other than the property where the adult use is located. This provision shall apply to any display, decoration, sign, show window or other opening.

§ 285-31.5 AMATEUR (HAMS) COMMUNICATIONS STATION FACILITIES, INCLUDING ANTENNAS & SUPPORT STRUCTURES

- A. The legislative intent and purpose of this Section is to recognize the distinction between amateur communications station facilities, including antennas and support structures and public telecommunications stations, antennas and support structures otherwise regulated herein. The intent and purpose is to establish a balance between the requirements under federal and state laws, rules and regulations to reasonably accommodate amateur communications with the legitimate concerns of the Village of East Aurora to protect to the maximum extent practicable the suburban character of the Village, aesthetic considerations and the health, safety and general welfare of the public.
- B. Amateur communications station facilities, including antennas and support structures, may be permitted as accessory structures and uses in any zoning district, subject to the reasonable limitations and regulations on any lot. This shall include any devices, antenna, support structures, including poles and support towers placed in the yard area of a lot to be utilized by Amateur Radio Operators (known as "HAMS"), licensed by the Federal Communications Commission.
- C. Site plan review approval from the Village Board and a building permit from the CEO must be obtained prior to the installation of such amateur communications station facilities.

1. The applicant shall submit a site plan which shall be drawn to scale, showing the location of all buildings on the lot, lot lines and of any existing poles on the lot (utility, flag, etc.). The site plan shall also clearly indicate the location of the antenna support structure on the lot and its dimensions and characteristics, such as height and width and shall indicate, where reasonably required, the type of anti-climb device(s) to be installed.
 2. The applicant shall provide the Village CEO with a copy of his/her license issued by the Federal Communications Commission, with proof that license is current and valid. The applicant shall further provide proof that all required county, state and federal permits have been obtained.
 3. The applicant shall provide to the Village CEO the manufacturer's specifications or generally recognized engineering handbooks for installation of antenna support structures, details of footings, braces or other necessary aspects of installation.
 4. The applicant shall submit to the Village CEOs sufficient information to justify the proposed height of an antenna or antenna tower as a minimum necessary to achieve its coverage objectives.
- D. Not more than one antenna tower shall be permitted on any lot.
- E. The maximum height of a freestanding antenna or an antenna tower which is mounted on the ground shall be 50 feet. Said height shall be measured from the highest part of the freestanding antenna or antenna tower and attached antennas to the ground at the base of the freestanding antenna or antenna tower.
- F. Antennas and antenna towers shall be permitted in rear yards only, unless a variance is granted by the Zoning Board of Appeals.
- G. The minimum setbacks from all lot lines for antennas and antenna towers including, but not limited to, the base on which they are placed, shall comply with the minimum setbacks established for the district in which structures are located. The antenna span shall not encroach into the neighboring property line.
- H. Exempt from the regulations established in this Section are antennas which consist of a single wire, provided that wire is not attached to a mast, pole or antenna tower.
- I. Antennas, antenna towers and accessory antenna structures shall be designed, located and screened or buffered in such a manner which provides to the maximum extent practicable compatibility with surrounding land uses. In order to minimize adverse aesthetic effects on neighboring residences to the extent practical, the Planning Commission may recommend reasonable conditions on said structures including, but not limited to, the following:
1. Visual Screening. The Planning Commission may recommend the base of the antenna, antenna tower or accessory antenna structure to be visibly screened from adjoining lots. Said visual screening shall include, but shall not be limited to, fences, walls and landscaping. Existing on-site trees and other vegetation shall be preserved to the maximum extent practicable and may be substituted or enhanced in order to meet landscaping requirements. The shield required herein shall be sufficient to shield the view of the lower most six feet from the road and in neighboring yards.

2. Lighting. Unless otherwise required by federal or state law, rules and regulations, artificial lighting shall not be permitted to be placed on or to shine onto antennas, antenna towers or support structures. If artificial lighting is used, that lighting shall be aimed or shielded to the maximum extent practicable so as to minimize adverse effects on surrounding premises.
 3. Colors and Painting. Unless otherwise required by federal or state law, rules and regulations, antennas and antenna towers shall have a galvanized finish or be painted matte gray. All support structures shall maximize the use of building materials, colors and textures which are designed to blend with the natural surroundings.
 4. Signs. Unless otherwise required by federal or state law, rules and regulations or specifically mandated by the Planning Commission for warning, modification or other purpose, signs shall not be permitted on antennas or antenna towers or their supportive structure.
- J. The owner of an antenna or antenna tower shall provide a certification from a New York State Licensed Professional Engineer that the design of the antenna or antenna tower meets all applicable structural safety requirements. The antenna or antenna tower shall be placed, erected or constructed and maintained in conformity with all applicable codes, rules and regulations.

§ 285-31.6 **BED & BREAKFAST (B&B)**

- A. A B&B shall only be permitted as a specified use in a single-family, detached dwelling.
- B. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated.
- C. The owner and/or operator of the B&B shall live full-time on the premises.
- D. No more than two nonresidents of the premises shall be engaged as an employee of the operation.
- E. A B&B shall have a maximum of three guest rooms with no more than two guest rooms sharing a single bath and no more than six adult guests at one time. For the purpose of this Section, "adult" means any person over the age of 18.
- F. Off-street parking shall be provided in accordance with this Chapter, and may not be located in the front yard. The Village Board shall approve the location and screening of said parking spaces.
- G. There shall be no change in the outside appearance of the building or premises that detracts from the residential character of the residence or from the residential character of the neighborhood, or other visible evidence of the conduct of such B&B.

§ 285-31.7 **DRIVE-THROUGH FACILITIES**

- A. Vehicular ingress and egress shall be provided so as to reduce the impacts of traffic congestion on adjacent property and public streets.
- B. Drive-through facilities, including any protective canopies, signage, drive-through travel lanes, or other associated elements, shall meet the setback requirements for the property.

- C. Drive-through facilities with an amplified audio/visual system shall not be located adjacent to residential uses or districts.
- D. Stand-alone drive-through facilities are not permitted (i.e. as the primary use).
- E. Stacking space for drive-through facilities shall not impede on- or off-site traffic movements. The stacking space shall be delineated from other internal areas through the use of pavement markings that are identifiable during all seasons. The number of stacking or queuing spaces required by drive-through activity type shall be determined by the Village Board.
- F. Drive-through establishments operated in conjunction with any restaurant, eating place, food service operation or beverage or liquor store are not permitted.

§ 285-31.8 HOME OCCUPATIONS

- A. Permitted home occupations include, but shall not be limited to, the following: accountant, architect, artist, author, barber, beautician, consultant, counselor, dentist, doctor, dressmaker, engineer, insurance agent/broker, lawyer, photographer, realtor, tailor, teacher, and tutor.
- B. Prohibited home occupations include those that would generate adverse impacts to or are incompatible with the existing character of a residential neighborhood. These uses include, but are not limited to, the following: ambulance services, animal care services, and motorized vehicle sales or repair.
- C. The home occupation shall be owned and operated by the full-time resident(s) of the dwelling and shall operate wholly within an enclosed structure. Not more than one person not residing in the household shall be employed in the home occupation. Additional individuals may be employed by or associated with the home occupation in so far as they do not report to work at the home occupation site.
- D. A home occupation must be clearly incidental and secondary to the use of the residential dwelling and shall be permitted to occupy no more than 30% of the residence.
- E. The operation of a home occupation shall in no way change or alter the residential appearance or character of the premise or neighborhood in which it is located.
- F. There shall be no exterior display or storage of materials, good, supplies, or equipment related to the operation of the home occupation.
- G. No home occupation shall be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, or smell, electrical, magnetic or other interference, fire hazard, or any other nuisance not typically found in a residential neighborhood.
- H. Activity involving on-site retail sales is prohibited, except the sale of items that are incidental to a permitted home occupation.
- I. Deliveries to home occupations on residential streets shall be permitted by two-axle vehicles only.

§ 285-31.9 OUTDOOR SALES

The following requirements shall apply to outdoor sales and display areas related to nonresidential uses only.

- A. The display area shall not exceed 10% of the gross floor area of the primary structure.
- B. The display area shall not block automotive traffic, sidewalks, fire lanes, or other travel lanes.
- C. Such displays shall be allowed adjacent to a principal building wall and extending to a distance no greater than 10 feet from the wall.
- D. Such displays shall not be permitted to block windows, entrances or exits and shall not impair the ability of pedestrians to use the building.
- E. The items for display are for sale and said area is not used for storage purposes.

§ 285-31.10 OUTDOOR STORAGE

- A. Outdoor storage shall be allowed only in nonresidential districts and shall be subject to the following requirements. The requirements of this Section shall not apply to residential uses.
- B. Commercial Districts and the Mid-Main Overlay District.
 - 1. Outdoor storage shall not be permitted in the front yard.
 - 2. Outdoor storage areas shall not occupy more than 10% of the lot;
 - 3. Outdoor storage areas shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses;
 - 4. Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public rights-of-way.
 - 5. Outdoor storage only of products used or sold by the on-site business.
- C. Manufacturing Districts.
 - 1. Outdoor storage shall not be permitted in the front yard.
 - 2. All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses.
 - 3. Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public rights-of-way.
 - 4. Contractor material and equipment storage must be a minimum of 200 feet from a residential or open space district.
 - 5. Outdoor storage only of products used or sold by the on-site business.

§ 285-31.11 PUBLIC BUILDINGS, PUBLIC SERVICES & PUBLIC UTILITIES

The provisions of this Chapter shall not be so construed as to limit or interfere with the development or use of public buildings used for governmental purposes, or with the construction, installation, operation and maintenance for public utility purposes of water and gas pipes, mains and conduits, electric light

and electric power transmission and distribution lines, telephone and telegraph lines, sewers and sewer mains and incidental appurtenances or with any highway or railroad right-of-way existing or hereafter authorized by the Village of East Aurora, County of Erie, or the State of New York. The above exceptions shall not be construed to permit yards, garages or other buildings for service or storage by said public utilities except as otherwise permitted by this Chapter.

§ 285-31.12 RESERVED

§ 285-31.13 RESERVED

§ 285-31.14 TEMPORARY STRUCTURES

- A. **Temporary Buildings.** Temporary building or contractor field offices, tool and materials storage buildings and similar temporary buildings may be placed on a lot in any district for uses incidental to the construction or renovation of a building or buildings upon such lot when approved by the CEO, provided that such temporary buildings shall be removed within 30 days of project completion. Extensions may be granted by the CEO upon written request stating the reasoning and duration for such extension.
- B. **Temporary Emergency Living Quarters.**
1. The owner of any dwelling made dangerous or unsafe for occupancy in whole or in part for living quarters by fire, flood, wind or similar catastrophe, not self-created, after having first made application for and receiving a building permit for the repair and/or reconstruction of the said living quarters from the CEO pursuant this Chapter, may apply to the Village Board for a temporary use permit for the placing of a temporary building, designed for living quarters, upon the same lot upon which the dangerous and unsafe dwelling is situated, or upon a lot contiguous thereto with the written permission of the owner of such contiguous lot, for a period not to exceed a reasonable time required for the completion of the repairs and rebuilding necessary to restore the dangerous and unsafe living quarters to a habitable condition.
 2. Within five days after receipt by the Village Board of an application for a permit for such temporary emergency living quarters the CEO shall make a survey of the damaged dwelling and living quarters and determine whether the damaged living quarters are, in fact, unsafe or unsuitable for habitation and the estimated time required for any unsafe living quarters to be made safe and suitable for habitation.
 3. Upon receipt of the report establishing an unsafe condition of living quarters and fixing the estimated time required for restoring the same to a condition fit for habitation pursuant to the procedure set forth in the preceding subsection, the Village Board shall issue a temporary use permit to the owner authorizing the placement of a temporary building designed for living quarters upon the same lot upon which the dangerous or unsafe dwelling is situated, or upon a lot contiguous thereto with the written permission of the owner of such contiguous lot, which temporary use permit shall provide temporary building shall be properly and adequately provided with all utility services as required by the Erie County Health Department, and that the term of said temporary use permit shall expire upon the

restoration of the damaged living quarters to a habitable condition and a certificate of occupancy authorizing the use thereof has been issued by the CEO pursuant to this Chapter or the expiration of the time estimated by the report within which the unsafe living quarters may be made safe, whichever event is first to occur.

4. Upon the expiration of the term of the temporary use permit issued by the Village Board pursuant to the provisions of this Section, the temporary emergency living quarters shall be removed within 30 days. An extension may be approved by the Village Board upon submission of a written request stating the need for such extension.
5. The fee for such permit shall be as provided for in Chapter 137, Article II, of the Village Code.

§ 285-31.15 VEHICLE SALES

- A. Vehicle sales uses shall comply with the following:
 1. The sales area shall be paved, suitably graded and drained, and maintained in a neat and orderly manner;
 2. The number of vehicles that may be for sale on the premises must be specified on the special use permit. An increase in the number of vehicles to be sold shall require a new permit;
 3. Exterior illumination shall be provided to the satisfaction of the Village Board in accordance with Chapter 156 of the Village Code; and
 4. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
- B. No repairs, other than minor repairs shall be performed on the premises. All maintenance, service, and repairs of motor vehicles shall be performed within an enclosed structure. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed structure or screened area.
- C. The retail sales of fuel or operation of a vehicle service station on site shall require the issuance of a separate special use permit pursuant to Section 285-31.16 of this Chapter.
- D. No vehicles shall be displayed for sale within 10 feet of any property line that abuts a residential district or use.
- E. Perimeter landscaping shall be a minimum of 10 feet in width along the street frontage(s).

§ 285-31.16 VEHICLE SERVICE STATIONS, REPAIR GARAGES & GASOLINE SERVICE STATIONS

- A. No repair work may be performed out of doors.
- B. No vehicle parts or supplies or dismantled or disabled vehicles may be stored outside a building.

- C. When abutting a property zoned or used for residential purposes, there must be maintained a solid fence and landscaped screening at least four feet, but no more than eight feet in height immediately adjoining said property.
- D. No part of any building used as a vehicle or gasoline service station or repair garage, and no filling pump, lift, or other service appliance shall be erected within 25 feet of any residential district.
- E. No gasoline or oil pump, no oiling or greasing mechanism, or other service appliance shall be installed in connection with any gasoline service station or repair garage within 10 feet of any street line unless contained within a completely enclosed building.

PART 4: DEVELOPMENT STANDARDS

ARTICLE 40: OFF-STREET PARKING & LOADING

ARTICLE 41: LANDSCAPING & SCREENING

ARTICLE 42: NONRESIDENTIAL DESIGN STANDARDS

ARTICLE 43: VILLAGE CENTER DESIGN STANDARDS

ARTICLE 44: SIGN REGULATIONS

ARTICLE 40: OFF-STREET PARKING & LOADING

§ 285-40.1 APPLICABILITY

Off-street parking and loading spaces shall be provided and kept available as an accessory use to all permitted and specially permitted uses of buildings, structures, and lots in amounts not less than those specified in this Section. The term "vehicle," as used in this Section, shall include, but not be limited to automobiles, motorcycles, trucks, recreational vehicles, campers and trailers, including recreational and boat trailers.

§ 285-40.2 PURPOSE & OBJECTIVES

The purpose of this Article is to provide for the safe and efficient accommodation of off-street parking and loading spaces within the Village of East Aurora, while preserving the traditional, walkable character of the Village and achieving the following objectives:

- A. Ensure that any parking area or facility is designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjacent properties from nuisances caused by noise, fumes, and glare of headlights which may result from the operation of vehicles;
- B. Reduce congestion on the street network in the Village;
- C. Ensure there are adequate amounts of parking and loading facilities to serve the use(s) and users of a property;
- D. Encourage alternative parking designs and modes of transportation to reduce dependence on single-occupancy vehicular trips and improve efficiency during travel; and
- E. Ensure safe, well-planned multi-modal access can be made to all commercial, manufacturing, and residential properties within the Village while minimizing potential vehicular and pedestrian conflicts.

§ 285-40.3 DETERMINING OFF-STREET PARKING SPACE REQUIREMENTS

- A. The requirement for a single use (e.g., a single-family dwelling or a retail store) shall be determined directly from Table 40.6 of this Article.
- B. The requirements for a combination of uses made up of multiple permitted or specially permitted uses (e.g. a restaurant and bar or a retail store combined with an office building) shall be determined by establishing the requirement for each individual use from Table 40.6 of this Article and adding them together, unless otherwise approved by the Village Board.
- C. Any commercially zoned properties located on Main Street between Whaley Avenue and the easterly Village boundary are exempt from requirements of Table 40.6 of this Article.

- D. The off-street parking spaces required by Table 40.6 of this Article shall not be applicable to any property located within a public off-street parking improvement district, established pursuant to Chapter 160, Article III, of the Village Code; provided, however, that this exemption shall only apply to the uses being made on premises within such public off-street parking improvement districts, at the time that such a district is established. In the case of a change of use of a building or of land, or a rezoning of property within the public off-street parking improvement district, which would result in an off-street parking requirement of more than five spaces, the CEO shall determine the number of additional off-street parking spaces to be provided, if any, pursuant to Table 40.6 of this Article.
- E. When the required number of spaces result in a fraction, any fraction of less than $\frac{1}{2}$ (0.50) is rounded down to the next lower whole number, and any fraction of $\frac{1}{2}$ (0.50) or more is rounded up to the next higher whole number.
- F. If the use is not specifically listed in the schedule of such requirements, the requirement shall be the same as for the most similar listed use as determined by the CEO.
- G. Areas that may be considered as off-street parking space include any private garage, carport or other area available for parking other than a street, entrance and exit lanes, or driveway. No vehicle shall be parked or stored in any required fire lane. A driveway may only be used to meet the requirements of this Article where it serves a single- or two-family dwelling.

§ 285-40.4 LOCATION OF SPACES

- A. All off-street parking and loading spaces shall be on the same lot as the use they are intended to serve unless otherwise specified in this Chapter. With Village Board approval, uses within 400 feet of a municipal parking lot or designated on-street parking may be wholly or partially exempt from the off-street parking requirements.
- B. Off-street parking spaces should not be located within 10 feet of a residential district.
- C. Loading spaces should not be located within 50 feet of a residential district.
- D. Parking and loading spaces may not be located within 10 feet of street frontage unless proper screening or decorative fencing is installed.
- E. Off-street parking and loading spaces in the GC, GM, and VM Districts may be located in the front yard. Elsewhere, off-street parking and loading spaces shall be located in the side or rear yard only.
- F. In all residential districts no parking of vehicles shall be permitted in the area between the street line and any portion of a structure used for dwelling purposes.

§ 285-40.5 GENERAL OFF-STREET PARKING REQUIREMENTS

- A. Bicycle parking shall be provided with all multi-family and nonresidential development of at least 10% of the vehicle parking requirements as outlined Table 40.6, but in no case shall be less than two bicycle spaces for any single use.

- B. The maximum number of parking spaces allowable for any use is not to exceed 125% of the requirement as outlined in Table 40.6 of this Article, unless otherwise approved by the Village Board.
- C. The Village Board may reduce the number of off-street parking spaces required if the applicant can make permanent arrangements for shared parking with other residential or nonresidential uses or can otherwise prove that the parking standards are excessive for the particular use proposed.
- D. The Village Board may require off-street parking spaces in addition to those required by this Article if it is deemed necessary to protect the health, safety, and general welfare of the public.

(OFF-STREET PARKING SPACE REQUIREMENT TABLE ON NEXT PAGE)

§ 285-40.6 OFF-STREET PARKING SPACE REQUIREMENTS

Off-street parking space requirements for all uses shall be in accordance with Table 40.6 below.

TABLE 40.6: OFF-STREET PARKING SPACE REQUIREMENTS

Land Use	Minimum Space Requirement
Residential	
Single-Family Dwelling	2 per dwelling unit
Two-Family Dwelling	2 per dwelling unit
Multi-Family Dwelling	1.5 per dwelling unit
Nursing Home or Adult Care Facility	0.5 per resident + 1 per 2 employees ¹
Bed & Breakfast	1 per room + 1 per 2 employees ¹
Home Occupation	No more than 2 spaces
Institutional	
School, Elementary or Intermediate	2 per classroom + 1 per employee ¹
School, Secondary	2 per classroom + 1 per 10 students + 1 per employee ¹
School, Occupational or Skill Training	1 per 3 students + 1 per employee ¹
Religious Institution	1 per 3.5 seats
Museums or Libraries	2 per 1,000 square feet ²
Hospital	1 per bed + 1 per employee ¹
Medical Clinic	3 per 1,000 square feet ²
Day Care or Nursery	1 per 6 persons (by capacity) + 1 per employee ¹
Commercial	
Retail Store or Shop	3 per 1,000 square feet ²
Repair Shop	2 per 1,000 square feet ²
Food Store	4 per 1,000 square feet ²
Bar or Tavern	4 per 1,000 square feet ²
Hotel	1 per room + 1 per employee ¹
Funeral Home	4 per 1,000 square feet ²
Office	3 per 1,000 square feet ²
Restaurant	4 per 1,000 square feet ²
Vehicle Sales	2 per employee ¹
Entertainment or Recreation Facility	40 per 1,000 square feet ²
Manufacturing	
All Uses	1 per employee ¹

NOTES:

- (1) "Per employee" requirements shall be based on the number of employees during the maximum shift.
- (2) As measured by the gross floor area of the proposed use.

§ 285-40.7 LOADING SPACE REQUIREMENTS

- A. Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in order to avoid undue interference with the public use of streets or alleys.
- B. Loading spaces shall have a minimum width of 12 feet, a minimum length of 25 feet, and a minimum clearance height of 14 feet, unless otherwise noted in this Section. The related aisle shall have the same minimum clearance height.
- C. Loading spaces shall be provided in accordance with Table 40.7 below.

TABLE 40.7: LOADING SPACE REQUIREMENTS

Floor Area (Square Feet)	Minimum Space Requirement
Less than 4,000	0
4,000 to 15,000	1
15,000 to 30,000	1 at 14 feet by 50 feet OR 2
30,000 or greater	2
Each additional 15,000; or fraction thereof	1

- D. No overnight parking or storage of a commercial vehicle shall be permitted in any residential district except in such case that said vehicle is used by the occupant of the premises and does not exceed $\frac{3}{4}$ (0.75) ton rated capacity. Such vehicle may only be parked or stored behind the front building line of the principal structure.

§ 285-40.8 ACCESS DRIVEWAY REQUIREMENTS

- A. Parking garages, public parking areas, gas stations, and automobile repair garages may have separate or combined vehicle entrances and exits.
- B. Every separate vehicle entrance or exit driveway shall have an unobstructed width of at least 10 feet, but no more than 20 feet. Every combined vehicle entrance and exit driveway shall have an unobstructed width of at least 16 feet, but not more than 30 feet.
- C. All parking spaces, except those required for single- or two-family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.
- D. No driveway providing access to an off-street parking area shall be located closer than 50 feet to the intersection of public streets, unless otherwise approved by the Village Board.

§ 285-40.9 JOINT & SHARED PARKING SPACES

- A. Joint off-street parking spaces by two or more buildings or uses located on the same lot or adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately. The land upon which the joint parking spaces are located shall be owned or leased by one or more of the collective users.
- B. Shared off street parking spaces for two or more uses that are located on the same lot or share a common property boundary and have different peak parking demands or operating hours may be permitted provided that:
 - 1. Parking is located within 400 feet of the buildings or uses it is intended to serve.
 - 2. The applicant demonstrates that the uses have different peak hour parking demands or that the total parking demand at one time would be adequately served by the total number of parking spaces proposed.
 - 3. A Shared Parking Agreement is executed documenting the joint use and must be reflected in a deed, lease, contract, easement or other appropriate legal document.
 - 4. A Maintenance Agreement is executed documenting the responsibility of each user in the maintenance and upkeep of said shared parking facilities.
 - 5. Shared access agreements are created by the initial developer and/or owner of a site and are established in a continuum to adjoining properties as a contingency of site plan approval.
- C. In any residential district, required parking shall be provided on the same lot with the use to which it is serves.

§ 285-40.10 DESIGN REQUIREMENTS

Off-street parking and loading spaces required by this Article serving multi-family dwellings and nonresidential uses shall conform to the following design requirements:

- A. All spaces shall be surfaced with asphalt bituminous, concrete, or dustless material approved by the Village Board and shall be maintained in smooth and well-graded condition. Such surface shall be permanent and capable of being kept free of snow, dust, and dirt and must be permanently marked. Pervious pavement materials are encouraged.
- B. All spaces shall be clearly marked with a minimum painted strip of four inches in width.
- C. Spaces and their access driveways shall be graded so as to provide for the proper mitigation of storm water and runoff.
- D. All perimeter landscaping shall include concrete, masonry, or metal barriers to contain and protect landscaping materials where required.
- E. In locations where curbing is not required, wheel stops shall be used. Wheel stops shall be provided adjacent to any building, wall, fence, walkway, landscaped area or property line to protect people, property and other vehicles.

- F. All new or reconstructed off-street parking lots must conform to Americans with Disabilities Act standards.
- G. All off-street parking areas that contain more than 10 spaces must include clearly identified pedestrian route from the parking spaces to the main building entrance and public sidewalk, where applicable.
- H. All off-street parking areas shall be landscaped and screened in accordance with Article 41 of this Chapter.
- I. All illumination of off-street parking areas shall be in conformity with the provisions of Chapter 165 of the Village Code.
- J. Parking space and aisle dimensions shall follow the requirements of Table 40.10(J) below. Centerline gradients of aisles shall not exceed 8%.

TABLE 40.10(J): PARKING SPACE & AISLE MINIMUM DIMENSIONS

Angle of Parking	Minimum Aisle Width		Minimum Parking Space	
	Two-way	One-way	Width	Length
Ninety-Degree	24 Feet	22 Feet	9 Feet	18 Feet
Sixty-Degree	22 Feet	18 Feet	9 Feet	18 Feet
Forty-Five Degree	20 Feet	13 Feet	8 Feet	18 Feet
Parallel	20 Feet	13 Feet	8 Feet	22 Feet

§ 285-40.11 OPERATION & USE OF PARKING SPACES

Required parking spaces shall be used exclusively for the temporary parking of passenger vehicles or light trucks of patrons, occupants, or employees of the building or use to be served. Required parking spaces shall not be used to satisfy the requirements for loading facilities nor for the sale, display, rental, or repair of motor vehicles.

§ 285-40.12 SNOW REMOVAL

For off-street parking and loading areas greater than 10 spaces, a dedicated area independent of required parking and loading spaces for the placing and storage of snow shall be required.

ARTICLE 41: LANDSCAPING & SCREENING

§ 285-41.1 PURPOSE & INTENT

- A. The Village of East Aurora recognizes the value of trees and landscaping and that the preservation and enhancement of these resources is necessary to protect the health, safety and welfare of Village residents. Landscaping is considered an integral part of site design, offering shade and habitat, impeding soil erosion, providing water absorption and retention to inhibit excess runoff and flooding, enhancing air quality, offering a natural barrier to noise and enhancing property values and providing scenic beauty. Landscaping emphasis shall be placed on providing features that enhance the overall aesthetics of development and the character of the Village of East Aurora.
- B. It is the purpose of this Section to:
1. Establish minimum standards and criteria for landscaping for multi-family and nonresidential development in the Village, including parking areas.
 2. To dissuade the unnecessary clearing and disturbing of land to preserve the natural and existing growth of flora.
 3. To ensure the replacement of removed flora, or to establish new flora, that is indigenous to the Western New York region.
 4. Reduce the effects of wind and air turbulence, noise and the glare of automobile lights.
 5. Provide unpaved areas for the absorption of stormwater runoff and prevent soil erosion and avoid the blighted appearance of parking areas.
 6. Conserve and stabilize property values, preserve a healthful environment, and facilitate the creation of a convenient, attractive and harmonious community environment.

§ 285-41.2 APPLICABILITY

All nonresidential and multi-family development that is subject to site plan review shall meet the requirements of this Article.

§ 285-41.3 LANDSCAPE PLAN REQUIREMENTS

- A. A landscape plan shall be submitted and approved as a part of the site plan review process.
- B. The landscape plan shall be drawn to scale, including dimensions and distances, and shall clearly delineate:
1. Existing and proposed structures and uses,
 2. Parking areas and access aisles,
 3. Refuse disposal areas/dumpsters,
 4. Outdoor storage areas,
 5. Drainage patterns, and
 6. Provisions for visual and noise screening.

- C. The landscape plan shall delineate the location and description of all existing and proposed trees, shrubs and plantings. To insure proper protection of plantings and planted areas, landscape materials to be used on the site shall be identified in a planting schedule to be included on the landscape plan with the following information:
 - 1. Type,
 - 2. Common and botanical names,
 - 3. Size,
 - 4. Quantity, and
 - 5. Pit or bed treatment.
- D. The landscape plan shall include all existing plant materials that are to be removed from the site and such other information as may be required by the Planning Commission.
- E. Landscape plans should include a variety of trees, shrubs, and ornamental planting (annuals and perennials) as part of the site design. The mixing of trees and shrubs helps to avoid a uniform, unnatural appearance, and to protect against extreme loss due to disease or infestation.
- F. The landscape plan must be prepared, signed and stamped by a professional, New York State licensed or registered landscape architect, certified nurseryman or landscape designer.
- G. Upon approval of the landscape plan by the Village, the property owner agrees to install and perpetually maintain the approved landscape design and materials. ~~for the duration of the approved use.~~
- H. All landscaped areas approved by the Village shall be preserved according to the landscape plan, or as amended by the Planning Commission or Village Board. Flora that dies shall be replaced within the next planting season with materials of a similar nature.

§ 285-41.4 APPROPRIATE PLANT MATERIAL

- A. Plant and landscape materials shall be compatible with soil conditions on site and the regional climate. Native plant species are encouraged.
- B. All grasses, trees, and plant material shall be in accordance with those appropriate for the Plant Hardiness Zone of the Village of East Aurora as defined by the United States Department of Agriculture.
- C. Under no circumstance shall any site include plant material that is considered by the New York State Department of Environmental Conservation to be a prohibited and regulated invasive species per New York State Law 6 CRR-NY V C 575.

§ 285-41.5 GENERAL STANDARDS & CRITERIA

- A. A minimum ground cover of not less than 25% of the total lot area shall be landscaped with an appropriate balance of trees, conifers, shrubs, ornamental plantings and lawn area to create a naturalized appearance on the site.

- B. The arrangement and spatial location of landscaped areas shall be designed as an integral part of the site development and disbursed throughout the site, and not just located around the perimeter.
- C. Existing vegetation and trees of all sizes and stages of maturity shall be maintained, wherever possible.
- D. Plastic or other artificial plantings or vegetation are not permitted.
- E. Landscape plantings should be designed to stage blooms and have color throughout the growing season.
- F. Indigenous species shall be utilized to the greatest extent possible, as noted on the species list.
- G. Provisions for snow removal and snow storage must not adversely impact landscaped areas. Any area damaged as the result of snow removal or storage activities must be fully restored in accordance with the approved landscaping plan within the next planting season.
- H. Upon approval of the Planning Commission or Village Board, ornamental lighting and street furnishing may be incorporated within approved landscaped areas.

§ 285-41.6 LAWN AREA

- A. Grass areas shall be planted in a species well adapted to localized growing conditions in Erie County. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales or other areas subject to erosion.
- B. In areas where other than solid sod or grass seed is used, over-seeding shall be sown for immediate effect and protection until coverage is otherwise achieved.
- C. Grass areas shall be procured from new of the year seed crops, free of foreign material or weed seeds.
- D. Replacement or over-seeding mixes shall match or compliment the original installation.
- E. Grass areas shall also provide continuous, uniform, and consistent coverage.

§ 285-41.7 BUILDING FOUNDATION LANDSCAPING

- A. A mix of landscape plantings shall be installed around all building foundations.
- B. Plant material shall be placed intermittently against long expanses of buildings walls, fences, and other barriers to soften the effect and to help break-up walls with little to no architectural detail to the satisfaction of the Village Board.
- C. Ornamental plant material, such as flowering trees and shrubs, perennials, and ground covers are encouraged.
- D. Plantings should decrease in size and increase in detail, color, and variety near entryways into buildings.

§ 285-41.8 OFF-STREET PARKING AREAS

Landscaping and screening of off-street parking areas may be required to conform to the standards below at the discretion of the Planning Commission.

- A. Not less than 8% of the interior of parking areas designed for 10 cars or more should be devoted to the required landscaped area on the site.
- B. The dimensions of all islands and medians should be a minimum of eight feet wide at the shortest side to protect plant materials installed therein and ensure proper growth (see Figure 1). Landscaped islands should be protected with concrete curbing, a minimum of six inches in height.
- C. Landscaping should include at least one tree in each island and at least one tree for every 300 square feet of island area (see Figure 1). Low shrubs and ground covers will be required in the remainder of the island area. Effective use of earth berms and existing topography is also encouraged as a component of the landscaping plan.
- D. Large and medium shade trees (no less than eight feet in height at maturity) are recommended. Due to heat and drought stress and vision clearances, ornamental and evergreen trees are not recommended.
- E. Landscaped islands should be utilized in parking areas to separate parking stalls into groupings of not more than 20 stalls between islands (see Figure 1).
- F. Parking lots should be broken up into “rooms” of no more than 40 spaces, separated by landscaped islands or pedestrian accessways or sidewalks (see Figure 1).
- G. Landscape materials (a mix of trees, shrubs and other plantings) should be used along the street frontage and sides yards to screen parking areas from view of streets and adjacent residential uses.

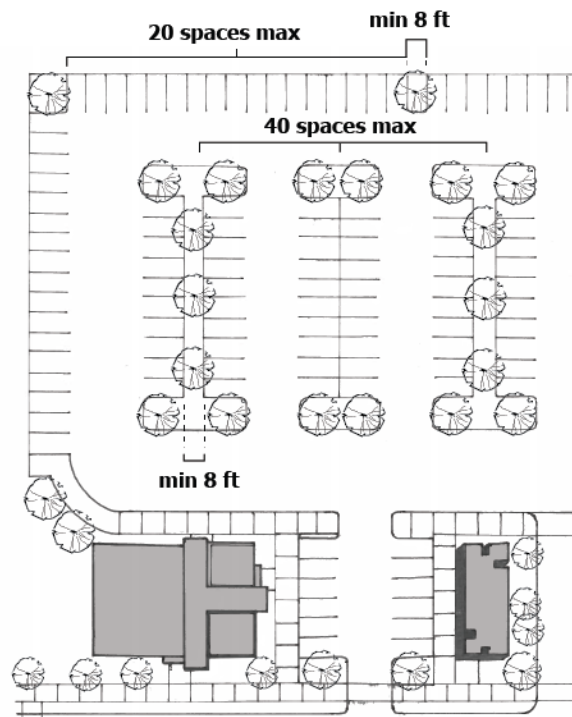


Figure 1: Parking Lot Landscaping
(Source: Steinmetz Planning Group)

§ 285-41.9 SCREENING

- A. All dumpsters shall be screened from public view in accordance with the following:
 - 1. Dumpster screening shall include a combination of landscaping and fencing or similar enclosures.

2. Dumpsters shall be secured with gates. Gates shall be kept closed when not in use.
 3. Dumpster enclosures must be equal to or taller than the dumpster being screened.
- B. All mechanical equipment must be screened from public view in accordance with the following:
1. Mechanical equipment located at ground level must be effectively screened with vegetation, low berms, or others measures that are equal to or taller than the equipment being screened.
 2. Mechanical equipment that is located on the rooftop shall be effectively screened with parapet walls, decorative fencing and/or gables to eliminate views.
- C. Loading spaces and delivery areas, such as loading docks, shall be located so as not to be visible from the street or public right-of-way. If not practical, landscaping and buffering shall be provided to screen such areas from public view.
- D. Where any nonresidential use abuts a residential use or district, including off-street parking areas, a landscaped buffer of at least five feet in width shall be provided. Such buffer shall include one or any combination of the following screening methods to the satisfaction of the reviewing board.
1. A landscaped earthen berm a minimum of two feet high plus plantings a minimum of two feet high (a total of four feet high).
 2. A decorative concrete or masonry wall.
 3. A wood, wrought iron, tubular steel, or similar fence compatible with the character of the area in which the fence is to be placed. Fences or walls used to meet screening requirements shall display a finished face toward adjacent streets and properties.
 4. A compact hedge or other live vegetative barrier.

§ 285-41.10 STREET TREES

- A. All trees planted within the public right-of-way shall be in compliance with Chapter 240 of the East Aurora Village Code (Tree Law) and are subject to review and approval by the Village Tree Board.
- B. The Planning Commission and Village Board may refer landscape plans and other related application materials to the Village Tree Board for recommendations of tree and plant placement, sizing, species, etc. Such recommendations shall be provided to the referring board and applicant in a written summary.

§ 285-41.11 MAINTENANCE

- A. The property owner, or his designated agent, shall be responsible for the proper care and maintenance and replacement, if necessary, of all landscape materials in a healthy and growing condition.
- B. Maintenance shall include, but not be limited to; watering, weeding, mowing (including trimming at the base of fencing), fertilizing, mulching, proper pruning, and removal and replacement of dead or diseased trees and shrubs on a regular basis.

- C. All landscaping and plant material that is missing, dead, decaying, or injured as of September 30th shall be replaced by June 30th of the following year at the property owner's expense. The replacement shall be of the same species and size.
- D. Irrigation systems shall be designed to minimize spray on buildings, neighboring properties, roads or sidewalks; maintained in proper operating condition and conserve water to the greatest extent feasible through proper watering techniques.
- E. Improper maintenance shall be determined through periodic inspection by the CEO. The CEO may require a review and status report of plantings by a professional landscaper, arborist, or engineer. All costs for review and determination shall be at the expense of the property owner.

ARTICLE 42: RESERVED

ARTICLE 43: RESERVED

ARTICLE 44: SIGN REGULATIONS

§ 285-44.1 PURPOSE & INTENT

- A. The primary purpose of these sign regulations for the Village of East Aurora is to permit the erection and display of signage within the Village, while protecting public health, safety and general welfare. All signs and sign systems are subject to the regulations that follow in this Article.
- B. These regulations also serve to achieve the following objectives:
 - 1. Ensure right to free speech as protected under the Constitution;
 - 2. Protect property values, create a more attractive economic and business climate, and protect the physical appearance of the community;
 - 3. Provide structures and uses with effective means of identification while reducing visual clutter through the prevention of excessive and confusing sign displays;
 - 4. Reduce traffic conflicts or hazards by minimizing visual distractions or obstacles in or visible from the public rights-of-way;
 - 5. Minimize the adverse effect of signs on nearby public and private property;
 - 6. Avoid personal injury and property damage from unsafe or confusing signs; and
 - 7. Establish a clear and impartial process for those seeking to install signs.
- C. The regulations of this Article shall govern and control the erection, enlargement, expansion, renovation, operation, maintenance, relocation, and removal of all signs within the Village visible from any street, sidewalk, public right-of-way, or public space.

§ 285-44.2 SIGN PERMIT REQUIRED

Except as hereinafter provided, no person shall erect, alter, construct, relocate or cause to be erected, altered, constructed or relocated any sign without first having obtained a sign permit from the CEO, unless otherwise stated in this Article.

- A. **Application Requirements.** The following information shall be provided to the CEO for a sign permit application:
 - 1. Name, address, contact information, and signature of the applicant.
 - 2. Name, address, and signature of the building and/or property owner, if not the applicant.
 - 3. Dimensions and drawings indicating the size, shape, construct, materials, and layout of the sign(s).
 - 4. Site plan and elevations indicating the proposed location and size of the sign(s) to scale.
 - 5. Any additional site and/or sign information as requested by the CEO.
- B. **No Permit Required.** The following situations shall not require the issuance of a sign permit provided such maintenance, changes, or alterations do not in any way alter the physical size, design, or nature of the sign.

1. The repainting, repairing, changing of parts, and maintenance of signs.
 2. A change in the message of a sign.
- C. **Board Review.**
1. New development subject to review and approval by the Village Board or Planning Commission, at the request of the applicant, may have proposed signage reviewed and approved as part of the special permit or site plan review process.
 2. In the event of such review, all required sign permit application materials shall be provided to the reviewing board as part of the complete application.
 3. Any sign permit application for a marquee sign shall require review and approval by the Village Board.
- D. **Alteration.** Any sign for which a permit has been issued shall not be modified, relocated, altered, or replaced, unless an amended or new sign permit is obtained from the CEO.
- E. **Expiration.** A sign permit shall expire if the sign for which the permit has been issued is not fully constructed within 1 year from the date of issuance of the sign permit.
- F. **Revocation.** The CEO or designee may, at any time for a violation of this regulation, issue a notice of violation. A written notice of the violation including all reasons for the violation shall be mailed to the property and sign owner(s). Said violation must be corrected within 30 days of the date of notice, otherwise the sign permit shall be revoked and the sign in question shall be required to be removed.

§ 285-44.3 MEASUREMENT

- A. **Sign Area.**
1. **Single Sign Face.** The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle, or geometric combination thereof that will encompass the extreme limits of the writing, representation, emblem, graphic, and/or other display, together with any material, backdrop, or structure on which it is placed.
 2. **Multi-Faced Signs.** In the case of a multi-faced sign only one side of the sign is considered in determining sign area if the sides of the sign are back-to-back or diverge at an angle of 45 degrees or less.
 3. **Structural Support Not Included.** The supporting structure or bracing of a sign shall not be computed as part of the sign area, unless such supporting structure or bracing is made a part of the message with the inclusion of any text or graphics. If such is the case, a combination of regular geometric shapes which can encompass the area of said text or graphics shall be included as part of the total sign area computation.
- B. **Sign Height.**
1. **Freestanding Sign.** The height of a freestanding sign shall be calculated by measuring the vertical distance between the top part of such sign or its structure, whichever is highest, to the elevation of the ground directly beneath the center of the sign.

2. Other Signs. The height of all other signs shall be determined by measuring the vertical distance between the top part of the sign face or structure, whichever is highest, to the bottommost edge of the sign face or structure.
3. Structural Support Included. Any material whose major function is to provide structural support for a sign shall be considered part of the sign for purposes of determining sign height.

§ 285-44.4 REGULATIONS APPLICABLE TO ALL SIGNS

- A. **Safety Provisions.** All signs shall be designed, constructed, and located in accordance with the following criteria to protect the general health, safety, and welfare of the public.
 1. No sign shall be erected in such a manner as to obstruct free egress from a window, door or fire escape or to become a menace to life, health or property.
 2. No sign shall be erected at or near any intersection of streets, alleys, or railways in a manner that obstructs free and clear vision for pedestrians, bicyclists, and motorists.
 3. No sign shall be of a shape or color that may be confused with any authorized traffic control device.
 4. No rotating beam, beacon, or flashing illumination resembling an emergency light shall be used with any sign display.
 5. The erection of any sign and its supports, including any wiring and/or electrical components utilized therein, shall be consistent with the general accepted standards and practices of the New York State Building Code.
 6. The erection of any sign, its supports, wiring, or other structural and/or electrical elements may be subject to inspection and approval by the CEO.
- B. **Design and Construction.** All signs shall be designed and constructed in accordance with the following criteria:
 1. All signs shall be constructed of permanent, weather resistant, and durable materials, except for banners, flags, temporary signs, and window signs otherwise in conformance with this Article.
 2. Where applicable, signs shall be supported by sign structures that are designed to resist wind pressures, dead loads, and lateral loads in accordance with the appropriate provisions of the New York State Building Code.
 3. All sign lettering shall be permanently affixed to the sign.
 4. No permanent sign may be constructed of untreated or unpainted wood, sandblasted metal, or other unfinished material.
- C. **Location.** All signs shall be so located in accordance with the following standards:
 1. Signs shall not be erected within nor project into any public right-of-way, unless otherwise specified within this Article. Signs must be located on private property and comply with the dimensional and setback requirements herein.
 2. Off-premise signs are prohibited. All signs shall be located on the site being promoted, identified, or advertised with the exception of temporary signs.
 3. All signs, unless otherwise noted, are to be setback at least five feet from any property line.

4. For the purposes of this Article, banners or pennants shall be permitted as temporary signs. No banner shall be displayed over any sidewalk, Village street or highway except upon approval by the Village Board. A public liability bond or policy in the sum of at least \$50,000 shall be furnished for each banner which extends across a sidewalk, street or highway.
- D. **Visibility at Intersections.** No sign or any part of a sign exceeding three feet in height, other than a supporting pole or brace no greater than 18 inches in width or diameter, shall be located within the designated clear sight triangle of any intersecting streets. The clear sight triangle shall be defined by the triangle formed by two intersecting street lines and a line joining points on such street lines 30 feet from their intersection.
- E. **Illumination.** All sign illumination shall be in accordance with the following standards:
1. Light sources for illuminated signs shall not be of such brightness as to constitute a hazard to pedestrians or motorists and shall be shielded so as not to cast an illumination of more than two foot-candles on adjacent nonresidential properties or more than one-tenth (0.1) foot-candle on adjacent residential properties.
 2. Up-lighting, or the illumination of signs from a light source below that of the sign face, shall be permitted for ground signs or wall signs only.
 3. Intermittent illumination or illumination which involves movement or causes the illusion of movement resulting from the arrangement of lighting, is prohibited.
- F. **Maintenance and Repair.** All signs shall be maintained in safe and good structural condition, in compliance with all applicable building and electrical codes, and in conformance with this Article at all times. Such maintenance includes replacement of all defective bulbs, parts, materials, painting, repainting, cleaning, replacement of copy, and other acts required for maintenance of such sign. If any sign does not comply with these standards, the CEO may require its removal.
- G. **Obsolete Signs.** Any sign that no longer advertises or identifies the current or permitted use of the property must be removed within 30 days after written notification from the CEO.
- H. **Removal of Signs.**
1. Where required by this Article, the removal of signs shall be the sole responsibility of the sign owner. If said sign is not removed within 30 days of the date of written notice by the CEO, the CEO or their designee is authorized to affect its removal.
 2. The CEO may remove any sign that is found to be in violation of this Article. This shall include any sign that is found to be unsafe, insecure, or in such condition as to be a menace to the safety of the public. The sign owner shall be given written notice of the removal of such sign by the CEO. If the sign is not claimed within 10 days of such notice, the sign may be disposed of by the Village.
 3. Any costs incurred for the removal of a sign shall be fully reimbursed to the Village of East Aurora by the sign owner. Such costs may be placed on the tax roll for collection by the Village.

§ 285-44.5 SIGNS AUTHORIZED WITHOUT A PERMIT

The following types of signs may be erected in the Village without obtaining a sign permit. Although permits are not required for these signs, they shall conform to all other requirements of this Article or may be subject to removal by the CEO.

- A. **Directional Signs.** Signs that provide direction to pedestrians, bicyclists, or motorists shall not require a sign permit provided the following conditions are met:
 - 1. The cumulative area of signs on any one property shall not exceed an area of six square feet in a residential district or 12 square feet in a nonresidential district.
 - 2. No sign exceeds three feet in height or six square feet in area.
 - 3. The signs are not illuminated, unless otherwise approved by the Village Board.
 - 4. The signs do not extend above the first floor or project beyond property lines.
- B. **Signs on Gasoline Pumps.** Signs attached to a gasoline pump shall not require a permit provided they do not exceed six square feet in area per sign.
- C. **Governmental Signs.** Any official sign, public notice, or warning sign supported by federal, state or local law, including but not limited to signs erected and maintained pursuant to and in discharge of any government functions. (Example: New York State inspection station or authorized repair shop identification). There are no size requirements or time limits for governmental signs.
- D. **Historical Signs.** Signs such as cornerstones, commemorative tablets, and historical markers, provided that said signs are less than six square feet in area and not illuminated.
- E. **Incidental Signs.** Signs containing no commercial message that are intended to identify incidental property information, such as addresses, entrances, exits, or hours of operation, open/closed, shall not require a permit provided the following conditions are met:
 - 1. The sign does not exceed four square feet in area and two feet in height.
 - 2. The sign is not illuminated.
 - 3. If placed in a window, the sign is in conformance with all applicable regulations of window signs (Section 285-44.9).
- F. **Internal Signs.** Signs within a building not legible from the public right-of-way or adjacent lots, or any sign within an enclosed outdoor space, such as an athletic field, where such sign is not legible beyond the property lines. There are no requirements for internal signs.
- G. **Lawn Signs.** Lawn signs shall be allowed on any lot without a permit provided the following conditions are met:
 - 1. The sign does not exceed three feet in height and six square feet in area.
 - 2. The sign is not displayed for more than 30 days in a 90-day period.
 - 3. The sign is not illuminated.
- H. **Noncommercial Signs on a Residential Property.** Any sign on a residential property that does not contain a commercial message shall not require the issuance of a sign permit, provided the following conditions are met:

1. There is no more than one sign per dwelling unit.
2. No single sign exceeds three feet in height and six feet in area.
3. The cumulative area of all signs does not exceed 12 square feet.
4. The sign is not illuminated.
5. The sign is not attached to any permanent building or structure.

§ 285-44.6 PROHIBITED SIGNS

The following signs are prohibited within the Village:

- A. Signs for which no sign permit was issued or for which a sign permit has been revoked.
- B. Signs that are not properly maintained, considered structurally unsound, hazardous, or otherwise unsafe.
- C. Signs that contain words or pictures of an obscene or pornographic nature.
- D. Signs that emit audible sounds, odor, or visible matter.
- E. Signs placed on a curb, sidewalk, hydrant, utility pole, trees or other objects located on or over any public street unless otherwise permitted by the Village Board.
- F. Signs that may be confused with a traffic control sign, signal or device or the light of an emergency or road equipment vehicle or hide from view any traffic or street sign, signal, or device.
- G. Signs that flash, blink, rotate, or revolve, or utilize unshielded lighting devices or reflectors to outline or provide the background of a sign.
- H. Internally illuminated signs and signs that utilize exposed neon tubing for letters or lighting.
- I. Signs that are mounted on wheels or mounted on any structure on wheels.
- J. Signs mounted on or applied to registered vehicles unless such vehicle is parked legally or out of public view.
- K. Signs with mirrors or any other reflective material.
- L. Signs painted directly on walls or other structural building features except by Special Permit from the Village Board.
- M. Manual changeable copy signs, electronic changeable copy signs, and signs that are animated or utilize full motion or video technology.
- N. Banners, pennants, windblown or inflated signs that are permanently displayed.
- O. Roof signs, obsolete signs, off-premise signs, and billboards.

§ 285-44.7 SIGN PROVISIONS BY ZONING DISTRICTS

A. Residential Districts.

1. No lot or use shall have more than one sign type, as provided for in Section 285-44.9.
2. The illumination of signs in residential districts is prohibited.
3. Where a single- or multi-family residential development exists, such as an apartment complex, one ground sign may be permitted for the development at each entrance/exit access point.

B. Nonresidential Districts.

1. No use or lot shall have more than two sign types, as provided for in Section 285-44.9.
2. Where multiple operations or uses are located on a single lot, such as, but not limited to, industrial centers, business parks, or shopping plazas, each use shall be allowed two signs of any type in addition to one freestanding sign for the development.
3. Window signs shall not be included in the count of total allotted signage for any lot or use.
4. Marquee signs may be permitted with Village Board review and approval.

§ 285-44.8 NONCONFORMING SIGNS

- A. All signs that are nonconforming as of the date of enactment of this Chapter must be removed or brought into compliance at such time as the sign is replaced, the property and/or business changes use or ownership, or a new permit is required under the provisions of this Article.
- B. Any nonconforming sign that is removed from its position or siting and not replaced in-kind within 30 days shall be presumed to be abandoned and discontinued and may not be restored or re-erected except in compliance with this Article.
- C. No nonconforming sign may be altered in any way that would increase its nonconformity with the regulations of this Article, including but not limited to area, height, setback, and illumination.
- D. Nothing herein shall be deemed to prevent maintaining a nonconforming sign in good repair and safe condition.

§ 285-44.9 REGULATIONS BY SIGN TYPE

The following tables outline the requirements for sign types that may be proposed for installation within the Village. The tables regulate each type of sign by the zoning district in which it is located.

TABLE 44.9(A): GROUND SIGNS

GROUND SIGN: A sign not attached to any building or structure, which may be supported by one or two columns or posts provided the distance between the ground and bottommost edge of the sign is no greater than three feet.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted ¹	1 per lot	1 per lot	1 per lot	1 per lot	1 per lot	1 per lot	1 per lot
MAX Area (Square Feet)	6	32	16	16	32	16	16
MAX Height ² (Feet)	3	15	4	4	15	4	4
MIN Setback ³ (Feet)	5	10	5	5	10	5	5
Illumination Permitted	No	Yes	Yes	Yes	Yes	Yes	Yes

NOTES:
 (1) Signs shall be so located so that the sign face is parallel to the street.
 (2) Measured from the elevation of the ground at the center of the sign to the topmost edge of the sign.
 (3) Measured from the nearest edge of the sign to the front or side lot line.

TABLE 44.9(B): PEDESTAL SIGNS

PEDESTAL SIGN: A sign not attached to any building or structure supported by one or two columns or posts with a distance exceeding seven feet from the ground and the bottommost edge of the sign.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted ¹	-	1 per lot	-	-	1 per lot	-	-
MAX Area (Square Feet)	-	32	-	-	32	-	-
MAX Height ² (Feet)	-	10	-	-	10	-	-
MIN Setback ³ (Feet)	-	10	-	-	10	-	-
Illumination Permitted	-	Yes	-	-	Yes	-	-

NOTES:
 (1) Signs shall be so located so that the sign face is parallel to the street.
 (2) Measured from the elevation of the ground at the center of the sign to the topmost edge of the sign.
 (3) Measured from the nearest edge of the sign to the front or side lot line.

TABLE 44.9(C): WALL SIGNS

WALL SIGN: Any sign fastened to a building or structure that does not project more than 12 inches from the façade.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted	1 per structure	1 per façade	1 per façade	1 per façade	1 per façade	1 per façade	1 per façade
MAX Area ¹	6 square feet	12%	10%	10%	12%	10%	10%
MAX Height (Feet)	2	5	4	4	5	4	4
Illumination Permitted ²	No	Yes	Yes	Yes	Yes	Yes	No
NOTES:							
(1) Unless otherwise noted, the maximum area of a sign shall be measured as a percentage of the façade upon which it is to be located.							
(2) Any sign located on a façade facing a residential district or use shall not be illuminated.							

TABLE 44.9(D): PROJECTING SIGNS

PROJECTING SIGN: A sign wholly or partly dependent upon a building or structure for support which projects more than 12 inches, but less than 36 inches from the façade.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted	-	1 per use	1 per use	1 per use	-	1 per use	-
MAX Area (Square Feet)	-	8	6	6	-	6	-
MAX Height (Feet)	-	3	2	2	-	2	-
MIN Clearance ¹ (Feet)	-	8	8	8	-	8	-
Illumination Permitted	-	Yes	Yes	Yes	-	Yes	-
NOTE: (1) Measured from the elevation of the ground directly beneath the center of the sign to the bottommost edge of the sign.							

TABLE 44.9(E): SUSPENDED SIGNS

SUSPENDED SIGN: A sign attached to and supported by the underside of a horizontal plane.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted	-	1 per use	1 per use	1 per use	-	-	-
MAX Area (Square Feet)	-	8	6	6	-	-	-
MAX Height (Feet)	-	3	2	2	-	-	-
MIN Clearance ¹ (Feet)	-	8	8	8	-	-	-
Illumination Permitted	-	No	No	No	-	-	-

NOTE: (1) Measured from the elevation of the ground directly beneath the center of the sign to the bottommost edge of the sign.

TABLE 44.9(F): AWNING SIGNS

AWNING SIGN: A sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor area.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted ¹	-	1 per awning	1 per awning	1 per awning	1 per awning	1 per awning	-
MAX Height (Inches)	-	6	6	6	6	6	-
MIN Clearance ² (Feet)	-	8	8	8	8-	8	-
Illumination Permitted	-	No	No	No	No	No	-

NOTES:
 (1) Said sign shall only be permitted on the bottommost edge of the canvas, fabric, or other material to which it is applied, often referred to as the valence.
 (2) Measured from the elevation of the ground directly beneath the center of the awning to the bottommost edge of the awning.

TABLE 44.9(G): WINDOW SIGNS

WINDOW SIGN: A sign which is applied or attached to the exterior or interior of a window or is installed inside of a window within 12 inches of the window through which it can be seen.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted ¹	-	Any	Any	Any	Any	Any	-
MAX Area ²	-	20%	15%	15%	20%	15%	-
Illumination Permitted	-	No	No	No	No	No	-

NOTES:
 (1) Window signs shall not be included in the count of total allotted signage for any lot or use.
 (2) The maximum area of a sign shall be determined by the percentage of window area covered.

TABLE 44.9(H): SANDWICH BOARD SIGNS

SANDWICH BOARD SIGN: A freestanding sign that is comprised of two sign faces diverging at a 45-degree angle from their adjoined edge.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted ¹	1 per use	1 per use	1 per use	1 per use	1 per use	1 per use	1 per use
MAX Area (Square Feet)	6	6	6	6	6	6	6
MAX Height (Feet)	4	4	4	4	4	4	4
Illumination Permitted	No	No	No	No	No	No	No

NOTE: (1) Sign must be brought in each day at the close of business.

TABLE 44.9(I): TEMPORARY SIGNS

TEMPORARY SIGN: A sign which is not intended to be used for a period of time exceeding 30 days and is not attached to a building, structure, or the ground in a permanent manner.							
REQUIREMENT	ZONING DISTRICTS						
	R	GC	NC	VC	GM	VM	OS
Number Permitted¹	1 per use	1 per use	1 per use	1 per use	1 per use	1 per use	1 per use
MAX Area (Square Feet)	12	32	32	32	32	32	32
MAX Height (Feet)	3	4	4	4	4	4	4
Illumination Permitted	No	No	No	No	No	No	No
MAX Display Time²	30 days	30 days	30 days	30 days	30 days	30 days	30 days

NOTES:
 (1) Temporary signs shall not be included in the count of total allotted signage for any lot or use.
 (2) Max display time shall be limited to any given 90-day period.

PART 5: ADMINISTRATIVE PROVISIONS

ARTICLE 50: GENERAL APPLICATION & REVIEW PROCEDURES

ARTICLE 51: SITE PLAN REVIEW

ARTICLE 52: SPECIAL USE PERMITS

ARTICLE 53: ADMINISTRATION, ENFORCEMENT & PENALTIES

ARTICLE 54: VARIANCES

ARTICLE 55: APPEALS PROCEDURE

ARTICLE 56: NONCONFORMING USES & STRUCTURES

ARTICLE 57: ZONING MAP & TEXT AMENDMENTS

ARTICLE 50: GENERAL APPLICATION & REVIEW PROCEDURES

§ 285-50.1 APPLICATION SUBMITTAL

- A. **Submittal.** Applications required under this Chapter must be submitted in a form and in such numbers as outlined. Application forms and checklists of required submittal information may be available in the Village Office. The Village Clerk may provide checklists of application submittal requirements and make those checklists available to the public.
- B. **Board Review.** For the purposes of this Chapter the terms “reviewing board” or “review board,” shall refer to the Village board or commission charged with review and/or approval authority as enacted under this Chapter. For example, special use permit applications shall fall under the purview of the Village Board, while variance applications are subject to Zoning Board of Appeals review and approval.
- C. **Sketch Plan Meeting.**
1. Prior to submitting a formal application, it is recommended that applicant request a sketch plan meeting with the reviewing board to discuss the project and determine the procedure for moving forward with an application.
 2. The purpose of the sketch plan meeting is to provide the applicant with the opportunity to seek nonbinding, advisory direction from the Village to better prepare the applicant and application for the review process.
 3. A sketch plan meeting may occur at any scheduled meeting of the reviewing board. Any comment provided by the reviewing board shall not be construed as a formal decision or be legally binding in any way.
 4. Materials presented as part of a sketch plan may be incomplete and/or conceptual in design. A formal application is required for official review and approval of the project.
- D. **Acceptance of Application.**
1. Applications where required by this Chapter shall be submitted to the CEO. The property or building owner, their agent, or lessee, purchaser or tenant, with legally binding and written permission of the owner, may file applications.
 2. All materials and maps shall be provided by the applicant in the number and form required by the reviewing board, unless otherwise waived by the reviewing board.
 3. Applications must be submitted to the CEO at least two weeks prior to the regularly scheduled board meeting to be considered at such meeting.
 4. The CEO shall indicate that an application is considered accepted and ready for processing only if it is submitted in the required number and form, includes all required materials, and is accompanied by the required filing fee.
 5. The acceptance of an application by the CEO shall in no way be interpreted to include a determination of the completeness, adequacy, or accuracy of application materials, but rather serve as an acknowledgement to the receipt of all initially required application

materials. The CEO may consult with other Village departments or divisions, officials, or review boards in making such a determination.

6. If an application is determined to be unacceptable, the CEO must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies in the application that will prevent competent review. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 30 days, the application will be considered withdrawn. No further processing of unacceptable applications will occur; any incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next available processing cycle.
7. Prior to issuing a decision on an accepted application, the reviewing board shall make a formal determination that the application is complete.

§ 285-50.2 PUBLIC HEARINGS & NOTICES

A. Public Hearings.

1. A public hearing shall be required for all special use permit applications. The reviewing board shall schedule and conduct a public hearing for site plan review or other permit applications.
2. The reviewing board may review special use permit and site plan applications for a single property or use concurrently and may conduct concurrent public hearings if desired.
3. Within 62 days from the receipt of a complete application, the reviewing board must convene a public hearing on the application in question.

B. Public Notice Required.

1. Per NYS Village Law, public notice shall be made for all public hearings held by the Village of East Aurora. Public notice shall be made in the form of a mailed notice, media notice, and posted notice, where applicable.
2. All public notices shall be made at least five days prior to the date of the scheduled public hearing.

C. Mailed Notices.

1. The Village Clerk shall notify by mail the owners of all real property as shown on the current tax map, located within 500 feet of the property that is the subject of the hearing.
2. The Village Clerk shall give public notice by mail or electronic transmission to the clerks of adjoining municipalities whose boundaries are located within 500 feet of the property that is the subject of the hearing.
3. The Village Clerk shall give public notice by mail or electronic transmission to the County Planning Department when the hearing concerns property adjacent to an existing county road or proposed road shown on the official county map, adjoining other county land or situated within 500 feet of a municipal boundary.
4. The applicant shall be required to pay an additional fee as set by the Village Board for the mailing and publishing of a public notice. If said fee is not received within 30 days of the

request, the application shall be considered withdrawn or any such decision rendered shall be considered null and void.

- D. **Media Notices.** The Village Clerk shall give public notice of a public hearing by causing publication of a notice in the Village's official newspaper or with local media and on the Village's official website.
- E. **Posted Notices.**
 - 1. A public hearing notice shall be posted in a location plainly visible within the Village Hall of East Aurora.
 - 2. Where a specific property is subject to a public hearing, at least one sign of public notice shall be posted on the property in a location that is plainly visible to passers-by. It shall be the responsibility of the applicant to obtain such sign(s) of public notice from the Village and erect it in accordance with the time and place requirements defined herein.
- F. **Public Notice Content.** The content of public notices should be in conformance with New York State Village Law and:
 - 1. Indicate the date, time, and place of the public hearing or date of action that is the subject of the notice;
 - 2. Describe any property involved in the application by street address or by general description;
 - 3. Describe the general nature, scope, and purpose of the application or proposal; and
 - 4. Indicate where additional information on the matter can be obtained.

§ 285-50.3 REVIEW BOARD ACTION

- A. Within 62 days following the close of the public hearing, the reviewing board shall issue a decision by majority vote to approve, approve with conditions or modifications, or deny the proposed application.
- B. Applications shall be reviewed based on all applicable criteria within this Chapter as well as additional local, county, state, or federal laws and regulations.
- C. Decisions shall contain written findings explaining the rationale for the decisions considering the standards contained in this Chapter. A copy of the decision shall be immediately filed in the Village Clerk's Office and mailed to the applicant.
- D. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria. Applications must address relevant review and decision-making criteria.

§ 285-50.4 REFERRALS

- A. The reviewing board may request additional information from any Village department or division to assist in the review of an application.

- B. The reviewing board may seek the opinion of any legal, engineering, design, or other professional to aid in the review of an application. Any such costs incurred as a result of seeking professional aid shall be reimbursed by the applicant.
- C. The Village shall refer all materials to the Erie County Planning Department pursuant to New York State General Municipal Law, as amended. This shall include, but is not limited to any application affecting the following:
 - 1. Real property within 500 feet of the boundary of an adjacent municipality;
 - 2. The boundary of any existing or proposed County or State park or other recreational area;
 - 3. The boundary of any existing or proposed County or State roadway;
 - 4. The boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines;
 - 5. The boundary of any existing or proposed County or State owned land; or
 - 6. The boundary of a farm operation within an agricultural district as defined in Article 25AA of the New York State Agriculture and Markets Law.
- D. No action shall be taken on applications referred to the County Planning Department until its recommendation has been received, or until 30 days have elapsed after the County's receipt of the application, unless the County and Village agree to an extension beyond the 30-day requirement.
- E. A majority plus one vote of the review board, otherwise known as a super majority, shall be required to grant any application approval that receives a recommendation of disapproval from the County. A resolution must also be filed setting forth the reasons for such contrary action.

§ 285-50.5 EXPIRATION, CHANGE OF USE, REVOCATION, & ENFORCEMENT

- A. The approval of an application shall expire if one of any of the following occur:
 - 1. The approved use or uses cease operation for more than six consecutive months for any reason;
 - 2. The applicant fails to obtain necessary building permit(s) or certificate of occupancy within six months of the approval date;
 - 3. The applicant fails to comply with the conditions of the application's approval within six months of the date of issuance or completion of construction, where applicable;
 - 4. The applicant fails to initiate construction within 12 months of the approval date and no written request for extension has been approved by the Village Board;
 - 5. The applicant fails to complete construction within two years of the approval date and no written request for extension has been approved by the Village Board; or
 - 6. A permit's time limit expires without renewal.
- B. The reviewing board may revoke approval if the applicant violates the conditions of the approval or engages in any construction or alteration not authorized by the approval. Any violation of the conditions of an approval shall be deemed a violation of this Chapter, and shall be subject to enforcement action as provided herein.

- C. The Village reserves the right to revoke any permit or approval that is not validly issued or is not in conformance with this Chapter.

**§ 285-50.6 STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)
COMPLIANCE**

- A. All applications, where required by New York State Law, shall fulfill the New York State Environmental Quality Review (SEQR) requirement.
- B. SEQR is a New York statute that became law on August 1, 1975. The text of SEQR is found in Article 8 of the New York Environmental Conservation Law. The SEQR regulations provide a guideline for local officials to ensure compliance with SEQR. The regulations are found in Part 617 of the New York Code of Rules and Regulations [6 N.Y.C.R.R. Part 617]. Where requirements of this Section may come in conflict with SEQRA law, the state regulations shall supersede.
- C. The lead agency, often the Village Board, shall make a determination of the SEQRA classification for all applications. These determinations may fall under the following:
 - 1. Type I Actions. Type I actions (listed under 6 NYCRR Part 617.4) meet or exceed thresholds listed in the statewide or agency SEQR regulations. Type I actions require the completion of a full Environmental Assessment Form (EAF). Type I actions include, but are not limited to:
 - a) Nonresidential projects physically altering 10 or more acres of land.
 - b) Zoning changes affecting 25 or more acres.
 - 2. Type II Actions. Type II actions (listed under 6 NYCRR Part 617.5) are determined not to have a significant adverse impact on the environment; therefore, Type II actions do not require further review. Some examples include:
 - a) Rebuilding or replacement of facilities, in kind, on the same site.
 - b) Minor structures, such as garages, barns or home swimming pools, routine permit and license renewals with no substantial change in permitted activities.
 - c) Construction or expansion of either primary or accessory nonresidential structures with less than 4,000 square feet of gross floor space.
 - d) Constructing or expanding a single, two or three family residence on an approved lot.
 - e) Routine activities of educational institutions, including expansions of existing facilities by less than 10,000 square feet.
 - f) Maintenance and repair activities.
 - g) Emergency actions.
 - 3. Unlisted Actions. Unlisted actions do not meet the Type I thresholds, but still require the completion of either a full or short form EAF. Some examples include:
 - a) Nonresidential projects physically altering less than 10 acres of land.
 - b) Parking for less than 1,000 cars.
 - c) Sale, purchase, lease or other transfer of fewer than 100 acres of land by government entity.

- d) Adoption of regulations, ordinances, local laws and resolutions that may affect the environment.
 - e) Other activities not specifically listed in either 6 NYCRR Parts 617.4 or 617.5.
- D. If the lead agency, through the completion of an EAF, determines an action not to have a significant adverse environmental impact, a Negative Declaration is prepared. If an action is determined to potentially have significant adverse environmental impacts, a draft and final Environmental Impact Statement (EIS) is required.
- E. Applicants may be responsible for preparing the required draft and final EIS at the request of the reviewing board. Should the applicant defer to the Village for the preparation of a draft and/or final EIS, a written agreement for reimbursement to the Village for such expense shall be required.
- F. When actions consist of several steps or sets of activities, the entire set must be considered the action, even if several separate agencies are involved. Therefore, in the case of an application requiring both special use permit and site plan review approval, the SEQR documentation shall list the special use permit and site plan as a joint action.
- G. The Village Board may request the completion of a full EAF by the applicant if it is deemed more appropriate for proper review of the application.

ARTICLE 51: SITE PLAN REVIEW

§ 285-51.1 INTENT

The intent of the site plan review process is to preserve and enhance the character of a neighborhood, achieve compatibility with adjacent development, mitigate potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improve the overall visual and aesthetic quality of the Village, and increase the capability of the Zoning Code to adapt to a variety of unique circumstances.

§ 285-51.2 APPLICABILITY

- A. Site plan review shall be required in accordance with New York State Village Law. No building permit may be issued, or site improvement work commence, until site plan approval has been granted.
- B. Site plan review shall be required for the following actions:
 - 1. New construction, excluding interior renovations and exterior handicap access facilities.
 - 2. Demolition of existing structures greater than 500 square feet.
 - 3. Exterior alterations for which a building permit is required.
 - 4. New or expanded parking areas.
- C. The following actions are exempt from site plan review:
 - 1. Construction of a single- or two-family dwelling on a single lot.
 - 2. Construction of permitted accessory structures to single- and two-family dwellings.
 - 3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - 4. Maintenance or replacement of existing sign structures or placement of signs in all districts.

§ 285-51.3 APPLICATION REQUIREMENTS

- A. Applications shall be received and processed as outlined in Article 50 of this Chapter.
- B. An application for site plan review shall include the following materials, as applicable. A licensed professional engineer or registered land surveyor shall prepare all site plan materials unless otherwise approved by the Village Board.
 - 1. Site plan review application form, including the name, address, and signature of the applicant, owner of record, and developer, and seal(s) of the engineer, architect, or landscape architect who prepared the site plan materials.
 - 2. Description or narrative of all proposed uses and structures, including but not limited to hours of operation, number of employees, maximum seat capacity, and proposed number of off-street vehicle and bicycle parking spaces.

3. A site plan drawn at a scale of one inch equals 20 feet or such other scale as the Village Board may deem appropriate, on standard 24 inch by 36 inch sheets, with continuation on 8 ½ inch by 11 inch sheets as necessary for written information.
4. A certified land survey showing the boundaries of the applicant's property under consideration in its current state plotted to scale with the north point, scale, and date clearly indicated, or other document deemed acceptable by the reviewing board.
5. Plans indicating the following with regard to the property in question, where applicable.
 - a) The location of all properties, their ownership, uses thereon, subdivisions, streets, easements, and adjacent buildings within 300 feet of the property in question.
 - b) The location and use of all existing and proposed structures on the property in question, including all dimensions of height and floor area, exterior entrances, and anticipated future additions and alterations.
 - c) The location of all existing and proposed topography features, including but not limited to, site grading, open spaces, woodlands, watercourses, steep slopes, wetlands, floodplains, and watersheds.
 - d) The location of existing and proposed landscaping, screening, walls, and fences, including information regarding the size and type of plants and building materials proposed.
 - e) The location of existing and proposed public and private streets, off-street parking areas, loading areas, driveways, sidewalks, ramps, curbs, and paths. Such plans shall include considerations for vehicular, pedestrian, and bicycle traffic circulation, parking, and access.
 - f) The location of existing and proposed utility systems including sewage or septic, water supply, telephone, cable, electric, and stormwater drainage. Stormwater drainage systems shall include existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
 - g) The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
 - h) The location, height, size, material, and design of all existing and proposed signs.
6. The Village Board may request a detailed traffic study, including:
 - a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 - c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels and road capacity levels shall also be given.
7. Elevations at a scale of one-quarter inch equals one foot for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color or materials to be used.
8. The Village Board may require soil logs, test well, percolation test results, stormwater runoff calculations, and tree surveys.

9. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.
 10. Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
 11. A schedule for completion of each construction phase for buildings, parking, and landscaped areas.
 12. All New York State SEQR documentation as required by law.
 13. All required fees and reimbursements, and an escrow deposit to cover professional review costs, if required.
- C. The Village Board may waive any of the previously listed requirements with the determination that they are unnecessary for a complete assessment of the project.
- D. The Village Board may also request additional information beyond what is listed in this Section and may ask that be presented in graphic form accompanied by a written text, and/or prepared by a licensed professional if such additional materials are deemed necessary for a complete assessment of the site plan.

§ 285-51.4 SITE PLAN REVIEW CRITERIA

- A. The Village Board shall review the site plan and supporting data before approval, approval with modifications, or disapproval of such site plan, taking into consideration the following:
1. Adequacy and arrangement of vehicular traffic and circulation, including intersections, road widths, channelization structures and traffic controls.
 2. Adequacy and arrangement of pedestrian and bicyclist access and circulation, including separation from vehicular traffic where appropriate and connection both internally and externally to the site.
 3. Relationship of proposed uses to existing adjacent uses, including but not limited to landscape transitions, buffering, and harmony of uses.
 4. Adequacy of landscaping and site treatment, including but not limited to plant types and sizes, hardscape elements, lighting, setbacks, protection of adjacent residential uses.
 5. Relationship of proposed buildings to the site, including but not limited to building placement, access, pedestrian movement, parking, and building scale.
 6. Appropriateness of building design, including but not limited to design quality and relationship to surrounding building scale, style, materials, and sightlines.
 7. Location, arrangement, size, design and general site compatibility of lighting and signs.
 8. Adequacy of interior circulation for emergency vehicle access.
 9. Adequacy of water supply, stormwater, and sanitary waste disposal facilities.
 10. Conformance with this Chapter and the Village's Comprehensive Plan.
- B. The Village Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to ensure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should the Village Board require changes or additional facilities, final approval of site plan shall be conditional upon satisfactory compliance by applicant in making the changes or additions.

- C. Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Village Board for review and approval.

§ 285-51.5 PLANNING COMMISSION RECOMMENDATION REQUIRED

- A. Prior to Village Board review and the issuance of a final decision, site plan applications shall be reviewed by the Planning Commission. The Planning Commission shall provide a recommendation of approval, conditional approval, or disapproval of the site plan to the Village Board. This review and issuance of recommendation shall follow the application procedures of Article 50 of this Chapter. A copy of the appropriate Planning Commission minutes shall be a sufficient report.
- B. For site plan applications of minor projects, the Village Board may waive the requirement for Planning Commission review and recommendation with written agreement by the applicant.

§ 285-51.6 VILLAGE BOARD ACTION

- A. The Village Board may elect to hold a public hearing for the review of any site plan application. Notice of said hearing shall be given in accordance with Article 50 of this Chapter.
- B. Upon issuing a decision, the Village Board shall provide a written statement to the applicant stating whether or not the site plan is approved, conditionally approved, or disapproved. A copy of the appropriate Village Board minutes shall be a sufficient report.
 - 1. Upon approval, the Village Board shall endorse its approval on a copy of the site plan and shall immediately file it and the written statement of approval with the Village Clerk. All approvals shall be conditional upon final approval by the Building Inspector, as appropriate, of all construction designs and specifications.
 - 2. The Village Board may conditionally approve a site plan. After adequate demonstration to the Village Board that all conditions have been met, the Village Board shall endorse its approval on a copy of the site plan and shall immediately file it and the written statement of approval with the Village Clerk. All approvals shall be conditional upon final approval by the Building Inspector, as appropriate, of all construction designs and specifications.
 - 3. Upon disapproval of a site plan, the decision of the Village Board shall immediately be filed with the Village Clerk.
- C. A copy of the written decision statement shall be mailed to the applicant in all cases. The appropriate Village Board minutes shall be a sufficient report.

ARTICLE 52: SPECIAL USE PERMITS

§ 285-52.1 APPLICABILITY

- A. A special use permit application shall be submitted for any proposed use or activity requiring a special use permit under this Chapter. Such applications shall be subject to the review and approval procedures of Article 50 of this Chapter. The Village Board shall hear and decide all applications for special use permits.
- B. Special uses are generally considered to be uses that have a higher potential for incompatibility with adjacent uses. By requiring the individual review of special use permit applications, the Village Board helps to determine the level of compatibility of a use in its proposed location.
- C. Once granted, a special use permit is authorized with respect to the specified use and/or property rather than the applicant or property owner. Any change of use which results in a departure from operations and conditions authorized under the existing special use permit shall require the review and issuance of a new permit.

§ 285-52.2 SPECIAL USE PERMIT APPLICATION REQUIREMENTS

- A. An applicant for a special use permit shall submit:
 - 1. A special use permit application form, including the name, address, and signature of the applicant, owner of record, and developer.
 - 2. A description or narrative of all proposed uses and structures, including but not limited to hours of operation, number of employees, maximum seat capacity, and required number of parking spaces.
 - 3. A narrative report describing how the proposed use will satisfy the criteria set forth in the special use permit review criteria of this Chapter, as well as any other applicable requirements relating to the specific use proposed.
 - 4. All SEQR Documentation as required by New York State Law.
 - 5. The special use permit application fee, as established by the Village Board, and any required escrow deposit for review costs, as required by the Village Board.
- B. The Village Board may waive special use permit application requirements, as it deems appropriate, through a written agreement with the applicant.

§ 285-52.3 SPECIAL USE PERMIT CONSIDERATIONS

- A. In granting or denying special use permits, the Village Board shall take into consideration the:
 - 1. The compatibility of scale of the proposed project to surrounding uses;
 - 2. The potential for the proposed use to have negative impacts, such as traffic or noise, on neighboring uses;
 - 3. The economically viable use of property;

4. The existence or proposition measures that would tend to mitigate potential adverse impacts and preserve or enhance the traditional character of the Village.
 5. Any applicable requirements of Article 31 of this Chapter (Regulations for Certain Uses).
- B. The Village Board may request the review and recommendation of a special use permit application by the Planning Commission. Such review would follow the application procedures of Article 50 of this Chapter and authorize the Planning Commission to waive or require additional application materials.

§ 285-52.4 SPECIAL USE PERMIT REVIEW CRITERIA

Before issuing a decision for a special use permit, the Village Board shall make specific written findings that the proposed use:

- A. Will be generally consistent with the goals of the Village Comprehensive Plan;
- B. Will meet all relevant criteria set forth in this Chapter;
- C. Will be compatible with existing uses adjacent to and near the property;
- D. Will not create a hazard to health, safety or the general welfare of the public;
- E. Will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents;
- F. Will not be a nuisance to neighboring land uses in terms of the production of obnoxious or objectionable noise, dust, glare, odor, refuse, fumes, vibrations, unsightliness, contamination or other similar conditions;
- G. Will not cause undue harm to or destroy existing sensitive natural features on the site or in the surrounding area or cause adverse environmental impacts such as significant erosion and/or sedimentation, slope destruction, flooding or ponding of water, or degradation of water quality;
- H. Will not destroy or adversely impact significant historic and/or cultural resource sites;
- I. Will provide adequate landscaping, screening or buffering between adjacent uses which are incompatible with the proposed project; and
- J. Will not otherwise be detrimental to the public convenience and welfare.

§ 285-52.5 CONDITIONS ON SPECIAL USE PERMITS

The Village Board may impose conditions on or require modifications of the premises benefited by a special use permit as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood, including limitations on the time for which the permit is granted. Such conditions shall be expressly set forth in the motion authorizing the special use permit.

§ 285-52.6 REVOCATION OF SPECIAL USE PERMIT

- A. A special use permit issued herein shall be revocable at the option of the Village Board in the event of any violation of any terms and conditions of such special permit.
- B. A special use permit shall authorize only one special use and shall expire if the special use ceases operation for more than 12 consecutive months for any reason.

§ 285-52.7 AMENDMENTS TO APPROVED SPECIAL USE PERMITS

Proposed amendments or revisions to an approved special use permit shall be subject to review and approval in accordance with this Article. The issuance of a new, updated special use permit shall be required.

§ 285-52.8 TEMPORARY USE PERMITS

A. **Applicability.**

- 1. Uses requiring the issuance of a temporary use permit by the Village Board, include, but are not limited to the following:
 - a) Public or private sales or events proposed to be located on public property or requiring the use of or impacting public property and/or services, such as sidewalks, streets, or policing.
 - b) Public or private sales or events that are proposed to be conducted over a period of two or more days consecutively.
 - c) Public or private sales or events that are anticipated to increase off-street parking demand beyond what is available on the site in which they are to be located.
- 2. A permit under this Article shall be applied for and issued to a sponsoring organization providing a person or persons are designated by the sponsoring organization with the responsibility of overseeing the activity.
- 3. Residential garage, lawn, yard, or rummage sales shall be allowed without zoning permits provided that no more than two such sales are held on a single property in any 12-month period for a maximum duration of no more than seven days, with a minimum of seven days between the ending of a sale and the beginning of a new sale. At the end of a sale, all items that are for sale shall be moved so as not to be visible from the public right-of-way.

B. **Application Requirements.**

- 1. Applications for a temporary use permit shall be made to the Village Clerk at least 30 days prior to the proposed sale or event.
- 2. The application shall be on forms supplied by the Village and shall provide information as may be necessary to establish compliance with this Section, including but not limited to the following:

- a) The name, address and telephone number of the applicant.
 - b) The name, address and telephone number of the owner or owners of the property.
 - c) The date and time the activity or use is to be conducted.
 - d) A description of the activity or use.
 - e) A schematic drawing of the premises, indicating the area to be occupied for which a special use permit is required.
 - f) A completed certificate of insurance with the minimum limits as established by the Village Board and on file in the Village Clerk's office. The certificate of insurance shall be endorsed to include the Village of East Aurora as an additional named insured.
 - g) An indemnification agreement on the organization's letterhead, signed by the authorized applicant or officer of the company and duly notarized.
 - h) The permit fee as provided for in Chapter 137, Article II, of the Village Code.
 - i) A street closure request, as applicable.
- C. **Review Procedure.** The Village Clerk shall be responsible for the review and issuance of decision for temporary use permits.
- D. **Village Board Action.**
1. The Village Board shall, by resolution, approve or deny any application for a temporary use permit. Such decision shall be filed with the Village Clerk and provided to the applicant with written findings.
 2. The Village Board may impose any additional terms and conditions that such Board may find necessary to promote the general health, welfare and safety of the inhabitants of the Village of East Aurora.
 3. The temporary use permit issued herein shall be revocable at the option of the Village Board in the event of any violation of this Section or the terms and conditions of such permit imposed by the Village Board.
- E. **Public Notice.** The Village Clerk shall post public notice of any street closure and provide a mailed notice to all property owners affected by the closure.
- F. **Temporary Parking.** In the case of temporary off-street parking lots where there are practical difficulties or unnecessary hardships in providing sufficient parking in accordance with Article 40 of this Chapter, the Village Board may modify the requirements as a condition of temporary use permit approval. Said conditions must:
1. Describe the premises to be so used for temporary off-street parking.
 2. Prescribe alternative and/or modified surfacing, screening and lighting requirements.
 3. Prescribe the duration of the temporary period to which the special permit shall pertain.
 4. Prescribe any further conditions that the Village Board deems to be necessary to protect the health, safety, and welfare of the public.

ARTICLE 53: ADMINISTRATION, ENFORCEMENT & PENALTIES

§ 285-53.1 CODE ENFORCEMENT OFFICER (CEO)

- A. This Chapter shall be administered and enforced by the Code Enforcement Officer (CEO), or as otherwise specifically designated herein.
- B. It shall be the duty of the CEO to secure the enforcement of this Chapter, subject to the rules, laws, regulations and local laws of the Village of East Aurora. Such duties include, but are not limited to:
 - 1. Determining completeness of applications as outlined in Article 50 of this Chapter;
 - 2. Issuing all permits or certificates required by this Chapter. No building permit or certificate of occupancy shall be granted by for any purpose except in compliance with the provisions of this Chapter;
 - 3. Issuing a written notice of violation to any person, firm or corporation violating any provisions of this Chapter;
 - 4. Keeping all records of applications, permits or certificates issued or variances granted, inspections made, reports rendered and notices or orders issued;
 - 5. Making all inspections as required by this Chapter, the Village Board, and New York State Village Law; and
 - 6. Perform all other duties as provided in this Chapter and/or New York State Village Law.

§ 285-53.2 VILLAGE BOARD

- A. **Establishment.** The establishment of the Village of East Aurora Board of Trustees is provided for in Chapter 5 of the Village Code. Where noted in this Chapter, the Village Board shall have full authority to administer and enforce this zoning law.
- B. **Conduct.** As administrators and enforcers of this Chapter, the Village Board is hereby entitled to the following methods of conduct:
 - 1. The Village Board may adopt rules for the conduct of its business consistent with statute and this Chapter.
 - 2. The Village Board may appoint clerks or other employees serving at its pleasure. The Village Board may also appoint clerks or other employees to serve at the pleasure of the Planning Commission or Zoning Board of Appeals.
 - 3. The Village Board may seek recommendations from other boards, commissions, agencies, or professionals as it deems appropriate.
 - 4. Hearings shall be public, and decisions shall be voted upon at public sessions. The Village Board may otherwise hold executive sessions in accordance with the New York State Open Meetings Law.

- C. **Minutes.** The Village Clerk, or the Village Clerk's designee, shall keep minutes of all proceedings before the Village Board.
- D. **Powers and Duties.** The Village Board's powers and duties with respect to this Chapter shall include final authority on the following:
 - 1. Amendments to the Zoning Map (rezoning);
 - 2. Amendments to the text of this Chapter;
 - 3. Site plan review;
 - 4. Special use permits; and
 - 5. Subdivision review.

§ 285-53.3 PLANNING COMMISSION

- A. **Establishment.** Per Section 7-718 of New York State Village Law the Planning Commission previously established under local law and still in existence at the time of this Chapter's enactment shall hereby be continued and is so appointed to have the powers and duties provided a Planning Board in New York State Village Law.
- B. **Membership, Terms, and Appointments.**
 - 1. The Planning Commission shall consist of seven members appointed by the Village Board, of which one shall be appointed to serve as the Planning Commission Chairperson.
 - 2. Planning Commission members may include Village of East Aurora residents, property owners, or business owners.
 - 3. The terms of the members of the Planning Commission shall be three years each with rolling terms.
 - 4. The Village Board may appoint additional clerks or other employees serving at its pleasure to assist the Planning Commission.
- C. **Vacancy.** If a vacancy occurs other than by expiration of term, the Village Board shall appoint a new member for the unexpired term.
- D. **Alternate Members.** The position of alternate Planning Commission member is hereby created for purposes of substituting for members in the event that a Planning Commission member is unable to serve because of a conflict of interest or for any other reason.
 - 1. Such alternate Planning Commission members shall be appointed by resolution of the Village Board, for terms established by the Village Board.
 - 2. The Planning Commission Chairperson may designate an alternate member to substitute for a Planning Commission member when such member is unable to participate due to a conflict of interest or is otherwise unavailable to participate on an application or matter before the Commission, provided that the Village Board has appointed such alternate member to the position of alternate member.
 - 3. When so designated, such alternate member shall have all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Planning Commission meeting at which the designation occurred.

4. All other provisions of law relating to Planning Commission member training, and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.
- E. **Member Training.** Planning Commission members are required to meet the minimum training requirements each year set forth by New York State Village Law.
- F. **Compensation.** Planning Commission members shall serve without compensation.
- G. **Conduct.**
1. The Planning Commission may adopt rules for the conduct of its business consistent with statute and this Chapter.
 2. In the absence of a Chairperson, the Planning Commission may designate a member to serve as acting Chairperson.
 3. The Chairperson of the Planning Commission, or in the Chairperson's absence the acting Chairperson, may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by New York State Village Law and the Civil Practice Law and Rules.
 4. The Planning Commission may seek recommendations from Village departments, other boards, and other agencies, as it deems appropriate.
 5. Hearings shall be public, and decisions shall be voted upon at public sessions. The Planning Commission may otherwise hold executive sessions in accordance with the New York State Open Meetings Law.
 6. The Planning Commission may provide for compensation to be paid to experts, clerks, and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Village Board for such purpose.
- H. **Minutes.** The Village Clerk, or the Village Clerk's designee, shall keep minutes of all proceedings before the Planning Commission.
- I. **Removal.** The Village Board shall have the power to remove, after public hearing, any member of the Planning Commission for cause. Any Planning Commission member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by local law and New York State Village Law.
- J. **Power and Duties.** Pursuant to this Article and New York State Village Law, the Planning Commission is hereby authorized and empowered with review and advisory authority as follows:
1. Amendments to the Zoning Map (rezoning);
 2. Amendments to the text of this Chapter;
 3. Site plan review;
 4. Special use permits;
 5. Subdivision review.
- K. **Additional Powers.** The Planning Commission may exercise additional powers as directed by the Village Board and as may be described elsewhere in this Chapter and as permitted by New York State Village Law.

§ 285-53.4 ZONING BOARD OF APPEALS (ZBA)

A. **Establishment.**

1. The Zoning Board of Appeals (ZBA) is established under the provisions of New York State Village Law and by this Article.
2. The ZBA as constituted on the effective date of this Chapter is hereby continued.

B. **Membership.**

1. The ZBA shall consist of five members appointed by the Village Board.
2. Members of the ZBA shall be appointed for a five-year term.
3. No person who is a member of the Village Board shall be eligible for membership on such ZBA.
4. In making such appointment, the Village Board may require ZBA members to complete training and continuing education courses in accordance with any local or state requirements for the training of such members.

C. **Vacancy.** If a vacancy occurs other than by expiration of term, the Village Board shall appoint a new member for the unexpired term.

D. **Alternate Members.** The position of alternate ZBA member is hereby created for purposes of substituting for members in the event that a ZBA member is unable to serve because of a conflict of interest or for any other reason.

1. Such alternate ZBA members shall be appointed by resolution of the Village Board, for terms established by the Village Board.
2. The ZBA Chairperson may designate an alternate member to substitute for a ZBA member when such member is unable to participate due to a conflict of interest or is otherwise unavailable to participate on an application or matter before the Commission, provided that the Village Board has appointed such alternate member to the position of alternate member.
3. When so designated, such alternate member shall have all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial ZBA meeting at which the designation occurred.
4. All other provisions of law relating to ZBA member training, and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

E. **Member Training.** ZBA members are required to meet the minimum training requirements each year set forth by New York State Village Law.

F. **Conduct.**

1. The ZBA may adopt rules for the conduct of its business consistent with statute and this Chapter.
2. In the absence of a Chairperson, the ZBA may designate a member to serve as acting Chairperson.

3. The Chairperson of the ZBA, or in the Chairperson's absence the acting Chairperson, may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by New York State Village Law and the Civil Practice Law and Rules.
 4. The ZBA may seek recommendations from Village departments, the Planning Commission, other boards, and other agencies, as it deems appropriate.
 5. Hearings shall be public, and decisions shall be voted upon at public sessions. The ZBA may otherwise hold executive sessions in accordance with the New York State Open Meetings Law.
 6. The ZBA may provide for compensation to be paid to experts, clerks, and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Village Board for such purpose.
- G. **Minutes.** The Village Clerk, or the Village Clerk's designee, shall keep minutes of all proceedings before the ZBA.
- H. **Removal.** The Village Board shall have the power to remove, after public hearing, any member of the ZBA for cause. Any ZBA member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by local law and New York State Village Law.
- I. **Powers and Duties.** The ZBA shall be responsible for final action regarding the following:
1. Variances;
 2. Appeals; and
 3. Zoning code interpretations.
- J. **Additional Powers.** The ZBA may exercise additional powers as directed by the Village Board and as may be described elsewhere in this Chapter and as permitted by New York State Law.

§ 285-53.5 DEMOLITION & BUILDING PERMITS

- A. No person or persons shall commence to erect, construct, alter, or change the nature or the type of occupancy of any land, building or structure within the Village of East Aurora until the owner of the land upon which it is proposed to so erect, construct, alter, demolish or change the nature or the type of occupancy of any such land, building or structure has applied for and obtained a building permit for the same from the CEO.
- B. A person may demolish an existing building or structure having a gross floor area of 200 square feet or less without obtaining a building or demolition permit.
- C. Demolition of an existing building or structure greater than 500 square feet and more than 50 years old must obtain a demolition permit in accordance with Chapter 112 of the East Aurora Village Code.

No building permit may be issued without first obtaining site plan approval for a new development plan as provided for in Article 51 of this Chapter.

- D. A building permit issued by the CEO pursuant to this Section shall be valid for a period of one year from the date of issue. Building permits for pools issued by the CEO shall be valid for a period of three months from the date of issue.

§ 285-53.6 RESERVED

§ 285-53.7 CERTIFICATE OF ZONING COMPLIANCE

- A. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter erected, constructed, altered, moved or converted or of any building or premises or part thereof changed or converted to a different use until a certificate of zoning compliance shall have been issued by the CEO. Such certificate shall show that such building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this Chapter. An application for a certificate of zoning compliance shall be on forms supplied by the CEO, shall include an agreement to comply with this Chapter and all other laws, ordinances and regulations that may be applicable and shall be signed by the owner. It shall be the duty of the CEO, after having determined that the building and the proposed use thereof conform with all the requirements herein set forth, to issue a certificate of zoning compliance within five days after the application for the same shall have been filed in the code enforcement office.
- B. In addition, upon written request by the owner, the CEO shall inspect any building, other structure or tract of land existing on the effective date of this Chapter and shall issue a certificate of zoning compliance certifying the use of the building, other structure or tract of land and whether such use conforms to all the provisions of this Chapter.

§ 285-53.8 INSPECTIONS

The CEO is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provisions of this Chapter. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct the violation or to comply with such order.

§ 285-53.9 PENALTIES FOR OFFENSES

Violations of any of the provisions of this Chapter shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both. Each day's continuance of a violation after notice shall be deemed a separate and distinct violation and shall be punishable accordingly.

ARTICLE 54: VARIANCES

§ 285-54.1 APPLICABILITY

The Zoning Board of Appeals (ZBA) shall have the power, on appeal from the decision or determination of any administrative official charged with enforcement of this Chapter, to reverse or affirm, wholly or partly, or modify an order, requirement, decision, interpretation, or determination by the granting of either use variances or area variances as authorized by New York State Village Law. The variance procedures may not be used to:

- A. Waive, modify or otherwise vary any of the review and approval procedures of this Article; or
- B. Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized board or commission.

§ 285-54.2 BURDEN OF PROOF

The applicant seeking the variance shall have the burden of presenting sufficient evidence to allow the ZBA to reach a conclusion as set forth below as well as the burden of persuasion on those items.

§ 285-54.3 APPROVAL PROCESS

- A. **Application.** Applications for zoning variances may be initiated only by the owner of the subject property or by the owner's authorized agent. Complete applications for a zoning variance must be submitted in accordance with Article 50 of this Chapter.
- B. **Public Hearing.** Once the application has been determined to be complete, the ZBA must hold at least one public hearing on a proposed zoning variance. Notice of said public hearing shall be provided in accordance with Article 50 of this Chapter.
- C. **Decisions.**
 - 1. The ZBA shall decide upon the appeal within 62 days after the closing of the public hearing. The time within which the ZBA may render its decision may be extended by mutual consent of the applicant and ZBA.
 - 2. The ZBA may reverse, modify or affirm, in whole or in part, any such appealed order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made in strictly applying and interpreting the provisions of this Chapter and for such purposes shall have all the powers of the officer from whom the appeal is taken.
 - 3. The decision of the ZBA shall be filed with the Village Clerk within five business days after the decision is rendered, and a copy mailed to the applicant.

§ 285-54.4 USE VARIANCES

- A. A use variance authorizes the use of land for a purpose that is otherwise not allowed or prohibited by this Chapter. A finding of unnecessary hardship is required to properly grant a use variance.
- B. The ZBA shall not grant a use variance without the applicant having shown that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, per New York State Village Law, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located the following conditions exist:
 - 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - 2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - 3. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - 4. That the alleged hardship has not been self-created.
- C. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§ 285-54.5 AREA VARIANCES

- A. An area variance authorizes the use of land that is not allowed by the dimensional or physical requirements set forth in this Chapter. An area variance is one that does not involve a use that is otherwise prohibited by this Chapter. A finding of practical difficulty is required to properly grant an area variance.
- B. In making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider the following as required by New York State Village Law:
 - 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - 3. Whether the requested area variance is substantial in relation to the requirement;
 - 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - 5. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.

- C. The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§ 285-54.6 IMPOSITION OF CONDITIONS

The ZBA shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Village Code and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 285-54.7 TRANSFERABILITY

Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.

§ 285-54.8 AMENDMENTS

A request for changes in conditions of approval of a zoning variance must be processed as a new variance application, including the requirements for fees, notices, and hearings.

ARTICLE 55: APPEALS PROCEDURE

§ 285-55.1 APPLICABILITY

The Zoning Board of Appeals (ZBA) is authorized to hear and decide appeals where it is alleged there has been an error in interpretation of any zoning code provisions or in any order, requirement, decision, or determination made by the CEO, their designee, or other such administrative official.

§ 285-55.2 RIGHT TO APPEAL

Appeals may be filed by any person aggrieved by a decision of the CEO, their designee, or other such administrative official. The ZBA is authorized to make determinations about whether individuals filing appeals are “aggrieved by the decision or action.”

§ 285-55.3 APPLICATION FILING

- A. Appeal applications must be filed in accordance with Article 50 of this Chapter.
- B. Appeal applications must be filed within 62 days of the date of the decision being appealed.
- C. Every appeal application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed.

§ 285-55.4 STAY UPON APPEAL

An appeal shall stay all proceedings in furtherance of the appealed action, unless the CEO certifies to the ZBA a stay would, in his or her opinion, cause imminent peril to life or property. Then the proceedings shall not be stayed otherwise than by a restraining order granted by the ZBA or by a court of record on application, to the CEO.

§ 285-55.5 RECORD OF DECISION

Upon receipt of a complete appeal application, the CEO must transmit to the ZBA all papers constituting the record upon which the action appealed is taken.

§ 285-55.6 REFERRALS & SEQR

All appeals shall complete the municipal referral procedure and SEQR documentation where required by New York State General Municipal Law. Additional information may be found in Article 50 of this Chapter.

§ 285-55.7 HEARING & FINAL DECISION

- A. The ZBA must hold a public hearing on the appeal within 62 days of receiving a complete application. A notice of public hearing on appeals must be provided as required by New York State Village Law and in accordance with Article 50 of this Chapter.
- B. The ZBA must take action on the appeal within 62 days of the close of the public hearing.
- C. In exercising the appeal power, the ZBA has all the powers of the official from whom the appeal is taken.
- D. The ZBA may reverse the appeal or affirm the appeal, in whole or in part, or modify the decision being appealed.
- E. In acting on the appeal the ZBA must grant to the decision or action a presumption of correctness, placing the burden of persuasion of error on the appellant.
- F. A motion for the ZBA to hold a rehearing to review any order, decision or determination not previously reheard, may be made by any member of the ZBA. A unanimous vote of all members of the ZBA then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the ZBA may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the ZBA finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

§ 285-55.8 ARTICLE 78 PROCEEDING

- A. Any person or persons, jointly or severally aggrieved by any decision of the ZBA, Planning Commission, or Village Board may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the Civil Practice Laws and Rules. Such proceeding shall be instituted within 30 days after the filing of the board's decision in the office of the Village Clerk.
- B. Costs shall not be charged to the Village unless it shall appear to the Court that it acted in gross negligence or in bad faith or with malice in making its decision.

ARTICLE 56: NONCONFORMING USES & STRUCTURES

§ 285-56.1 CONTINUATION

Any use which is made a nonconforming use by this Chapter or by any subsequent amendments may be continued except as hereinafter provided.

§ 285-56.2 CHANGE IN USE

A nonconforming use may be changed to a use of a more restricted classification. Once changed to a conforming use or to a more restricted use, such use thereafter shall not revert to a less restricted use.

§ 285-56.3 DISCONTINUANCE

In any district, whenever a nonconforming use of land, premises, building or structure or any part or portion thereof has been discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this Chapter. Such discontinuance of the active and continuous operation of such nonconforming use or a part or portion thereof for such period of one year is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservations of an intent not to abandon the same or an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such nonconforming use of the land, and premises, the abandonment shall be construed and considered to be completed within a period of less than one year, and all rights to reestablish or continue such nonconforming use shall thereupon terminate.

§ 285-56.4 RESTORATION

Unless approved by the ZBA, no nonconforming building which has been damaged by fire or other causes to the extent of 50% or more of its equalized assessed value shall be rebuilt or repaired except in conformance with the regulations of this Chapter. In such reconstruction, neither the floor area nor the cubical content shall be increased from the original nonconforming building.

§ 285-56.5 REPAIR OR ALTERATION

Nothing herein shall be deemed to prevent keeping in good repair a nonconforming building or restoration to a safe condition of any structure declared unsafe by the CEO.

ARTICLE 57: ZONING MAP & TEXT AMENDMENTS

§ 285-57.1 AUTHORITY TO FILE

Amendments to the zoning text or zoning map (re-zonings) may be initiated by the Village Board or by recommendation of the Planning Commission or petition presented to the Village Board. Zoning map amendment petitions shall be duly signed by the owners of at least 50% of the frontage of the parcels included within the area proposed to be rezoned. Re-zoning petitions may be filed by the owner or by the owner's authorized agent.

§ 285-57.2 NOTICE OF HEARING

Notice of required public hearings on zoning text and map amendments must be provided as required by the Village Board and by state law (See Article 50 of this Chapter for additional information on public hearing notices).

§ 285-57.3 REVIEW & REPORT—PLANNING COMMISSION

The Planning Commission must review all proposed zoning text and map amendments and prepare a report that evaluates the proposed amendment in light of adopted plans, the relevant provisions of this zoning law, and the review criteria of this Article.

§ 285-57.4 REFERRALS

- A. In accordance with Section 239-m of New York State General Municipal Law, zoning text and map amendments must be forwarded to the Erie County Planning Department for review prior to the public hearing and final action by the Village Board.
- B. If any proposed amendment consists of a change in the district classification applying to real property within 500 feet of a municipal boundary, the Village Clerk shall serve notice of the proposed amendment to the chief elected official of the affected municipality, prior to the public hearing and final action.

§ 285-57.5 STATE ENVIRONMENTAL QUALITY REVIEW

For zoning text and map amendment applications subject to SEQR requirements, all required environmental reviews must be completed before final action is taken on the amendment.

§ 285-57.6 HEARING & FINAL ACTION—VILLAGE BOARD

- A. After receiving Planning Commission’s report, the Village Board must deny the proposed amendment or convene its own public hearing on the proposed text and/or map amendment.
- B. Following the public hearing, the Village Board may act to approve, approve with modifications, or deny the proposed amendment. The Village Board may also return the application to the Planning Commission for further consideration.
- C. The Village Board may act by a simple majority vote, except when a valid protest petition has been submitted in accordance with this Article and New York State General Municipal Law.
- D. The Village Clerk shall notify, by mail, the petitioner of the action taken by the Village Board.
- E. If the Village Board approves the amendment, supplement, change, or modification to the text of this Chapter or official zoning map, the text and/or map shall be amended after publication as required by New York State General Municipal Law.
- F. The Village Board may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its resolution approving the petition, additional conditions deemed necessary to achieve the review criteria.

§ 285-57.7 REVIEW CRITERIA

In reviewing and making decisions on zoning amendments the Planning Commission and Village Board must consider at least the following criteria:

- A. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning law or meets the challenge of a changing condition;
- B. Whether the proposed amendment is in substantial conformance with the adopted plans and policies of the Village;
- C. Whether the proposed zoning amendment is in the best interests of the municipality as a whole;
- D. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by the requested re-zoning, if applicable;
- E. Whether the re-zoning will substantially harm the public health, safety, or general welfare or the value of nearby properties, if applicable;
- F. Whether the re-zoning is compatible with the zoning and use of nearby properties, if applicable;
- G. The suitability of the subject property for the uses and development to which it has been restricted under the existing zoning regulations, if applicable; and
- H. The gain, if any, to the public health, safety and general welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

§ 285-57.8 PROTEST PETITIONS

- A. A formal protest petition opposing a zoning text and/or map amendment must be submitted to the Village Board or placed on the public record before the Village Board's vote, allowing sufficient time for the municipality to determine the validity of the petition (Consult New York State General Municipal Law more information on protest petitions).
- B. A protest petition will be considered "valid" if it is signed by:
 - 1. The owners of 20% or more of the area of land included in such proposed change;
 - 2. The owners of 20% or more of the area of land immediately adjacent to that land included in such proposed amendment, extending 100 feet therefrom; or
 - 3. The owners of 20% or more of the area of land directly opposite thereto, extending 100 feet from the street frontage of such opposite land.
- C. When a valid protest petition has been submitted, approval of a zoning amendment requires a super majority or majority plus one vote of the Village Board.

§ 285-57.9 PETITION FOR AMENDMENT

A petition requesting a change in regulations or other provisions of this Chapter shall be written, signed, and acknowledged by the person presenting it and shall be filed with the Village Clerk in triplicate.

PART 6: TERMINOLOGY

ARTICLE 60: DEFINITIONS

§ 285-60.1 MEANING & INTENT

The language of the zoning law must be read literally. Regulations are no more or less strict than stated. Words defined in Article 60 have the specific meaning assigned, unless the context expressly indicates another meaning. Words that are not defined in Article 60 have the meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

§ 285-60.2 TENSES & USAGE

- A. Words used in the singular include the plural. The reverse is also true.
- B. Words used in the present tense include the future tense. The reverse is also true.
- C. The words "must," "will," "shall" and "may not" are mandatory.
- D. The word "may" is permissive, and "should" is advisory, not mandatory or required.
- E. When used with numbers, "up to X," "not more than X" and "a maximum of X" all include X.
- F. The word "lot" shall include "plot" or "parcel."
- G. The word "occupied" shall include "designed or intended to be occupied."
- H. The word "used" shall include the words "arranged," "designed" or "intended to be used."
- I. The word "person" shall mean a person, firm or corporation or the plural of those words.

§ 285-60.3 CONJUNCTIONS

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- A. "And" indicates that all connected items or provisions apply; and
- B. "Or" indicates that the connected items or provisions may apply singularly or in combination.

§ 285-60.4 FRACTIONS

The following rules apply to fractional number unless otherwise expressly stated.

- A. **Minimum Requirements.** When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. For example, if a minimum requirement calling for one tree to be provided for every 30 linear feet of frontage is applied to a 50-foot dimension, the resulting fraction of 1.67 is rounded up to two required trees.

- B. **Maximum Limits.** When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet is applied to a 12,500 square foot lot, the resulting fraction of 2.5 is rounded down to two (allowed dwelling units).

§ 285-60.5 CURRENT VERSIONS & CITATIONS

All references to other village, county, state, or federal regulations in the zoning law refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, zoning law requirements for compliance are no longer in effect.

§ 285-60.6 LISTS & EXAMPLES

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

§ 285-60.7 TERMS & WORDS DEFINED

For the purpose of this Chapter, certain terms or words used herein shall be interpreted or defined as follows:

A

ACCESSORY

The term applied to a building, structure, or use (except for accessory dwelling unit) that:

- A. Is customarily incidental and subordinate to and serves a principal building or use;
- B. Is subordinate in area, extent, or purpose to the principal building or use served;
- C. Contributes to the comfort, convenience, or necessity of occupants of the principal building or use; and
- D. Is located on the same parcel as the principal building or use.

ACCESSORY DWELLING UNIT

A second subordinate dwelling unit that is:

- A. Contained within the existing primary single-family dwelling unit;
- B. An addition to the existing primary single-family dwelling unit;
- C. An adaptive reuse of an existing permanent detached accessory structure such as a barn, carriage house, or garage on the same parcel as the primary dwelling unit; or
- D. Designed into new construction of a single-family dwelling unit.

ADULT BOOKSTORE

An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, films for sale or viewing on premises, by use of motion picture devices or any other coin-operated means and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT ESTABLISHMENT

A public or private establishment whether licensed or not to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators, , or similar entertainment.

ADULT MINI-MOTION PICTURE THEATER

An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION PICTURE THEATER

An enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

AGRICULTURAL ACTIVITY

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

AGRICULTURAL DISTRICT

Agricultural District as defined in Article 25AA of the New York State Agriculture and Markets Law.

ALTERATION

Any change, rearrangement or addition to or any relocation of a building or structure; any modification in construction or equipment.

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity as defined herein.

APPROVAL

Favorable decision to an application that indicates acceptance and the terms of the application, as written or modified, are satisfactory. Includes both approval and approval with conditions.

ARCHITECTURAL FEATURE

Any portion of the outer surface of a structure, including the kind, color and texture of the building material, the type and style of all windows, doors, lights, signs, walls, fences, awnings, canopies, screens, sculptures, decoration, roof shape and materials, and other fixtures appurtenant to a structure. Also referred to as, “architectural detail.”

AREA VARIANCE

The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

AUTOMOBILE

(See Motor Vehicle).

AWNING

A permanent overhanging shelter which projects from the face of a building.

B

BAR

See Tavern

BED & BREAKFAST

An owner-occupied residence wherein lodging and/or meals are provided to transient guests for compensation. This definition shall also include, but not be limited to, short-term rentals known commercially as Airbnbs, VRBOs, etc.

BERM

A man-made earthen mound (usually from two to six feet in height) designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

BLOCK

The length of a street between two intersections or between an intersection and its termination.

BREWERY

An enclosed building for the manufacture, processing, bottling, and packaging of malt liquors, such as beer, ale, or ciders, but not to include distilled liquors.

BUFFER

A unit of land, together with a specified type and amount of planting and/or fencing thereon, which may be required to eliminate or minimize conflicts between land uses. Also referred to as “screening.”

BUILDING

A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word "building" shall be construed, when used herein, as though followed by the words "or part or parts thereof," unless the context clearly requires a different meaning.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point on the roof for flat roofs, to the deck line of mansard (a roof with a double pitch on all sides) roofs and to the mean height between the eaves and ridge for gable, hip and gambrel roofs.

BULK

The size and scale of buildings and non-building uses and the physical relationship of their size and scale in relation to the lot on which they are located. Bulk requirements include building height, building footprint, and lot coverage.

C

CALIPER

The measurement of the size in inches of the diameter of small trees (under six inches), usually measured at six inches above grade. Trees greater than six inches in diameter are measured 12 inches above the ground. This measurement is generally used for tree-planting measurement applications.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CHARACTER

The atmosphere or physical environment that is created by the combination of land use and buildings within an area. "Character" is established and influenced by land use types and intensity, traffic generation and also by the location, size and design of structures as well as the interrelationship of all these features.

CLEARING

Any activity that removes the vegetative surface cover.

CODE ENFORCEMENT OFFICER (CEO)

The duly designated Code Enforcement Officer (CEO) of the Village of East Aurora.

COMMERCIAL MESSAGE

Any message where the primary purpose of which is the commercial advertisement or promotion of a commercial product, event, or service (including content on an Internet website operated for a commercial purpose).

COMMERCIAL USE

An occupation, employment, enterprise or establishment that is conducted for profit by the owner, lessee or licensee. This shall include but not be limited to retail, wholesale, business, administrative and other activities.

COMPATIBLE

- A. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more attributes of a structure;
- B. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more structures;
- C. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more attributes of a neighborhood; and/or
- D. Having a pleasing or congruent arrangement of elements in the use or function between two or more attributes of a neighborhood or area.

CORNICE

Any horizontal decorative molding that crowns a building, such as the top edge of a façade or over an external door or window.

D

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DESIGN MANUAL

The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation), most recent version or its successor, including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER

A person who undertakes land development activities.

DEVELOPMENT

Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance of farm roads and agricultural practices.

DISTILLERY

An enclosed building for the manufacture, processing, bottling, and packaging of distilled liquors, such as vodka, gin, whiskey, or tequila.

DRIVE-THROUGH ESTABLISHMENT

An establishment wherein the sale of goods or delivery of services is provided directly to patrons while seated in motor vehicles located on the premises.

DWELLING

A building used as the living quarters for one or more families.

- A. DWELLING UNIT -- One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes.
- B. SINGLE-FAMILY DWELLING -- A building containing one dwelling unit and designed or used exclusively for occupancy by one family.
- C. TWO-FAMILY DWELLING -- A building containing two dwelling units and designed or used exclusively for occupancy for two families living independently of each other; or two single-family dwellings having a party wall in common.
- D. MULTI-FAMILY DWELLING -- A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.
- E. UPPER FLOOR DWELLING UNIT -- A dwelling unit located within a mixed-use, multi-story building on any floor other than the ground floor.
- F. DWELLING GROUP -- A group of two or more dwellings located on the same lot and having any yard or open space in common.

E

ENTERTAINMENT, INDOOR

Establishments providing amusement and/or entertainment services for a fee or admission charge within an entirely enclosed structure. This shall include, but is not limited to, movie theaters, concert halls, auditoriums, arcades, or escape rooms.

ENTERTAINMENT, OUTDOOR

Establishments providing amusement and/or entertainment services for a fee or admission charge within an open or partially enclosed structure. This shall include, but is not limited to, amphitheatres, concert venues, pavilions, or play grounds.

EROSION CONTROL MANUAL

The New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004), most current version or its successor, commonly known as the "Blue Book."

F

FAÇADE

The face of a building.

FAÇADE, PRIMARY OR FRONT

The principal face of a building that looks onto a street, right-of-way, or open space. Buildings on corner lots shall be considered to have two primary or front facades.

FAMILY

One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests.

FAMILY DAY CARE HOME

A program caring for children for more than three hours per day per child in which child day care is provided in a family home for three to six children and as licensed and regulated by New York State.

FRONTAGE

The extent of a building or a lot abutting a street or right-of-way.

G

GARAGE, PRIVATE

An accessory building or portion of a main building used for the storage of self-propelled vehicles used by the occupants of the premises, including space for not more than one passenger vehicle used by others.

GASOLINE SERVICE STATION

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

GRADING

Excavation or fill of material, including the resulting conditions thereof.

H

HABITAT

The arrangement of food, water, shelter or cover and space necessary for the existence of wildlife.

HOTEL OR INN

A building containing sleeping rooms in which lodging is provided and offered to the public for compensation. Generally the entrances to such sleeping rooms are located internally to the primary structure. A hotel or inn may also include incidental uses such as meeting rooms, restaurants, etc.

I

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT

A State Pollutant Discharge Elimination System (SPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating stormwater into the subsoil.

J

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

K

KENNEL

The keeping of three or more dogs, cats, or other similar domesticated animals that are more than six months old as part of a commercial operation.

L

LAND DEVELOPMENT ACTIVITY

Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale disturbing one acre or more in the aggregate, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LANDSCAPED AREA

The area required or permitted under this Article to be devoted to landscaping and environmental improvement, which may include existing and new vegetation, planting beds and berms.

LANDSCAPING

The use of natural plant materials including, but not limited to, ground covers, shrubs, and trees. Landscaping also involves the placement, preservation and maintenance of said plant materials in conjunction with associated improvements such as fences, walls, lighting, earth mounding and structures (principal or accessory).

LOT

A parcel of land occupied or capable of being occupied by one building or a group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required by this Chapter, but not including any portion between the center line of a street and the street line.

LOT DEPTH

The mean horizontal distance between the front and rear lot lines.

LOT LINES

The property lines bounding the lot. Where any property line parallels a street and is not coincident with the street line, the street line shall be construed as the property line for the purpose of complying with the area and setback regulations of this Chapter. In the case of a lot abutting on more than one street, the owner may elect any street line as the front lot line.

LOT WIDTH

The least horizontal distance across the lot between the side lot lines, measured at the front of a main building erected or to be erected on such lot or at a distance from the front lot line equal to the required depth of the front yard.

M

MAINTENANCE AGREEMENT

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

MOBILE HOME

A single-family or individual dwelling, designed for transportation, after fabrication, on streets and highways on its own wheels to a site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation and connected to utilities.

MOBILE HOME LOT

A designated site within a mobile home park for the exclusive use of occupants of a single motor home.

MOBILE HOME PARK

Any area for which a special permit has been issued pursuant hereto for exclusive use of mobile homes and attendant structures.

MOTEL

A building providing transient lodging where individual unit entrances are located with direct access to the exterior of the primary structure. A motel may also include incidental uses such as meeting rooms, restaurants, etc.

MOTOR VEHICLE (ALSO AUTOMOBILE)

- A. Every vehicle operated or driven which is propelled by power other than muscular power, except:
 - 1. Electrically driven mobility devices operated or driven by a person with a disability.
 - 2. Vehicles which run on rails or tracks.
 - 3. Snowmobiles.
 - 4. All-terrain vehicles.

- B. For the purposes of this Code, the term "motor vehicle" shall include farm tractors, excluding self-propelled machines used exclusively for growing and harvesting of farm produce, and self-propelled caterpillars and crawler-type equipment being operated on a contract site.

N

NONCONFORMING

Any lawful use of land, premises, or buildings or building or structures which do not conform to the regulations of this Chapter for the district in which such use or building is located, either at the effective date of this Chapter or as a result of subsequent amendments thereto.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NONRESIDENTIAL

All uses of land and buildings except single-family and two-family dwellings.

NURSING OR ADULT CARE FACILITY

Any building where persons are housed or lodged and furnished with meals and nursing care for hire.

P

PARAPET WALL

That portion of a building wall that rises above the level of the roof.

PARKING AREA

An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto, as required by this Chapter. This shall also include loading areas.

PARKING SPACE

An off-street space used for the temporary location of one licensed motor vehicle, not including access driveway(s).

PEDESTRIAN-ORIENTED

Refers to a pedestrian-friendly design policy providing clear, comfortable pedestrian access to residential and nonresidential areas as well as providing for the construction of buildings, sites, and amenities to be human-scaled, purposefully engaging and accommodating pedestrians.

PERSON

Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly.

PERSONAL SERVICE ESTABLISHMENT

A retail business providing personal services, including but not limited to, hair cutting, manicures, pedicures, acupuncture, tattoos, piercings and massage therapists licensed to practice by the State of New York.

PLANNING COMMISSION

The duly designated Planning Commission of the Village of East Aurora.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT

A land development activity.

PUBLIC RIGHT-OF-WAY

Existing land owned by the Village of East Aurora, or other government entity, for use as a street or other public purpose.

R

RECHARGE

The replenishment of underground water reserves.

RECREATION, INDOOR

An establishment providing for recreational activities in a completely enclosed structure. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed recreational uses. Included in this definition shall be indoor ice rinks, pools, fields, courts, or other such facilities or arenas where patrons are engaged in and/or spectating sport or game activities.

RECREATION, OUTDOOR

An establishment providing for recreational activities in an open or partially enclosed structure. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the recreational uses. Included in this definition shall be outdoor ice rinks, pools, fields, courts, or other such facilities or arenas where patrons are engaged in and/or spectating sport or game activities.

REPAIR

Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment, with like or similar materials or parts, for the purpose of maintenance of such building, structure, device or equipment.

REPAIR GARAGE

Any garage, other than a private garage, which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

RESIDENTIAL RENTALS

Long-Term Rental is for a period of one month or more where the tenant is leasing a unit as a primary residence.

Short-Term Rental: See “Bed and Breakfast” definition.

RESTAURANT

An establishment where food and/or beverages, whether or not alcoholic, are sold to the public for consumption on the premises. Such establishment must have a full kitchen and menu as required by the NYS Liquor Authority when the sale of beer, wine, and/or liquor is provided.

RESTAURANT, TAKE OUT

A restaurant where the food and/or beverages sold to the public are prepared and purveyed in a manner designed to encourage the purchaser to carry said food and beverages from the premises for consumption. Some seating, chairs, counters, or tables may be provided for use by patrons, but shall not be the primary use of floor area.

S

SATELLITE ANTENNA STRUCTURE

The support, attachments, column, masts and foundation to which communication satellite-antenna equipment is fastened or attached.

SATELLITE SIGNAL

A satellite signal which is viewed on a conventional television set and is at least equal to that received from local commercial television or by way of cable television systems.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SETBACK

The horizontal distance from any building or from a specific building to the nearest point on an indicated lot line or street line.

SEQR(A)

The New York State Environmental Quality Review Act.

SIGN

Any object, device, display or structure, or part thereof, visible from the public right-of-way and/or located no more than one-foot inside a window that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, figures, designs, symbols, fixtures, colors, illumination or project images. "Signs" shall also include all sign structures. A sign for the purposes of this Chapter does not include the following:

- A. A flag or emblem of any nation, organization of nations, state or city, or any fraternal, religious or civic organization;
- B. Merchandise, pictures or models of products or services incorporated in a window display;
- C. Official notices issued by any court or public office or officer in the performance of a public or official duty;
- D. Traffic control signs as defined in the New York State Vehicle and Traffic Law; and
- E. Works of art, including murals, that do not contain any commercial message, logo, graphic, or trademark.

SIGN TYPE

The design and/or structure of a sign as identified below:

- A. **AWNING SIGN** — A sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor area.
- B. **BANNER** — A temporary sign composed of lightweight canvas-like material, which can be attached to a structure or suspended by attachment at each end.
- C. **BILLBOARD** — An off-premise sign designed to be viewed from streets, roads, and/or highways and meeting industry standards for design and construction.
- D. **DIRECTIONAL SIGN** — Any sign that is designed and erected for the purpose of traffic or pedestrian direction or control. Such a sign shall not carry a commercial message.
- E. **FREESTANDING SIGN** — A sign not attached to, dependent upon, or supported by a building, including ground signs, pedestal signs, and portable signs.
- F. **GROUND SIGN** — A sign not attached to any building or structure, which may be supported by one or two columns or posts provided the distance between the ground and bottommost edge of the sign is no greater than three feet.
- G. **INCIDENTAL SIGN** — A sign containing no commercial message and typically erected to identify ancillary property information such as restrooms, entrances, exits, hours and days of operation, or emergency or contact information. These examples are not given by way of limitation.

- H. LAWN SIGN — A sign not exceeding three feet in height and six feet in area constructed of materials not intended for permanent installation that are attached to single or multiple posts for support and stuck into the ground. The height of a lawn sign shall include any posts or supports. Political campaigns, garage sales, and charitable events, for example, are often advertised with lawn signs.
- I. MARQUEE SIGN — A permanent sign that extends from and across part or all of a building edifice and is constructed of durable materials including metal, glass or plastic and upon which a changeable message may be placed.
- J. OBSOLETE SIGN — A sign that is no longer relevant to its original intended purpose. I.e. such sign no longer advertises or identifies an open business, product sold, or event to be held.
- K. OFF-PREMISE SIGN — A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than where such sign is located. This shall not include billboards.
- L. ROOF SIGN — Any sign erected upon, against or directly above a roof or on top of or above the parapet of a building.
- M. PEDESTAL SIGN — A sign not attached to any building or structure and is supported by one or two columns or posts with a distance exceeding seven feet between the ground and the bottommost edge of the sign.
- N. PORTABLE SIGN — A sign not permanently attached to the ground or a building, and easily removable using ordinary hand tools.
- O. PROJECTING SIGN — A sign wholly or partly dependent upon a building or structure for support which projects more than 12 inches, but less than 36 inches from the façade.
- P. SANDWICH BOARD SIGN — A freestanding sign that is comprised of two sign faces diverging at a 45-degree angle from their adjoined edge.
- Q. SUSPENDED SIGN — A sign attached to and supported by the underside of a horizontal plane.
- R. TEMPORARY SIGN — A sign which is not intended to be used for a period of time exceeding 30 days and is not attached to a building, structure, or ground in a permanent manner. Such signs usually being constructed of poster board, cardboard, masonite, plywood, or plastic material and mounted to wood, metal, wire or rope frames or supports.
- S. WALL SIGN — Any sign fastened to a building or structure that does not project more than 12 inches from the façade.
- T. WINDOW SIGN — A sign which is applied or attached to the exterior or interior of a window or is installed inside of a window within 12 inches of the window through which it can be seen.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

SPECIAL USE PERMIT

An authorization of a particular land use which is permitted in this Chapter subject to requirements imposed by such permitted use to assure that the proposed use is in harmony with this Chapter and will not adversely affect the neighborhood if such requirements are met.

SPECIFIED ANATOMICAL AREAS

- A. Less than completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- B. Human male genitals in discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling, massaging or other erotic touching of human genitals, pubic region, buttock or female breast.

SPECIMEN TREE

Any tree that is determined to have a good chance of survival and that possesses qualities that are beneficial to wildlife, regardless of size. Two distinct forms of specimens are included: ornamental specimen is a perfect example of a genus, and mercantile specimen is a valuable wood type with commercial value.

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER (SMO)

An employee or officer of the Village of East Aurora designated by the Village Board to accept and review stormwater pollution prevention plans (SWPPPs), forward the plans to such agency or board of the Village of East Aurora which may be reviewing any application for a land development activity requiring submission of a SWPPP, and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPS)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF

Flow on the surface of the ground, resulting from precipitation.

STORY

That portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between any floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement, if the ceiling is more than five feet above the average adjoining ground level or if it is used for business or dwelling purposes. A half story is a story under a sloping roof having a ceiling height of seven feet or more for not more than 1/2 the floor area of the uppermost full story in the building.

STREET

Any right-of-way for a public street or any approved private right-of-way.

STREET LINE

A line separating a lot from a street.

STRUCTURAL ALTERATIONS

Any change in the supporting members of a building or other structure, such as bearing walls, columns, beams or girders.

STRUCTURE

Anything constructed or erected which requires permanent location on the ground or attachment to something having such location, but not including a trailer.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

T

TAVERN

An establishment where beverages, beer, wine, and/or liquor are sold to the public for consumption on the premises. Such a use shall include a minimum food preparation area and menu that satisfies the NYS Liquor Authority's minimum food requirement, where applicable. Also referred to as a bar, pub, tasting room or any establishment of similar nature.

TEMPORARY USE PERMIT

A temporary outdoor use or special event that extends beyond the normal uses and standards allowed by this Chapter.

TOWNHOUSE

A multi-family dwelling containing attached or partially attached dwelling units which have individual exterior entrances and are constructed in such a manner that no dwelling unit is located above or below another dwelling unit.

U

USE

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or the equivalent shall not be deemed to include any nonconforming use.

USE VARIANCE

The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

V

VILLAGE BOARD

The Board of Trustees of the Village of East Aurora, New York.

W

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

Y

YARD

- A. FRONT – An open space extending the full width of the lot between the main building and the front lot line, unoccupied and unobstructed by buildings, the depth of which shall be the least distance between the front lot line and the nearest part of a main building.
- B. REAR -- An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings except as hereinbefore specified, the depth of which shall be the least distance between the rear lot line and the nearest part of such main building.
- C. SIDE -- An open space extending from the front yard to the rear yard between a main building and the side lot line, unoccupied and unobstructed by buildings. The required width of the side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building.

Z

ZONING BOARD OF APPEALS

The duly designated Zoning Board of Appeals of the Village of East Aurora.