Chapter 217
ZONING

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(4) To ensure the adequate and safe control and conveyance of stormwater flows generated by new development.

(5) To regulate building densities in order to assure access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, to lessen congestion on streets and highways, to provide efficient municipal utility services, and to accommodate solar energy systems and equipment and access to sunlight necessary therefor.

(6) To improve transportation facilities and traffic circulation, and to provide adequate off-street parking and loading facilities.

(7) To assure privacy for residents and freedom from nuisances and things harmful to the health, safety and general welfare of the public.

(8) To protect the community against unsightly, obtrusive, and nuisance land uses and operations.

(9) To enhance aesthetic aspects throughout the entire Town and maintain its natural beauty.

B. This chapter has been adopted with reasonable consideration for the character of each district and each district's suitability for particular uses, and, with a view to conserving the value of the property, to encourage the most appropriate use of the land throughout the Town. These purposes are achieved through this chapter by regulating and restricting the height, number of stories and size of buildings and other structures; restricting the density of population; regulating the size of yards and other open spaces; regulating and restricting the location and use of buildings, structures and land for trade, industry, residential or other purposes; creating districts for such purposes and establishing boundaries; continuing a Zoning Board of Appeals to determine and vary the application of various provisions of this chapter in harmony with its general purposes and intent and in accordance with general and specific rules herein contained; and providing for the enforcement of such chapter.

ARTICLE II
Interpretation; Terms Defined

§ 217-4. Interpretation; conflict with other laws.

A. The following rules of construction of language shall apply to the text of this chapter:

(1) Words used in the present tense include the future tense.

(2) Words used in the singular include the plural, and words used in the plural include the singular.

(3) Words used in the masculine form shall also include the feminine.

(4) The word "lot" includes the word "plot" or "parcel."

(5) The word "person" includes an individual, partnership or corporation.
B. ADULT ENTERTAINMENT CABARET — A public or private establishment which is licensed to serve food, nonalcoholic beverages and/or alcoholic beverages, which features topless dancers, entertainers who remove most or all of their clothing to reveal gender-related portions of the anatomy, male or female impersonators or similar entertainers.

C. ADULT MOTION-PICTURE THEATER — A building used for presenting material distinguished or characterized by an emphasis on material depicting, describing or relating to sexual activities or anatomical areas for observation by patrons therein.

AGRIBUSINESS — A principal use that involves the following:

A. Wholesale raising, processing, packaging or other handling of nonfood plant crops such as annual and/or perennial plant production and may include minor retail sales as accessory use; or

B. Any business that has as the primary function support service of active agricultural operations; or

C. Any business that provides processing, packaging, or handling of agricultural products to prepare them for transport to a manufacturing facility or retail market. This use does not include cooking, canning, or other preparation of foodstuffs.

AGRICULTURAL DISTRICT — The following districts are considered agricultural: AR and ARA, unless otherwise indicated. The use of this term must not be confused with the agriculture districts as defined in Agriculture and Markets Law § 303.2

AGRICULTURE, CROP — The raising and incidental storage of agricultural products (including farm crops, fruits, vegetables or nursery stock) for sale, gain or commercial purposes. This term does not include the manufacturing or processing of agricultural products as the principal use.

AGRICULTURE, LIVESTOCK — The raising of agricultural products (including livestock, poultry, dairy cattle, fur-bearing animals, bees, other such animals, and associated feed crops) for sale, gain or commercial purposes. This term does not include riding academies, private stables or manufacturing or processing of agricultural products as the principal use.

AIRPORT — Any lot or other facility designed to be used and/or operated either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings.

ALTERATION — Any change, rearrangement, addition or enlargement to a building, other than repairs, and any modification in construction.

AMUSEMENT GAME CENTER — A continuous commercial use in which six or more mechanical, electrical or electronic machines or devices are used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin, token, etc. or for their operation or the use of which a charge is made.

2. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
BUILDING LINE — The line, established by statute, local law or ordinance, beyond which the exterior surface of a building on any side shall not extend, as specifically provided in Article V of this chapter. In the instance of a cantilevered section of a building or projected roof or porch, the building line shall be measured from the most projected surface.

BUILDING HEIGHT — The vertical distance measured from the average finished grade to the highest point of the roof and to the mean height between the eaves and ridge for a pitched, gable, hip, gambrel and mansard roof.⁴

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

BULK — A term to describe the size, volume, area and shape of structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building; and of all open spaces required in connection with a structure or parcel.⁵

BULK, NONCONFORMING — That part of a structure or tract of land which does not conform to one or more of the applicable density control and bulk regulations of this chapter, either following its effective date or as a result of a subsequent amendment thereto.

CAR WASH — A building, premises or portions thereof where vehicles are washed either by the patron or others using machinery and mechanical devices specifically designed for this purpose.

CELLAR — That nonhabitable space of a building that is partly or entirely below average finished grade, which has more than 1/2 its height, measured from the floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building. (See also "basement.")

CHURCH or PLACE OF WORSHIP — A building or premises used for regular public worship by members or representatives of a religious sect, group, or organization as defined by state statute.

CLUB, MEMBERSHIP — A certified, not-for-profit organization catering exclusively to members and their guests, or premises and buildings for recreational, educational, or athletic purposes, which are conducted for or primarily by members and their guests, for which a membership fee is paid.

COMMERCIAL VEHICLE — Any vehicle with a net vehicle weight of five tons or more and/or more than three axles or trailer longer than 18 feet.⁶

CONDOMINIUM — A building or group of buildings in which residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

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⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁵ Editor's Note: The definition of "bulk storage," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
DAY CARE OF CHILDREN — As defined by the NYSDSS and as may be amended, to include care provided for three or more children away from their own homes in a day-care center, excluding those children receiving family day care as defined in this chapter. Such care shall be for more than three hours and fewer than 24 hours per day per child to any child accepted for care therein. The term "day care of children" includes services provided with or without compensation or payment.

DECK — A flat, roofless platform structure attached to a principal structure. For purposes of the setback requirements of this chapter, a deck is considered part of the structure to which it is attached. (See "patio").

DEVELOPER — Any entity undertaking a proposed development.

DEVELOPMENT — Any man-made changes to improved or unimproved real estate, including, but not limited to, the construction or reconstruction of buildings, construction of tanks or other storage facilities, pumps, pumping stations, waste treatment or disposal facilities or commercial excavation, dredging, filling, mining, or grading.

DISTRICT — That mapped portion of the Town within which specific uses are permitted according to the designation applied thereto in Article III and in conformity with the provisions of this chapter.

DRIVE-THROUGH USE — Any commercial or business activity which incorporates as a principal or accessory feature a service window, booth or other like arrangement on the exterior of the building or structure designed primarily for drive-through or carry-out service.

DUMP — See "solid waste disposal facility."

DWELLING, IN-GROUND — A dwelling that is constructed principally below the finished average grade elevation of the lot on which it is located and with at least one wall open for a height of at least six feet and/or providing for special light and ventilation designs.

DWELLING, MULTIUNIT — A building containing three or more dwelling units with shared or individual entrances and shared or individual other essential facilities and services.

DWELLING, ONE-UNIT — A building containing one dwelling unit. 8

DWELLING, TWO-UNIT — A building containing two dwelling units.

DWELLING UNIT — One or more rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, living, sanitary and sleeping facilities ("essential facilities and services"). This shall include mobile homes and factory-manufactured units, provided they meet the standards of this chapter and the Uniform Fire Prevention and Building Code as may be hereafter amended. It shall not include motel, hotel, boardinghouse and lodging establishments. The term is sometimes abbreviated "DU" herein. 9

8. Editor's Note: The definition of "dwelling, detached," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
(8) Attached garages.

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

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

(2) Elevator and stair bulkheads, accessory water tanks, and cooling towers.

(3) Floor space used for mechanical equipment, with structural headroom of less than seven feet six inches.

(4) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet six inches for 50% of the area.

(5) Uncovered steps and/or exterior fire escapes.

(6) Terraces, breezeways, open porches, and outside balconies and open spaces.

FOOTPRINT — The perimeter of a structure at ground level as depicted at a specified scale on a drawing.

GARAGE, PRIVATE — A carport or enclosed structure, whether accessory or attached to the principal structure, for use by the inhabitants of the structure for the storage of vehicles, boats, and/or other personal property.

HELIPORT — Any lot or other facility designed to be used and/or operated either publicly or privately by any person for the landing and taking off of helicopters, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings.

HOME OCCUPATION — A business conducted as an accessory use, which is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof, and which is carried on wholly within the enclosed walls of a dwelling unit by the business proprietor of such use, who shall be an occupant of such dwelling unit, and other occupants of such dwelling unit.

HOSPITAL — An institution for the care and treatment of the sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury which requires bed care (source: § 206-a of the Public Health Law).

HOTEL/MOTEL — A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may or may not include dining and/or meeting facilities. This term shall not be deemed to include a bed-and-breakfast or boardinghouse.10

HOUSE TRAILER — A transportable, factory-built structure designed to be used as a year-round dwelling unit and built prior to the enactment of the Federal Manufactured

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10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
MEDICAL CLINIC — A place where medical or dental care is furnished to persons on an outpatient basis by two or more physicians who have common offices in a building which shall also offer laboratory, medical procedure, and testing facilities to patients on an outpatient basis and not just in conjunction with normal clinic services.

MOBILE HOME — A dwelling unit bearing a seal issued by the Federal Department of Housing and Urban Development that is manufactured as a relocatable living unit, which is designed to be transported on a single permanent chassis and to be installed on a site with or without a permanent foundation when connected to utilities. This does not include Department of Motor Vehicles registered recreation vehicles, travel trailers or dwelling units that are prebuilt in one or more parts and transported to and assembled on a permanent foundation.

NOTICE OF COMPLIANCE — A notice issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building and/or land. The notice shall acknowledge completion of all requirements of this chapter, any conditions of approval attached to such use by the authorized board, and any adjustments thereto granted by the Zoning Board of Appeals. The notice is a permit to occupy and use the structure and/or lot in accordance with the approval.

NURSERY SCHOOL/PREKINDERGARTEN — A nonpublic school organized for the purpose of educating three or more children less than seven years of age for fewer than three hours per day, two sessions may be held daily, as registered and certified by the New York State Education Department under 8 NYCRR 125. (See also "day-care center.")

NURSING HOME — A skilled nursing care facility as defined by New York State Department of Social Services regulations and as may be amended from time to time.

OFFICE, GENERAL BUSINESS — A nonretail, office or agency providing service to the general public or other offices and agencies, such as insurance brokers, real estate and/or travel agents, computer programming, consulting organizations, etc.

OFFICE, PROFESSIONAL — An office principally occupied by a professional licensed by the State of New York, such as a lawyer, engineer, architect, accountant, physician, dentist, or similar occupation.

PARCEL — A contiguous tract of land under the control of the applicant or his agent that is not divided by any natural or man-made barriers such as existing streets and highways, or public rights-of-way identified on the Official Map and is not bisected by bodies of water.11

PARK, ALTERNATIVE DWELLING — A contiguous parcel of land owned by a person on which two or more mobile homes of less than 1,200 square feet and/or having an overall exterior dimension of less than 20 feet, or two or more single-unit dwellings of less than 1,200 square feet and/or having an overall exterior dimension of less than 20 feet are located.12

PARKING LOT — Any tract of land the principal use of which is the storage of motor vehicles not as accessory to any other use on the same or any other lot, and which may

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11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
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RETAIL USE — A business or commercial use or activity involving primarily the sale of merchandise or stock-in-trade to the public, which may include some fabrication on-premises of merchandise/materials that are sold on the premises.

RIGHT-OF-WAY — The property under public control, ownership, easement, by deed or use by law, normally used for movement of vehicles and/or persons, including, but not restricted to, any paved area.

ROAD — An existing public or private way which affords the principal means of access to abutting properties and is suitably improved; or a proposed way shown on the Official Map and recorded in the office of the County Clerk.

ROAD, LOCAL — A road designed primarily to provide access to abutting properties.

ROAD, MARGINAL ACCESS — Those roads which are parallel to and adjacent to primary roads and highways and which provide access to abutting properties and protection from through traffic.

ROAD, PRIMARY — A road which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic areas.

ROAD, PRIVATE — A drive that services or is designed to serve no more than two principal uses and is built to Town specifications that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the Town.

ROAD, PUBLIC — A road that serves three or more principal uses, that is built to Town specifications and is dedicated to the Town for maintenance.

ROAD, SECONDARY — A public road which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a primary road.

ROADSIDE STAND — A lightweight structure with a roof, either attached to the ground or movable, that is accessory to a principal use, not for year-round use and at which agricultural produce grown on the premises is offered for sale to the general public.

SALVAGE YARD — An area of land with or without buildings used for or occupied by the storage, keeping, or the salvage of junk material, including processing such as sorting, baling, packing, disassembly, exchange and/or purchase and sale of materials, and including scrap metals or other scrap, used or salvaged building materials, or the dismantling or demolition of automobiles or other vehicles, machinery or parts thereof, with the exception of agricultural machinery.

SCHOOL, PRIVATE — An elementary or secondary school facility as established by a person other than public school authorities, giving instruction in the 10 common branches of arithmetic, reading, spelling, writing, the English language, geography, history, civics, hygiene and physical training, registered and/or certified under the regulations of the Commissioner of the New York State Department of Education or chartered by the Regents of the University of the State of New York.
SIGN, OFF-PREMISES — A sign or structure which directs attention to an idea, product, business activity, service, or entertainment which is conducted, sold, or offered elsewhere than upon the lot on which such sign is situated. (See also "billboard."

SIGN, PORTABLE — Any sign that is not permanently affixed to the ground or another structure, and which is capable of being easily transported or moved by the property or business owner.

SIGN, PRINCIPAL BUSINESS — The primary sign or signs which include the business name and direct attention to a business or profession conducted on the premises.

SIGN, REPRESENTATIONAL — Any three-dimensional sign which is built so as to physically represent the object advertised.

SINGLE OWNERSHIP — Possession of a lot under control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 10 years, regardless of any division of such land into parcels.

SITE PLAN — Maps and supporting information required pursuant to Article VIII of this chapter for uses specified in § 217-20, Use Regulation Table.

SOLAR COLLECTOR — A device, or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy, and that contributes to a structure's energy supply, and components for containing and supporting such device.

SOLAR COLLECTOR, DETACHED — A solar collector, as defined herein, physically detached from the structure for which solar energy is to be supplied.

SOLAR ENERGY SYSTEM — A complete design or assembly consisting of a solar energy collector (herein called a "solar collector"), an energy storage facility (where used) and components for the distribution of transformed energy (to the extent that they cannot be used jointly with a conventional energy system). Passive solar energy systems which fulfill any other functions are not included in this definition.

SOLAR REFLECTOR — A device for which the sole purpose is to increase the solar radiation received by the solar collector.

SOLID WASTE DISPOSAL FACILITY — Any facility as defined and regulated in 6 NYCRR Part 360, and as hereafter amended.

SPECIALIZED REPAIR — A building or premises used primarily for the indoor repair of highly technical specialized equipment, such as electronic equipment, electrical systems, computer systems and circuits, and other similar operating and support systems. A use that is primarily devoted to the general mechanical and body repair of motor vehicles and/or small engines shall not be deemed to meet this definition.

STABLE, COMMERCIAL — Any establishment where horses are kept for training, riding, driving or stabling, for compensation or incidental to the operation of any club, association or similar establishment.
TRANSIENT GUEST — Any person who shares a dwelling unit on a nonpermanent basis for not more than 30 days.\textsuperscript{16}

TRAVEL TRAILER — A registered vehicle which is used, or designed to be used, for seasonal and/or temporary living or sleeping purposes, and which is customarily standing on wheels or rigid supports. A recreational vehicle (RV) is also considered a travel trailer.

TRUCK TERMINALS — A building or part of a building or premises used for the short-term storage and/or transfer of goods, wares and merchandise for the owner or others by truck transport.

USE — Includes the following:

A. The purpose for which any lot or structure may be arranged, designed, intended, maintained, or occupied; and/or

B. Any occupation, activity, or operation conducted in any structure or on a lot.

USE, ACCESSORY — A use which has all of the following characteristics:

A. Is controlled by the person exercising the principal use;

B. Is incidental to and customarily associated with the principal use;

C. Is located on the same lot with such principal use or building; and

D. Does not have any greater impact on the environment than the principal use.

USE, EXTRACTIVE — The removal and sale of any soil, gravel or earth product from a property. Grading in preparation for site construction under plans approved by the appropriate Town entity, where earth material is moved on-site or removed off-site incidental to construction activities, shall not be deemed an extractive use.

USE, NONCONFORMING — A use of land, existing legally at the time of enactment of this chapter, or any amendment thereto, which does not conform to the zoning regulations of the district in which it is situated.\textsuperscript{17}

USE, PRINCIPAL — The main or primary permitted use of a lot or structure.

VARIANCE, AREA — An authorization by the Zoning Board of Appeals for the use of land in manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.\textsuperscript{18}

VARIANCE, USE — An authorization by the Zoning Board of Appeals for the use of land for a purpose which is not otherwise allowed or is prohibited by the applicable zoning regulations.\textsuperscript{19}

\textsuperscript{16} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

\textsuperscript{17} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

\textsuperscript{18} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

\textsuperscript{19} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
§ 217-6. Application of regulations.
No structure or land shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, or altered, unless in conformity with the regulations specified in this chapter for the district in which it is located, except as hereinafter provided.

A. No structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards or side yards than are specified herein for the district in which such structure is located.

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

C. No lot shall be so reduced in size that its area or any of its dimensions or open spaces shall be smaller than required by this chapter.

D. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, public safety and general welfare.

E. Any use not specifically listed as permitted, either as-of-right or under site plan or special permit approval for a district in § 217-20, Use Regulation Table, shall be deemed to be prohibited.

F. Except as otherwise herein provided, no more than one principal use shall be permitted per lot.

A. Names of districts. In order to fulfill the purpose of this chapter, the Town of Elmira establishes and is hereby divided into the following nine districts:

- Agricultural-Rural Residential (AR)
- Agricultural Residential (ARA)
- Residential-Low Density (AAA)
- Residential-Moderate Density (AA)
- Residential-High Density (A)
- Neighborhood Business (NB)
- General Business (GB)
- Manufacturing (M)
E. Procedure for determination of boundaries.

(1) In the event of a questionable district boundary, the questionable boundary shall be referred to the Zoning Board of Appeals, and it shall establish the exact boundary.

(2) Upon the determination by the Zoning Board of Appeals, said boundary line shall be marked on the aforesaid copy of the Zoning Map with the date of the determination.

(3) The copy of the Zoning Map showing any such determinations under this section shall be on file at the office of the Town Clerk.

(4) Precise zone boundary determinations made by the Zoning Board of Appeals in accordance with the above rules shall be considered final and conclusive and may only be altered by amendment of the Zoning Map by the Town Board.

F. Lots divided by zoning district lines. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is established, the regulations for each respective district shall apply except as follows:

(1) In all cases where a lot in single ownership, other than a through lot, is divided by a district boundary so that 50% or more of such lot lies in the less-restricted district, the regulations prescribed for the less-restricted district shall apply to the more-restricted district of said lot for a distance of not more than 30 feet from the zoning district boundary. For purposes of this chapter, the more-restricted district shall be deemed that district having regulations which prohibit the particular use intended to be made of said lot, or which sets higher standards with respect to setback, coverage, yards, screening, landscaping and similar requirements.

(2) In all cases where a district boundary line is located not farther than 15 feet from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.

ARTICLE IV
District Descriptions and Uses


The intent of the AR Agricultural-Residential District is to delineate those existing substantially undeveloped portions of the Town that exhibit a rural character due to the lack of services to support development, such as road networks and water and sewer service, and where serious limitations to development such as steep slopes, poor development soils, and other natural features are predominant, and to conserve these areas for less-intensive, low-density residential uses and, where appropriate, agricultural, agribusiness uses, and certain nonresidential uses that can be developed in conformance with the natural and man-made limitations.
to serve local residential neighborhood business demands and, as such, is located on primary roads. Since introduction of numerous drive access points on these primary roads will conflict with the safe and efficient movement of traffic, it is the intent to limit the number of curb cuts or access drives on these roads.


The intent of the GB General Business District is to delineate that area in the Town where the nature of the existing business development and availability of transportation network, water and sewer service is such that major business development can and/or should occur. It is established to concentrate retail uses, transient accommodations, and service activities within defined and established regulations.


The intent of the M Manufacturing District is to delineate those areas in the Town that are now utilized for and appropriately suited to manufacturing, process and industrial uses, and to preserve these areas for such uses and related uses that will not create a detrimental or significant adverse impact on the environment and the welfare of the community.


The intent of the C Conservation District is to delineate those open, publicly owned and/or environmentally sensitive land and water areas of the Town that, because of their current use, critical relationship to the Chemung River, or extreme environmental sensitivity, should be preserved and utilized only for less-intensive and carefully considered development that is compatible with the sensitive nature of such lands; and to ensure that the existing character, nature and benefits derived from such lands are preserved and retained.

§ 217-20. Use Regulation Table.

The permitted, site plan and special permit uses for each zoning district shall be as specified in the following Use Regulation Table:

Use Regulations  [Amended 9-21-1998 by L.L. No. 2-1998]

<table>
<thead>
<tr>
<th>Use</th>
<th>AR</th>
<th>ARA</th>
<th>AAA</th>
<th>AA</th>
<th>A</th>
<th>NB</th>
<th>GB</th>
<th>M</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
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<tr>
<td>Single-unit dwelling</td>
<td>P</td>
<td>P</td>
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<td>P</td>
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<tr>
<td>Two-unit dwelling</td>
<td>S</td>
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<td>P</td>
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<tr>
<td>Multiunit dwelling</td>
<td>F</td>
<td>F</td>
<td>F</td>
<td>F</td>
<td>F</td>
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<tr>
<td>Private hunting cabin, seasonal</td>
<td>P</td>
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Key to Abbreviations:

AAA  Residential-Low Density
AA   Residential-Moderate Density
A    Residential-High Density
NB   Neighborhood Business
GB   General Business
M    Manufacturing
C    Conservation

Use Designations:
P    Permitted as of right
S    Permitted under site plan approval by Planning Board
P/S  Permitted if principal use is permitted; site plan required if principal use is a site plan use
X    Special use permit and site plan approval required
F    Floating zone
Blank Not permitted in that district

§ 217-21. Activities prohibited in all districts.

A. No effluent or matter of any kind shall be discharged into any stream or body of surface water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise causes odors or fumes or which is poisonous or injurious to human, plant or animal life.

B. The practice of soil stripping shall be limited to incidental filling of areas within the Town to bring them up to grade, except insofar as is necessary or incidental to excavations for cellars and other structures.

C. Unless conducted under proper and adequate standards, no use shall be permitted which will produce corrosive, toxic or noxious fumes, gas, materials, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, odors, dust, waste, noise or vibration, or other objectionable features so as to be detrimental to the public health, public safety, or general welfare.

D. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way shall not be permitted.

ARTICLE V
Area and Bulk Regulations


This article is established in the interest of promoting public health, safety and welfare by providing open space for the access of light and air circulation, preventing conflagration, facilitating fire fighting, meeting current and future septic disposal needs, protecting water
C. Temporary exterior uncovered and unenclosed handicap access facilities, as required by the health of a resident, may project up to the lot line(s) if required to meet the access standards. Such facilities shall be removed when the person(s) who required the use of such facilities is no longer in residence.

D. Unroofed and unenclosed paved surfaces at existing finished grade may project up to the lot line(s).

A. There shall be no more than one principal structure containing dwelling units on a lot or a parcel except as may be approved under site plan review and approval.

B. No subdivision of a lot shall create a lot that is not in compliance with any provision of the Density and Bulk Control Schedule.23

§ 217-27. Distance between principal structures on same lot.
Where there is more than one principal structure on a lot in any district, the space between such structures shall be at least equal to the height of the taller of such structures.

The limitations of the height of buildings shall not apply to parts of buildings which are nonhabitable; silos, chimneys, HVAC equipment, ventilators, skylights, bulkheads, and towers or spires that are part of nonresidential buildings.

§ 217-29. Exceptions to front yard requirements.
A. Front yards of less than minimum depth. In the A, AA, and AAA Districts where there are principal structures on both abutting lots with front yards of less than the required depth for the district, the front yard for the middle lot need not exceed the average front yard of the abutting structures. If there is a principal structure on the abutting lot with a front yard of less than the required depth for the district, the front yard of the middle lot need not exceed a depth halfway between the depth of the abutting lot and the required front yard depth.

B. Front yards of more than minimum depth. In the A, AA, and AAA Districts where there are principal structures on both abutting lots with front yards greater than the required depth for the district, or if there is a principal structure on one abutting lot with a front yard greater than the required depth for the district, the front yard for the lot shall be determined by averages as specified above.

23. Editor's Note: The Density and Bulk Control Schedule is included at the end of this chapter.
farmland in production, preserve open space and avoid the extension of public facilities into active farmland and environmentally sensitive areas.

§ 217-34. Applicable zoning districts.
Residential cluster development shall be considered applicable in the AR and ARA Zoning Districts.

§ 217-35. Permitted uses.
Permitted uses included all permitted residential principal and accessory uses as specified in § 217-20, Use Regulation Table, for the applicable districts, including single-unit and two-unit dwelling units.

§ 217-36. Dimensional requirements.
Dimensional requirements as set forth in the Density and Bulk Control Schedule25 may be varied by the Planning Board based on set conditions and the merits of the specific proposal in meeting the objectives of this article.

A. Authorization to grant or deny residential cluster development. In accordance with § 278 of the Town Law, the Town Board authorizes the Planning Board, simultaneously with the approval of a plat or plats, to modify the applicable bulk and density provisions of this chapter, subject to the conditions hereinafter set forth, where such modification would benefit the Town by providing an alternative permitted method of development of the plat or plats. In no instance shall the number of dwelling units exceed the number which would be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming with the minimum lot size and density requirements of the applicable zoning districts. The Town Board, pursuant to § 278 of the Town Law, authorizes the Planning Board to require that the owner submit an application which reflects and incorporates such modifications where the objectives stated herein and/or in Article I of this chapter are met to a greater degree than if the development were permitted to occur in a conventional manner. The Planning Board shall comply with all procedures and standards set forth in this article when implementing such power.

B. Standards and procedures governing residential cluster developments. Any residential cluster development considered shall conform to the following standards, which are regarded as minimum requirements:

(1) This procedure shall apply only to agricultural/cluster residential zoned land which shall be a minimum of 10 contiguous acres in size. In addition, it shall be determined that such development will not be detrimental to the health, safety or general welfare of persons residing in the vicinity, or injurious to property or

25. Editor's Note: The Density and Bulk Control Schedule is included at the end of this chapter.
those specified, provided that the sanitary systems are approved by the NYSDEC, that the gross density does not exceed that permitted within the zoning district in which the land occurs, and the layout is not detrimental to the health, general welfare, and aesthetic character of the community.

(9) Construction shall start within one year of the date of approval and shall be completed within a time frame agreed to by the developer and the Planning Board. If such time frame is not met by the developer, the residential cluster development approval shall be revoked.

C. Special provisions applying to maintenance of common property. In the event that an organization is established to own and maintain common property, the Town Board may resort to the procedure stated herein, if such property is not maintained in reasonable order and condition:

(1) The tract of land for a project may be owned, leased or controlled either by a single person, or corporation or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners and any other such controlling interest of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all parties.

(2) When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of common property and facilities, including private streets, utilities, drives, service and parking areas, and recreational and open space areas.

(3) In reviewing the organization for the ownership and maintenance of any common property, the Town shall consider the following:

(a) Timing the creation of the organization; provision for mandatory or automatic nature for membership in the organization by residents, nonresidential occupants, property owners, etc.

(b) Permanence of common property safeguards.

(c) Liability of the organization for insurance, taxes, and maintenance of all facilities.

(d) Provisions for pro-rata sharing of costs and assessments.

(e) Capacity of the organization to administer common facilities.

(4) The applicant shall file with the Town a signed agreement, approved by the appropriate governmental authority, providing for the maintenance of all common property.

(5) In the event that the organization established to own and maintain common property, or any successor organization, fails to maintain such property in reasonable order, the Town Board may cause such property to be maintained in accordance with the procedure as follows:
§ 217-37
ZONING
§ 217-37

(a) The applicant shall identify and subtract all acreage considered to be undevelopable as follows:

[1] Steep slopes 25% or greater.


(b) The applicant shall then calculate the acreage that is determined to be developable and apply the Density and Bulk Control Schedule’s minimum square footage per dwelling unit for the zoning district to determine the maximum number of permitted dwelling units. All density values shall be rounded to the nearest whole number (dwelling unit).

(c) In order for a portion of a parcel to be considered developable for the density calculations, there shall be a minimum area of 5,000 square feet of land that is not classified in one of the undevelopable categories outlined above, and which is capable of supporting an on-lot sewage treatment and disposal system.

(2) A tabulation of the total number of acres in the proposed project; the percentage designated for each use area.

(3) Proposed location and acreage for parks, playgrounds, natural watercourses and other open space.

(4) Lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:

(a) Focus development on site soils that are best suited to development and can accommodate subsurface septic disposal (in unsewered areas only);

(b) Avoid disturbance of mature woodlots and/or hedgerows;

(c) Preserve environmentally sensitive areas and/or unique site features;

(d) In locations least likely to block or interrupt scenic vistas;

(e) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities;

(f) Promote a more efficient and economical provision of services; and

(g) Other criteria listed in Article VIII, Site Plan Approval Procedures.

E. Public hearing on residential cluster development. A residential cluster development shall be processed in accordance with Chapter 198, Subdivision of Land, of the Code of the Town of Elmira and shall not be approved as a subdivision plat by the Planning Board.

26. Editor's Note: The Density and Bulk Control Schedule is included at the end of this chapter.
§ 217-40. Permitted uses.

One-unit, two-unit, and multiunit uses and their accessory uses as specified in § 217-20, Use Regulation Table, are permitted subject to site plan review and approval.

§ 217-41. Non-senior housing developments.

Any development proposal to be considered as a PMRD allowing such density increases as outlined in this article shall conform to the following standards, which are regarded as minimum requirements, in addition to applicable standards in other sections of this chapter:

A. Lot area. The minimum lot area required to qualify for a PMRD designation shall be 10 acres in size.

B. Access. A minimum of two vehicular access points shall be required. Such access shall be provided from a road with a minimum classification as a secondary road.

C. Buffer yard requirements. All PMRD developments shall have buffer yard areas the entire perimeter of the parcel that shall meet the following minimum standards:

   (1) Buffer yards shall be at least equal to twice the minimum front, side and rear yard setbacks, as appropriate for the underlying district(s), except that in no instance shall the buffer yard be less than 50 feet. The buffer yards shall be designed to form a minimum six-foot visual barrier through the use of man-made materials and/or natural plantings. No man-made barrier shall exceed six feet in height.

   (2) No principal or accessory structures, paved areas parking, or other accessory use(s) shall be located within the minimum buffer yard.

   (3) The Planning Board may, during the site plan review process, require greater buffer yards and/or building setbacks than the minimum provided for in Subsection C(1) above.

D. Water and sewer service. All PMRDs shall be serviced by community water and public sanitary sewer systems.

E. Density. The Planning Board shall determine in each case the appropriate dwelling unit density and placement of such units on the parcel. The gross density shall be calculated using the total acreage. Such gross density shall in no instance exceed 10 dwelling units per acre.

F. Single-family dwelling units. The dimensional requirements for single-family dwelling units shall be as established by the Planning Board in the site plan review process, except that in no instance shall they be less than the following standards:

   (1) Maximum lot coverage: 40%.

   (2) Maximum number of units. The maximum number of single-unit dwellings in a PMRD shall be no more than 10% of the total allowable dwelling units.

   (3) Minimum lot size: 6,000 square feet.
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ZONING

§ 217-42

(a) Minimum setback requirements.

[1] The principal building setback from any dedicated road peripheral to the site shall be 40 feet.

[2] The principal building setback from any interior project road shall be 30 feet.

(b) No principal building shall be located less than 30 feet from any interior lot line.

(c) All accessory buildings, including unattached garages, shall be located no less than 10 feet from any rear or side lot line and shall not be located in any required front yard.

(d) Maximum building height shall be three stories or 35 feet, whichever is less, unless the design and construction of the building conforms to more stringent fire safety requirements.

(e) Minimum dwelling unit size shall be as set forth in the Density and Bulk Control Schedule.27

(f) Maximum lot coverage shall be not more than 40% of the total gross acreage included in the project site plan.

(g) Parking shall be in conformance with § 217-62.

H. Recreation requirements. All development proposals shall have a minimum of 10% of all lands set aside and developed for recreational uses.

§ 217-42. Senior housing developments.

Any development proposal to be considered as a senior housing PMRD allowing such density increases as outlined in this article shall conform to the following standards, which are regarded as minimum requirements, in addition to applicable standards in other sections of this chapter, as well as the requirements of the Federal Fair Housing Act:

A. Lot area. The minimum lot area required to qualify for a PMRD designation shall be 12 acres in size.

B. Access. A minimum of two vehicular access points shall be required. Such access shall be provided from a road with a minimum classification as a secondary road.

C. Buffer yard requirements. All PMRD developments shall have buffer yard areas the entire perimeter of the parcel that shall meet the following minimum standards:

(1) Buffer yards shall be at least equal to twice the minimum front, side and rear yard setbacks, as appropriate for the underlying district(s), except that in no instance shall the buffer yard be less than 50 feet. The buffer yards shall be designed to

27. Editor's Note: The Density and Bulk Control Schedule is included at the end of this chapter.
(8) All accessory buildings, including unattached garages, shall meet the following minimum standards:

(a) Side and rear yard: 10 feet.
(b) Accessory buildings shall not be located in any required front yard.
(c) Maximum size: 200 square feet.

G. Townhouses and multifamily dwelling units shall comply with the standards as specified below; these standards shall be regarded as minimum requirements.

(1) Townhouse developments shall meet the following standards:

(a) There shall be no more than eight townhouse units in any contiguous group.
(b) Minimum setback requirements from interior roads and drives.
(c) Maximum building height shall be three stories or 35 feet, whichever is less.
(d) Maximum lot coverage shall be not more than 40% of the total gross acreage included in the project site plan.
(e) Parking shall be in conformance with § 217-62.
(f) All accessory buildings, including unattached garages, shall be located no less than 10 feet from any rear or side yard and shall not be located in any required front yard.

(2) Multiunit developments shall meet the following standards:

(a) Minimum setback requirements.
   [1] The principal building setback from any dedicated road peripheral to the site shall be 40 feet.
   [2] The principal building setback from any interior project road shall be 30 feet.
(b) No principal building shall be located less than 30 feet from any interior lot line.
(c) All accessory buildings, including unattached garages, shall be located no less than 10 feet from any rear or side yard and shall not be located in any required front yard.
(e) Recreation room.

(f) Exercise or multipurpose room.

(g) Workshop.

(h) Library.

(i) Sauna/Spa, exercise room, whirlpool.

(j) Medical and/or emergency medical center, physical and speech therapy areas, first aid station, principally for the benefit of residents of the development.

(k) Community and smaller private dining rooms, cocktail lounge, restaurant, coffee shop, and/or lounge areas.

(l) Small retail store, convenience store, beauty parlor, barber shop, bank, post office, areas for crafts, games and other activities.

(m) Chapel.

(n) Rental units and/or guest rooms for visitors.

(o) Social services office. (NOTE: Such office shall be for use by social service providers or others offering direct assistance to residents only to the extent that they meet the needs of the residents of the development.)

(p) Playground (outdoor and/or indoor).

(q) Adult day-care facility.

(r) Twenty-four-hour security.

(s) Maintenance facility.

§ 217-43. Ownership and maintenance of common property.

A. The tract of land for a project may be owned, leased or controlled either by a single person, or corporation or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners and any other such controlling interest of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all parties.

B. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of common property and facilities, including private streets, utilities, drives, service and parking areas, and recreational and open space areas.

C. In reviewing the organization for the ownership and maintenance of any common property, the Town shall consider the following:
common property during the next succeeding year, subject to a similar hearing and
determination in each year thereafter.

(4) The cost of such maintenance by the Town shall be assessed at the same
proportion as each unit's assessed value bears to the total assessment of the
development.

§ 217-44. Procedures for establishing.

A. Any applicant requesting approval for a PMRD shall submit an application to the Town
Board and the Planning Board in the form of a concept site plan as defined in § 217-50.

B. Upon conditional acceptance of the concept plan by the Town Board and the Planning
Board, the applicant may submit a preliminary site plan application to the Planning
Board in conformance with the procedures and requirements set forth in §§ 217-51 and
217-52.

C. The Planning Board may, based on its technical and environmental review of the
preliminary site plan, recommend to the Town Board that the PMRD not be approved.
Such recommendation shall include a detailed explanation of the reasons for its finding.

D. Based on the technical and environmental review, the Planning Board may accept the
preliminary site plan as meeting the objectives of this article, and shall forward to the
Town Board its recommendation to modify the Zoning Law and establish the PMRD.
The Planning Board's report shall include a statement of all conditions and covenants
upon which the PMRD approval should be contingent.

E. Within 62 days of the receipt of the Planning Board's recommendation, the Town Board
shall, in accordance with Article VIII, advertise and hold a public hearing on the PMRD
proposal. Within 62 days after such hearing, the Town Board shall approve or disapprove
the rezoning. The Town Board may attach such conditions on the approval as it deems
necessary.39

F. Approval of the PMRD by the Town Board shall allow the Planning Board to act on the
preliminary and, if required, final site plans.

G. If the PMRD involves the subdivision of land into parcels for sale to individual owners,
the developer shall prepare a subdivision plat suitable for filing with the Chemung
County Clerk.

H. For the purposes of regulating the PMRD and use of property after approval, all
modifications, changes, and/or new development within the PMRD shall be subject to
site plan approval by the Planning Board. Properties lying in the PMRD are unique and
shall be so considered by the Planning Board when evaluating these requests; and
integrity of the original intent and function of the planned unit shall be of primary
importance.

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29. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

217:49 06 - 01 - 2012

Concept plan submittal is optional. The purpose of the concept plan is to encourage the person applying for a use to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development.

A. Submittal. If prepared, 11 copies of the concept plan shall be submitted to the Planning Board or other designee as prescribed in the procedures of the Planning Board.

B. Action on concept plan. The Planning Board or the appropriate designee shall provide written advisory comments to the applicant on the concept plan of a proposed development in relation to the applicable requirements of this article, existing and/or potential development of the adjacent area, the Town Comprehensive Plan, Article IX, Development Guidelines and Supplementary Regulations, and other applicable sections of this chapter, and in the course of its review may consult with any appropriate consulted agencies.

C. Submittal requirements. The concept plan comprises the following data, which shall be clearly labeled on each sheet with the name of the proposed development, name of the applicant, and tax parcel numbers. The applicant shall submit an area map showing:

1. Applicant's entire parcel, including the following:
   (a) That portion of the parcel proposed for development.
   (b) Any other portion of the applicant's parcels.

2. All of the following data within 500 feet of the applicant's parcel that includes a portion proposed for development:
   (a) Parcels and their ownership.
   (b) Uses.
   (c) Zoning districts.
   (d) Roads.
   (e) Subdivisions.
   (f) Easements.
   (g) Structures.
   (h) All existing natural features such as water bodies, watercourses, wetlands, wooded areas, flood hazard areas and individual large trees.
   (i) School district boundaries.
   (j) Copy of a map of site topography as a scale of not less than one inch to 2,000 feet of the entire area of the area map and showing the location of the applicant's parcel as well as that portion thereof proposed for development.
   (k) All soil classifications.
(3) Boundaries of the project plotted to scale of not more than 100 feet to one inch on a survey map prepared by a New York State licensed surveyor.

(4) Existing natural features such as watercourses, water bodies, wetlands, wooded areas and individual large trees. Features to be retained should be noted.

(5) Existing and proposed contours at intervals of not more than five feet of elevation.

(6) Location of proposed land uses and their areas in acres and location, proposed use and height of all buildings.

(7) Location of all existing or proposed site improvements, including streets, drains, culverts, retaining walls, fences and easements, whether public or private.

(8) Description of sewage and water systems and location of such facilities.

(9) Location and proposed development of buffer areas and other landscaping.

(10) Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and a calculation of the residential density in dwelling units per square footage for each such area.

(11) Location of all parking and truck-loading areas, with access and egress drives thereto.

(12) Location, design and size of all signs and lighting facilities.

(13) The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.

(14) Building orientation and site design for energy efficiency.

(15) Location and design of all energy distribution facilities, including electrical, gas and solar energy.

(16) Grading and erosion plan, including the description and location of control measures and proposed location of sediment sink/settling pond and interceptor swales, etc.

(17) Location and design for stormwater management facilities.

(18) Drainage report, including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.

(19) The lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.

C. The Planning Board may require such additional information as appears necessary for a complete assessment of the project.
also require that the applicant provide written notification to all property owners within a
two-hundred-foot radius of the site at least five days prior to the scheduled hearing date. The
applicant shall provide adequate documentation of this notification to the Planning Board prior
to the opening of the public hearing.

§ 217-54. Notification of decision on preliminary site plan.
Within 62 days of the public hearing at which a preliminary site plan is considered, the
Planning Board shall act upon it. The Planning Board's action shall be in the form of a written
statement to the applicant stating whether or not the preliminary site plan is approved,
approved with conditions, or disapproved. A copy of the appropriate minutes of the Planning
Board's statement may include recommendations as to desirable revisions to be incorporated
in the final site plan application. If the preliminary layout is disapproved, the Planning Board's
statement will contain the reasons for such findings. In such a case, the Planning Board may
recommend further study of the proposal and resubmission of the preliminary site plan.

§ 217-55. Final site plan submittal.
After receiving approval, with or without conditions, from the Planning Board on a
preliminary site plan, and approval for all necessary permits and curb cuts from state and
county officials, the applicant may prepare a final site plan and submit it to the Planning
Board for its review and approval. However, if more than six months have elapsed between
the time of the Planning Board's report on the preliminary site plan and if the Planning Board
finds that conditions have changed significantly in the interim, the Planning Board may
require resubmission of the preliminary site plan for further review and possible revisions
prior to accepting the proposed final site plan for review. The final site plan shall conform to
the approved preliminary site plan, and shall incorporate any revisions or other features that
may have been recommended by the Planning Board at the preliminary review. All
compliances shall be clearly indicated by the applicant.

§ 217-56. Notification of decision on final site plan.
Within 62 days of the submission of the final site plan, the Planning Board shall render a
decision.

A. Upon approval, the Planning Board shall endorse its approval on a copy of the final site
plan and shall forward it to the Code Enforcement Officer, who shall then issue a
building permit if the project conforms to all other applicable requirements.

B. Upon disapproval, the Planning Board shall so inform the Code Enforcement Officer and
he shall deny a building permit. The Planning Board shall also notify the applicant in
writing of its decision and its reasons for disapproval. A copy of the appropriate minutes
may suffice for this notice.

C. Specifications for improvements shown on the site plan shall be those set forth in this
chapter and in other laws, ordinances, rules and regulations, or in construction
specifications of the Town of Elmira.
§ 217-61. Road and pavement design.  

A. Road arrangement.

(1) Road systems shall be designed with due regard to the needs for convenient traffic access and circulation; traffic control and safety; access for fire-fighting, snow removal, and road maintenance equipment; and stormwater drainage and sewage disposal. Roads shall be designed to accommodate the prospective traffic, and be so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable.

(2) The roads in contiguous developments shall be coordinated so as to compose a convenient system. Where a development adjoins undeveloped land, its roads shall be laid out so as to provide suitable future road connections with the adjoining land where the latter shall be developed. A road thus temporarily dead-ended shall be constructed to the property line and shall be provided with a temporary turnaround of the same dimensions as for permanent dead-end roads if in excess of 200 feet, with a notation on the construction plat providing for temporary easements for the turnaround until such time as the road is extended.

(3) Roads shall be logically related to the topography, and all roads shall be arranged so as to obtain as many as possible of the building sites at or above the grade of the roads. Grades of roads shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.

(4) Where a development abuts on or contains an existing or proposed primary road, the Planning Board may require marginal access roads, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with or without rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(5) Where a development borders or contains an existing or proposed railroad right-of-way or controlled-access highway right-of-way, the Planning Board may require a road approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for business, commercial or industrial purpose in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

B. Standards for road designs. All roads shall be designed and constructed to conform to New York State and Town specifications. The Town Highway Superintendent shall approve all road design and construction.

C. Dead-end roads. Where a road does not extend to the boundary of the development and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance sufficient to accommodate a lot meeting the requirements of this chapter. Reserve strips of land shall not be left between the end of a proposed road

32. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
I. Typical road section. The typical section approved by the Town Highway Superintendent shall be used for all roads. Pavement and right-of-way widths may vary with type of use.


A. General requirements.

(1) It shall be the responsibility of the owner of a property to provide the off-road parking spaces required in the listing below for any use which is erected, enlarged, or structurally altered after the effective date of this chapter.

(2) A parking space shall be a minimum of nine feet by 18 feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and have direct access to road or alley.

(3) No exit or entrance drive connecting a parking area and a road shall be permitted within 30 feet of the intersection of two public rights-of-way.

(4) Where appropriate, the Zoning Board of Appeals may, upon the presentation of evidence, vary the number and circumstances of the following parking space requirements, in order that the general welfare be served and the prospective uses be equitably treated.

(5) In stadiums, churches, and other places of assembly, in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat.

(6) The lighting of off-road parking lots shall not be directed into adjacent properties.

(7) If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

(8) Off-road parking in residential areas shall be restricted to noncommercial vehicles only and the use of the area by commercial vehicles, house trailers, buses and other motorized equipment not of a residential passenger-carrying nature shall be prohibited.

B. Required off-road parking spaces. The minimum cumulative number of spaces shall be determined by the amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings or structures, or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structures, as follows:

(1) One-unit dwelling: two spaces.

(2) Two-unit dwelling: two spaces per dwelling unit.

(3) Multiunit dwelling: two spaces per each dwelling unit.
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D. Dimensions for off-road automobile parking spaces and lots. Every such space provided shall be at least nine feet wide and 18 feet long, and every space shall have direct and usable driveway access to a road with minimum maneuver area between spaces as follows:

1. Parallel club parking: five feet end to end with twelve-foot aisle width for one-directional flow and twenty-four-foot aisle width for two-directional flow.

2. Thirty-degree parking: thirteen-foot aisle width for one-directional flow and twenty-four-foot aisle width for two-directional flow.

3. Forty-five-degree parking: sixteen-foot aisle width for one-directional flow and twenty-four-foot aisle width for two-directional flow.

4. Perpendicular parking: twenty-four-foot aisle width for one-directional and two-directional parking.

E. Location of required parking spaces.

1. Residential districts. The following minimum requirements shall apply to all off-road parking in the A, AA, and AAA Districts:34

   a. Required automobile parking spaces shall be provided on a buildable portion of the same lot. This space shall be graded and improved for parking use and readily accessible from the road.

   b. Not more than one of the following vehicles shall be parked outside on any lot:

      [1] One boat and/or boat trailer.


   c. No commercial vehicles as defined in § 217-5 shall be permitted to be parked outside on any lot.

2. Business and industrial districts:

   a. Such spaces shall be provided on the same lot, or not more than 400 feet therefrom, provided that the criteria in Subsections A(7) and F of this section are met.

   b. Vehicles and equipment for display or for sale shall not be parked or stored within the required front yard.

   c. Where such parking is situated adjacent to a residential use, it shall be set back a maximum of six feet from the residential lot line, and an adequate landscape buffer in conformance with § 217-79 shall be provided within such setback area.

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34. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
B. Dimensions of loading berths. Each loading berth, either open or enclosed, shall be 55 feet long, 12 feet wide and 14 feet high; businesses utilizing vehicles not larger than panel trucks may have berths which are not smaller than 20 feet long, 10 feet wide and eight feet high.

C. Location of berths. The Planning Board shall require that berths are located in such a way as not to unreasonably interfere with the movement of people and vehicles on public ways and within on-site parking. The Planning Board may allow use of a public alley to satisfy loading berth requirements.

D. Landscaping shall be as required in § 217-62G.

§ 217-64. Accessory buildings and uses.

A. Accessory buildings. Accessory buildings, which by definition are not attached to principal buildings, shall comply with the following:

1. All structures 81 square feet or more in size shall require a building permit.

2. Accessory buildings shall only be located on the same lot as the principal use stated in the Density and Bulk Control Schedule.

3. Accessory buildings shall only be located in a rear yard or side yard in compliance with the following scheduling:

   a. Residential districts.
      
      [1] Side yard: minimum setback of five feet from lot line.
      
      [2] Rear yard: minimum setback of five feet from lot line.

   b. GB, NB, M Districts.
      
      

   c. Where any nonresidential district abuts an existing residential use and/or a residential district, any accessory building shall be located a minimum of 1/2 the distance specified in the Density and Bulk Control Schedule for principal structures.

4. Accessory buildings shall be located no closer to the principal building than six feet if the exterior walls of each structure are noncombustible, 12 feet if either exterior wall is combustible.

38. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

39. Editor's Note: The Density and Bulk Control Schedule is included at the end of this chapter.

40. Editor's Note: The Density and Bulk Control Schedule is included at the end of this chapter.
Prevention and Building Code, and if electrical shall bear the seal or insignia of a nationally recognized testing company.

(2) No permanent or temporary sign shall be erected or placed at or near the intersection of any roads in such a manner as to cause a traffic hazard at the intersection, or at any location where, by reason of the position, shape, or color of the sign, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words "Stop," "Look," "Drive-In," "Left," or any other words, phrase, symbol, or character in such a manner as to interfere with, mislead or confuse traffic.

(3) No building-mounted sign shall be placed or erected on the roof of any building.

(4) Except as provided in Subsection E of this section, no permitted freestanding sign shall be more than 20 feet in height above the average finished grade of the ground of the parcel on which the sign is located.

(5) No freestanding signs or any part of such sign shall extend beyond a property boundary or into a road right-of-way.

(6) No freestanding sign shall obscure clear vision for any site or adjoining site driveway. All such signs shall be a maximum of three feet in height or not extend closer to the ground than eight feet in conformance with Subsection A(4) of this section.

(7) The provisions of this section shall not apply to safety signs, road signs, historical markers or highway directional signs erected by municipal or public agencies.

(8) Illumination of signs shall not be intermittent or of varying intensity and may not produce excessive glare beyond the property lines.

(9) No sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices. Signs with moving parts are not permitted, except public service signs (such as time and temperature) and interior signs which do not constitute a traffic hazard as approved by the Town Board.

(10) No sign shall project into a public right-of-way or be less than 15 feet above any public driveway or thoroughfare.

(11) Portable signs shall be permitted only for the purposes of nonprofit organizations, shall not exceed 40 square feet in area and may be allowed by a permit issued by the Code Enforcement Officer for special event applications for a time period not to exceed four weeks.

(12) Advertising signs and billboards as defined herein shall be prohibited.

(13) No advertising message shall be extended over more than one sign placed along any road or highway.

(14) Signs which are located inside of a building which are visible from the exterior of the building shall be subject to the same size restrictions and regulations as signs located on the exterior of a building.
C. AR, ARA, AAA, AA, A District uses.

(1) Multiunit dwellings and subdivision developments may display a maximum of two identification signs which do not have an area of more than 30 square feet.

(2) A dwelling unit, in which a home occupation is permitted, may display a nonilluminated sign noting such occupation. Such sign shall be mounted flat against a wall of the dwelling unit and shall be no more than two square feet in area.

(3) Civic, religious, educational, institutional, social and membership clubs and similar uses may display one identification sign and/or bulletin board incidental to the use. The aggregate total face area of such sign shall not exceed 16 square feet.

D. GB and NB District uses.

(1) Types of permitted signs. The following signs are permitted in these districts:

(a) Flat facade: signs placed flush with the building.

(b) Projecting: signs placed on a pole or similar device perpendicular to the building. Such signs shall have a clearance of eight feet and extend a maximum of five feet from the facade.

(c) Window lettering: signs displayed, painted and/or affixed to the window.

(d) Awning: signs displayed, printed, painted and/or affixed to an awning.

(e) Detached sidewalk: signs, otherwise referred to as "sandwich boards," placed within three feet of the curb so as not to obstruct pedestrian traffic. Sidewalk signs shall be a maximum of three feet in height and 12 square feet in area, be temporary in nature and not be considered as part of the maximum aggregate signage total allowable under this section.

(f) Freestanding: signs that have integral supports that are not affixed to a building or other structure.

(2) Location and number of signs. A maximum of three principal business signs are permitted in combinations of sign types per the following guidelines:

(a) Front facade: maximum of two signs per road-level business. Additional window-lettering signs shall be permitted per each upper-level business.

(b) Rear facade: none.

(c) Side facade: where a building side facade faces a road or parking lot, a maximum of one sign.

(d) Freestanding: maximum of one sign in compliance with Subsection A(5) of this section.

(3) Size of signs.
[2] Additional signs may be located on the building facade or on certain merchandise displays as may be appropriately stored outside.

[3] The aggregate total display area of all such signs shall not exceed an area equal to 0.5 square foot per lineal foot of building frontage.

F. Plaza and mall signs. Where three or more business uses are combined in a single structure and/or common grouping of structures sharing parking and related facilities, the following sign provisions shall apply:

(1) No more than two freestanding or projecting principal business signs may be displayed identifying the plaza or group of business names. Each sign may have a maximum total aggregate face area of up to 200 square feet, with no single face greater than 100 square feet.

(2) One directory sign identifying each business located within the plaza may be displayed. The total aggregate face area of such sign shall not exceed 100 square feet, and each business name identified on said sign shall be of uniform size.

(3) Each business in the plaza or grouping shall be allowed to display one facade-mounted principal business sign. Said sign shall not exceed 10% of the front building facade. Establishments with more than one front facade visible may have up to two such signs with the maximum area calculated as herein described.

G. Removal of certain signs. Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which such sign may be found within 60 days after written notification from the Code Enforcement Officer, and, upon failure to comply with such notice within the time specified in such order, the Code Enforcement Officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached.


No person, firm or corporation shall construct or locate any driveway entrance or exit into a road in the Town of Elmira without having first met the provisions of this section.

A. All work and materials shall be furnished as required to meet the conditions set by the Highway Superintendent and County and State Highway Departments.

B. No alteration or addition shall be made to any driveway without first securing permission from the Highway Superintendent.

C. No driveway shall have an average grade that exceeds 10%.

D. The slope of a nonresidential use driveway shall not exceed 2% within 25 feet of the intersecting public road.

E. No more than two driveways to a single commercial establishment entering on one road shall be permitted.
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shall be constructed of materials that shall not hinder clear vision in conformance with Subsections C and G of this section.

(2) Business and Manufacturing Districts (NB, GB, M). There shall be no restrictions, except that any fence or wall located on a residential lot line or district boundary shall be limited to four feet in height at the property line or a maximum of six feet if located a minimum of six feet from the property line, above the existing finished grade.

F. Location. All fences shall be located in their entirety within the property boundaries.

G. The clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three feet in height measured from the top of the road pavement, unless such plantings have all branches and foliage removed to a height of eight feet above the finished grade.

H. No trees, shrubs, or other plantings shall be allowed to intrude on or obstruct any sidewalk or public walkway. All trees or other plantings shall be trimmed to a maintain a height of seven feet of clearance above any walkway.

§ 217-68. Steep slopes.

The Town of Elmira is characterized by numerous steep slope (10% or greater) areas. Special design treatment for roads, building sites, and other development is needed to preserve the natural terrain, trees, scenic views, etc. Development on steep slopes will be permitted, subject to the following guidelines:

A. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) and road location (including cross-sections).

B. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.

C. Design principles shall include, but not limited to, the following:

(1) Landscaping of areas around structures making them compatible with the natural terrain.

(2) Shaping, grouping and placement of man-made structures to complement the natural landscape.

(3) Arrangement of buildings so they complement one another to promote visual interest.

(4) Shaping of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the steep slope areas.
C. The Planning Board may accept an applicant's offer of a payment-in-lieu-of-parklands setaside if it determines that the site is not appropriate for parkland use or that parklands are not needed in the site area.

D. All multiunit developments shall provide a minimum of 5% of the site area designed and developed for recreational uses.

§ 217-70. Utilities.
A. Water supply and sewage disposal. Provisions for water supply, water and sewer lines, or on-lot sewage treatment systems shall comply with requirements of the Chemung County Health Department, CCESD, Elmira Water Board, and/or New York State Department of Environmental Conservation, whichever agency has the approval authority. The appropriate approval agency shall approve all installation, design and construction.

B. Underground installation. All utility companies (telephone, electric, etc.) are now equipped to make underground installation of their services; underground installation shall be required when practical.

§ 217-71. Repair or removal of damaged buildings.
A. Any building which has been damaged by fire or other causes to the extent of more than 50% of its replacement cost shall be repaired or razed by or at the cost of the owners. Such building shall either be so repaired or razed within nine months in a fashion which leaves the site clean.

B. A building which has been damaged by fire or other causes to the extent of less than 50% must be reconstructed within a period not to exceed nine months or be razed by or at the cost of the owners.

C. Enforcement will be by the Code Enforcement Officer, utilizing the services of a qualified appraiser when necessary.

§ 217-72. Manufacturing uses.
A. General standards. The following general standards are hereby adopted for the control of any industrial use. No such use shall be permitted, established, maintained or conducted therein which shall cause or be likely to cause:

(1) Excessive smoke, fumes, gas, dust, odor, or any other atmospheric pollutant beyond the boundaries of the lot whereon such use is located. Whether smoke is excessive shall be determined according to the Ringelmann Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines, when the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart.

42. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
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(c) Fences and walls. Property that is adjacent to a business use shall be provided along such property lines, with a wall, fence, compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen in conformance with § 217-79. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened in conformance with § 217-79.

(4) Off-road parking and loading shall conform to §§ 217-62 and 217-63.

(5) Signs shall conform to § 217-65.

(6) Utilities. All water and sewer facilities shall be designed and installed according to appropriate standards and be approved by the appropriate agency as per § 217-70A of this chapter.

(7) Access. Special consideration shall be given to access to and from public roads and traffic volumes generated by the proposed use. Access shall not be allowed from residential roads unless a variance is approved by the Zoning Board of Appeals. A projection of expected vehicular use of neighborhood roads, including estimates of traffic volumes, shall be submitted. No access drive for any industrial use shall be within 300 feet of and on the same side of the road as a school, public library, theater, church, or other public gathering place, park, playground, or fire station unless such road shall be 50 feet or more in width between such access drive and such building or use.

§ 217-73. Solar energy systems and solar access.

To the maximum extent possible, all new development proposals totaling 10 acres of site area or more may be designed so the maximum number of buildings shall receive direct sunlight sufficient for using solar energy systems for space, water, or industrial process heating or cooling. Buildings and vegetation should be sited and maintained so that unobstructed direct sunlight reaches the southern exposure of the greatest number of buildings according to the following guidelines:

A. Solar access shall be protected between the solar azimuths of -45° (east of due south) to +45° (west of due south).

B. In considering dimensional modifications permitted in Article VI and Article VII of this chapter, the Planning Board shall also consider solar access and design considerations.

C. For purposes of solar access, roads, lots and building setbacks should be designed so that the buildings are oriented with their long axes running from east to west for one-unit development and north to south for townhouse and multiunit development.

D. In order to maximize solar access, the highest densities shall, to the maximum extent possible, be placed on the south-facing slopes, with lower densities sited on north-facing slopes.

E. Roads should be oriented on an east-west axis to the greatest possible extent.
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(7) Any use that is not permitted in a Type 5 (wood frame) building construction under the New York State Uniform Fire Prevention and Building Code.

K. Such uses shall also be subject to any other conditions the Planning Board deems necessary to meet the intent of these requirements.

L. All cottage industries shall conform with the parking requirements as set forth in § 217-62.

§ 217-77. Antennas.

No antenna of any kind may be erected or established in the Town except in conformance with the standards in this section and § 217-20, Use Regulation Table.

A. Antenna size.

(1) In NB and GB Districts:

(a) Satellite antennas shall not exceed 10 feet in diameter.

(b) Antennas shall not exceed 100 square feet in area.47

(c) The total height of ground-mounted antennas shall not exceed 15 feet above the ground.

(2) In M Districts:

(a) Antennas shall not exceed 200 square feet in area.

(b) The total height of ground-mounted antennas shall not exceed 20 feet above the ground.

(3) Roof-mounted installations shall not exceed the height restrictions as set for the zoning district within which the installation is placed.

B. Antenna location.

(1) For any use subject to the provisions contained herein, such antenna shall be located only in the rear yard of any lot, provided that such antenna is located a minimum of five feet from any principal building and lot line measured at the outermost diameter of the antenna. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property subject to site plan approval. For purposes of this chapter, a usable satellite signal is a satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or via cable television.

(2) In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed

47. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
D. All automobile parts, including tires and dismantled vehicles, are to be stored within a building. Old tires that are offered for sale may be placed outside during normal business hours, but must be stored in a rack. Old tires to be scrapped or sold for junk must be stored either inside a building or behind a six-foot-high fence, wall or natural screen in conformance with § 217-79.

E. No accessory goods for sale may be displayed on the pump island or building island.

F. All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period not to exceed 30 days and must be stored in the rear of the premises and screened to the greatest extent possible.

G. Parking.

1) No vehicle shall be parked, stored or left standing within 15 feet of the road line and/or fuel pump islands.

2) Parking requirements shall be in conformance with § 217-62. Such parking areas shall not conflict with the traffic pattern established for the use of the fuel pumps. Additional parking area may be required by the Planning Board to accommodate tractor-trailer delivery.

3) Where parking areas abut a residential use, they shall be screened by a buffer area no less than 10 feet in depth composed of densely planted plant material, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the boundary line. Such buffer screen shall have a minimum height of six feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery or fences become decayed and fail to provide an adequate screen, the Code Enforcement Officer may direct the property owner to replace said shrubs.

H. All storage and display areas shall be provided with a hard, dust-free surface, shall be adequately drained and, if lighted, shall produce no glare on adjacent properties.

I. A maximum of two driveways and curb cuts shall be permitted per road frontage. These shall be no less than 10 feet and no more than 50 feet in width in accordance with § 217-66, and shall be located a minimum of 40 feet from any road intersection; a minimum distance of 30 feet shall be maintained between such driveways and curb cuts.

J. No twenty-four-hour operation use shall be permitted within 100 feet of an existing residential use and/or district boundary.

§ 217-79. Buffer and landscaping requirements.

A. Intent. The objective of this section is to provide the necessary consideration to those physical and visual elements of the land uses in the Town of Elmira that require or may be improved by treatment of the natural landforms/topography or man-made features.
§ 217-79. ZONING

(a) In all buffer yards, evergreen canopy or evergreen understory trees may be substituted for deciduous canopy trees without limitation.

(b) In all buffer yards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.

(4) All disturbed soil areas of the site shall be replanted or reseeded in an approved fashion.

(5) No landscaping feature shall be erected, placed or maintained in such a manner as to interfere with clear vision and/or the safe movement of vehicular traffic.


Where permitted, fast-food restaurants meeting the definition of this chapter shall conform to the following standards, which shall be regarded as minimum requirements:

A. The minimum lot size shall be 20,000 square feet.

B. At least one lot frontage shall be a minimum of 100 feet.

C. Access.

(1) A maximum of two driveways and curb cuts shall be permitted on each road frontage.

(2) All drives shall be no less than 30 feet and no wider than 50 feet in width.

(3) Drives shall be located a minimum of 40 feet from any road intersection and shall maintain a minimum of 30 feet between such driveways or curb cuts.

(4) Driveways shall create minimal conflict with pedestrian access to the building from the parking lots and sidewalk abutting the property.

D. Parking.

(1) The number of parking spaces shall be as specified in § 217-62.

(2) Parking lots shall be designed to provide pedestrian safety.

E. Landscape requirements. A landscape area equal to that portion of land contiguous to the public right-of-way and extending a depth of five feet shall be provided. Landscaping shall also be used to screen or buffer parking, dumpsters, freezers and other accessory uses as per § 217-79.

F. Signs. All signs shall conform to the sign regulations in § 217-65.

§ 217-81. Drive-through uses.

Where permitted either as accessory to other permitted uses or as a principal use, drive-through uses, as defined in this chapter, shall conform to the following standards, which shall be regarded as minimum requirements:
§ 217-75. Home occupations.

A home occupation, as defined in this chapter, is permitted, provided such use is not specifically prohibited. Such use shall conform to the following standards, which shall be minimum requirements:

A. No more than 25% of the total floor area of a dwelling unit or 500 square feet, whichever is less, may be used for such use.

B. The use shall be carried on wholly within the enclosed walls of the dwelling unit.

C. There shall be no more than one full-time employee who is not a resident of the dwelling unit.

D. There shall be no external evidence of such use except for one sign not exceeding two square feet in area mounted flush with and on the front facade of the dwelling unit. No stock, merchandise, equipment or displays of any kind shall be visible outside the dwelling unit.

E. No external structural alterations which are not customary to a residential building shall be allowed.

F. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.

G. Any form of business, the primary function of which is the wholesale or retail sale of goods or articles at the premises, shall be deemed a commercial use and not a home occupation.

H. A use that involves primarily catalog sales/order processing and which does not involve volumes of stock or merchandise being distributed at the site is deemed a home occupation, provided such use meets the intent of all standards set forth herein.45

I. The following uses and other uses similar in character shall not be considered to meet the intent of this section:

   (1) Vehicle engine repair.
   (2) Vehicle body work.
   (3) Veterinary hospital, kennel.
   (4) Bar and restaurant.
   (5) Bed-and-breakfast.
   (6) Any use that is not permitted in a Type 5 (wood frame) building construction under the New York State Uniform Fire Prevention and Building Code.

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45. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
§ 217-82

(d) Not be conducted in any manner that permits the observation of any material depicting, describing or relating to sexual activities or anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

§ 217-83. Outside storage of vehicles, equipment or materials.

A. Storage in front or side yards.
   (1) No required front yard or side yard in any district shall be used for the storage of any vehicles, or for the storage of any parts or equipment for making repairs to any kind of vehicles.
   (2) No required front yard or side yard in any district shall be used for the storage of any travel-trailers, recreational vehicles, boats or boat trailers or snowmobiles.

B. Storage of unregistered and unlicensed motor vehicles and/or parts. In any district, there shall be no outside storage of any unregistered or unlicensed motor vehicles for a time period longer than 30 days in any calendar year.

C. Outside storage of materials in the NB, GB and M Districts. Items and material for sale or used in fabrication/processing on any site in the NB, GB and M Districts shall be stored within a secure fence that effectively screens such material from the adjoining public roads and any residential uses.

§ 217-84. Private stables.

Private stables, as defined in this chapter, shall meet the following minimum standards:

A. There shall be a minimum of one acre of land for each horse or pony kept at the site.

B. All buildings used to house or shelter such animals shall be located a minimum of 100 feet from any lot line.

C. No animal waste shall be stored within 100 feet of any lot line.

D. Adequate fencing shall be provided to secure and contain animals on the site.

§ 217-85. Composting.

Composting of biodegradable organic matter for use in fertilizing or conditioning soil on the same lot is permitted in the AR, ARA, AAA, AA, and A Districts in accordance with the following standards:

A. The area used for such composting shall be no larger than 100 square feet.

B. All compost areas shall be located a minimum of 10 feet from any lot line.
A. Criteria for park siting. Alternative dwelling unit parks shall be permitted under site plan approval by the Planning Board in the AR Zoning District. Parcels shall be a minimum of 20 acres in size to be considered for an alternative dwelling unit park. The Town shall consider the following siting criteria when evaluating an alternative dwelling unit park application:

1. The park site shall not have site slopes of greater than 15%.
2. Proximity to public transportation and/or shopping facilities and other services.
3. Availability of adequate fire protection.
4. Availability and capability of site to accommodate school bus routes.

B. Density.

1. Gross density shall not exceed 4.5 units per acre.
2. Minimum dwelling unit lot/site standards:
   a. Minimum lot size: 6,000 square feet.
   b. Minimum lot width: 55 feet.
   c. Minimum separation distance between units: In all instances a minimum of 30 feet shall be maintained between units in a park.
   d. Minimum setback to adjoining property line: 50 feet.
   e. Minimum front yard setbacks.
      1. Private park road: 25 feet to pavement edge.
      3. Public road outside the park: 50 feet to right-of-way.

C. Dwelling unit installation. All dwelling units shall meet New York State Uniform Fire Prevention and Building Code requirements and shall be installed on park sites in accordance with the requirements of this Code. Any mobile home shall be provided with skirting within 90 days of being installed in the park.

D. Vehicular circulation and storage.

1. Entrance roads. All parks shall have a minimum of two access points to the Town/public road.
   a. These access points shall be separated by a minimum of 200 feet on any road.
   b. In no instance shall the access road have a pavement width of less than 30 feet for a distance of 50 feet from the intersection with the external Town road.
§ 217-89  ZONING § 217-91

G. Sewer. All parks shall have public or community sewage treatment systems approved by the Chemung County Health Department or New York State Department of Environmental Conservation.

H. Solid waste. Storage, collection and disposal of solid waste shall be conducted in a manner that does not create a fire, accident, or health hazard or the breeding of vermin. Solid waste dumpsters or storage areas shall be enclosed or otherwise screened from view, they shall be animalproof and shall be located within 100 feet of any dwelling unit site that they service.

I. Utilities. All utilities shall be installed underground.

J. Maintenance. It shall be the responsibility of the park owner that all of the requirements of this section are met. There shall be provided at all times adequate park supervision and maintenance of the amenities and services, including water, sewer, and roads.

§ 217-90. Filling and grading.
Filling of any lot in the Town of Elmira shall be done in accordance with the following minimum standards:

A. All fill material shall be clean fill meeting NYSDEC's definition and shall include no blacktop, asphalt, concrete, rocks or other substances larger than three feet in any linear dimension.

B. All areas being filled shall be leveled and seeded within 45 days of the placement of the fill, and in all instances prior to October 15 of any year.

C. A minimum of four feet of earth or topsoil shall be placed over the clean fill in order to support vegetation.

D. No lot shall be filled to an elevation that exceeds surrounding grade level without prior Planning Board approval.

E. No fill shall be placed in any drainage swales or ways in any manner that will reduce or modify the capacity of such swales and/or the direction of stormwater flows.

ARTICLE X
Stormwater Management and Erosion and Sediment Control 50
[Added 12-28-2007 by L.L. No. 5-2007]

The terms used in this article or in documents prepared or reviewed under this article shall have the meanings set forth in this section:

AGRICULTURAL ACTIVITY — The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural

50. Editor's Note: See also Ch. 187, Stormwater Management, Art. III.
of a larger common plan of development or sale, 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.

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

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.

PHASING — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

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 — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

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.

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.
§ 217-92. Stormwater pollution prevention plans (SWPPPs).

A. Stormwater pollution prevention plan requirement.

(1) No application for approval of a land development activity shall be reviewed until the Town Planning Board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article.

(2) The Town of Elmira shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans (SWPPPs) and forward such plans to the Town Planning Board for approval. For purposes of this article, the Stormwater Management Officer shall be the Code Enforcement Officer, Highway Superintendent, or such other officer as the Town Board may appoint. [Added 5-18-2009 by L.L. No. 2-2009]

B. Contents of stormwater pollution prevention plans.

(1) All SWPPPs shall provide the following background information and erosion and sediment controls:
   
   (a) Background information about the scope of the project, including location, type and size of project.
   
   (b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s). The site map should be at a scale no smaller than one inch equals 100 feet (e.g., one inch equals 500 feet is smaller than one inch equals 100 feet);51
   
   (c) Description of the soil(s) present at the site;
   
   (d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
   
   (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
   
   (f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants

51. Editor’s Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
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(3) SWPPP requirements for Conditions A, B and C:

(a) All information in Subsection B(1) of this section.

(b) A description of each post-construction stormwater management practice.

(c) Site map/construction drawing(s) showing the specific location(s) and size(s)
of each post-construction stormwater management practice.

(d) Hydrologic and hydraulic analysis for all structural components of the
stormwater management system for the applicable design storms.

(e) Comparison of post-development stormwater runoff conditions with
pre-development conditions.

(f) Dimensions, material specifications and installation details for each
post-construction stormwater management practice.

(g) Maintenance schedule to ensure continuous and effective operation of each
post-construction stormwater management practice.

(h) Maintenance easements to ensure access to all stormwater management
practices at the site for the purpose of inspection and repair. Easements shall
be recorded on the plan and shall remain in effect with transfer of title to the
property.

(i) Inspection and maintenance agreement binding on all subsequent landowners
served by the on-site stormwater management measures in accordance with
§ 217-94 of this article.

(j) For Condition A, the SWPPP shall be prepared by a landscape architect,
certified professional or professional engineer and must be signed by the
professional preparing the plan, who shall certify that the design of all
stormwater management practices meet the requirements in this article.

C. Other environmental permits. The applicant shall ensure that all other applicable
environmental permits have been or will be acquired for the land development activity
prior to approval of the final stormwater design plan.

D. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved
in soil disturbance and/or stormwater management practice installation shall sign
and date a copy of the following certification statement before undertaking any
land development activity:

"I certify under penalty of law that I understand and agree to comply with the
terms and conditions of the Stormwater Pollution Prevention Plan. I also
understand that it is unlawful for any person to cause or contribute to a violation
of water quality standards."
§ 217-94 ZONING § 217-95

(2) For land development activities as defined in § 217-91 of this article and meeting Condition A, B or C in, § 217-92B(2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site log book.

B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Elmira to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Elmira.

C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes, as a minimum, the following:

1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

2. Written procedures for operation and maintenance and training new maintenance personnel.

3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 217-93C.

D. Maintenance agreements. The Town of Elmira shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Chemung County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this article, entitled "Sample Stormwater Control Facility Maintenance Agreement." The Town of Elmira, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 217-95. Administration and enforcement.

A. Construction inspections.

52. Editor's Note: See also the purpose and goals set forth in Chapter 187, Stormwater Management, Art. III.

53. Editor's Note: Schedule B is included at the end of this chapter.
Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

(4) Submission of reports. The Town of Elmira Stormwater Management Officer may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

(5) Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of Elmira the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection A(3) above.

B. Performance guarantees.

(1) Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Elmira in its approval of the stormwater pollution prevention plan, the Town of Elmira may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Elmira as the beneficiary. The security shall be in an amount to be determined by the Town of Elmira based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Elmira, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) has been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Elmira. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

(2) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Elmira with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Elmira may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

(3) Recordkeeping. The Town of Elmira may require entities subject to this article to maintain records demonstrating compliance with this article.
relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.\textsuperscript{54}

(5) Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this article, the Stormwater Management Officer may prevent the occupancy of said building or land.

(6) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Elmira may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

D. Fees for services. The Town of Elmira shall require any person undertaking land development activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Elmira or performed by a third party for the Town of Elmira. The fee for review of the SWPPP by the Town of Elmira shall be $50 for the first acre and $25 for each additional acre thereafter. Fees for review of the SWPPP by a third party shall be passed on directly to the applicant.

ARTICLE XI
Nonconforming Structures, Uses and Lots

\section{217-96. Continuation of nonconforming structures and uses.}

Any lawful structure or use of premises existing at the time of enactment of this chapter, or any subsequent amendment thereof applying to such structure or use of premises, may be continued although such structure or use of premises does not conform to the provisions of this chapter; provided, however:

A. Nothing herein contained shall be construed to render lawful any use not lawfully conforming to provisions of this chapter hereby repealed.

B. No nonconforming structure or use may be expanded, enlarged, extended or increased, except as set forth in Subsection D hereof. \textit{[Amended 10-21-2002 by L.L. No. 1-2002]}

C. Every sign or other advertising device that lawfully exists at the enactment of this chapter which violates or does not conform to the provisions of this chapter shall be removed or altered so as to conform within five years of the enactment.

D. When a structure is nonconforming because a portion of the structure is nearer the lot line than is permitted by existing zoning, the structure may not be expanded, enlarged, extended or increased towards the lot line which creates the nonconforming structure. \textit{[Added 10-21-2002 by L.L. No. 1-2002]}

\textsuperscript{54} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
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(a) A minimum of three feet from any side lot line.
(b) Behind the rear line of such residence building.
(c) No closer to a rear lot line than three feet.

(5) All other bulk requirements for that district are complied with.

(6) All standards and requirements for sewage treatment/disposal and water supply, as set by the county and state, can be met on the lot.

B. In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single-unit dwelling.


A nonconforming building may not be renovated or structurally altered during its life to an extent exceeding in aggregate value 50% of the replacement cost of the building unless said building is changed to conform to the requirements of this chapter.


If a nonconforming building or land use activity or part thereof has been destroyed or damaged by any means, it may be rebuilt or restored as a nonconforming building or use only if reconstructed or restored with the same or less floor area and cubic content and with the same, or an improved, general site layout as that of the original structure. Board of Appeals approval of reconstruction or restoration plans shall be required if the cost to cure the damage exceeds 50% of the replacement cost of the improvements on the premises immediately prior to the damage, and the Board may impose conditions on such approval if such conditions would improve an otherwise bad situation and bring the nonconforming use or activity more in conformity with the regulations for the district in which it is located.

§ 217-103. Reduction in lot area.

A building permit shall not be issued for any lot that is reduced in area so that it creates a nonconforming bulk or use in violation of this chapter.

ARTICLE XII
Zoning Board of Appeals

§ 217-104. Establishment and membership.

Pursuant to New York State Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its Chairperson, and also provide for such expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

A. Definition. An area variance is an authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations.  

B. Criteria for review. In making the determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and general welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance;

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

3. Whether the requested area variance is substantial;

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

5. Whether the alleged difficulty was self-created, which is relevant to the decision, but shall not necessarily preclude the granting of the variance.


A. The Zoning Board of Appeals, in granting an area or use variance, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and health, safety and general welfare of the community.  

B. The Zoning Board of Appeals shall, in granting an area or use variance, have the authority to impose such reasonable conditions and restrictions as are related to and incidental to the proposed use of property.

§ 217-110. Referral to Planning Board.

The Zoning Board of Appeals shall refer all area and use variances to the Town of Elmira Planning Board at least 30 days prior to the scheduled hearing date. The Planning Board shall report its recommendation to the Zoning Board of Appeals at least five days prior to the hearing date.

56. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

57. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
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E. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the Town files and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site and open to inspection by the Code Enforcement Officer.

F. If the application, together with plans, specifications, and other documents filed therewith, describes proposed work which does not conform to all of the applicable requirements of this chapter, the Code Enforcement Officer shall not issue the building permit and shall return the plans and specifications to the applicant with a written explanation outlining the reasons therefor.


A. No building or structure hereafter erected, structurally altered, or extended shall be used or changed in use until a notice of compliance shall have been issued by the Code Enforcement Officer in accordance with this chapter. Following the effective date of this chapter, no use of a lot shall be changed until a notice of compliance shall have been issued by Code Enforcement Officer in accordance with this chapter.

B. All notices of compliance for new or structurally altered structures or improvements shall be applied for coincident with the application for a building permit therefor. Such certificate of compliance shall be issued within 30 days after the erection or alteration shall have been approved as complying with the provisions of this chapter.

ARTICLE XIV

Amendments


The Town Board may, from time to time, on its own motion, or on petition, or on recommendation from the Planning Board, amend the regulations and districts established under this chapter after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Town Board.


Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report in writing its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 30 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Planning Board recommends disapproval of the proposed amendment, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.
§ 217-122. Penalties for offenses. 59
Except as otherwise set forth in § 217-95C(4), any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or whereon there shall be placed or there exists anything in violation of any of the provisions of this chapter; and any person, firm, company, or corporation who or which shall assist in the commission of any violation of this chapter or any conditions imposed by the Planning Board; or who or which shall build contrary to the plans or specifications submitted to the Planning Board and certified as complying with this chapter shall be guilty of an offense punishable by a fine not exceeding $350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than $350 nor more than $700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 217-123. Alternative penalties.
In the case of any violation or threatened violation of any of the provisions of this chapter, or conditions imposed by the Town Board or Planning Board, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE XVI
Fees

§ 217-124. Fee schedule. 60
A schedule of fees for all permits and approval applications as required in this chapter shall be set by the Town Board, from time to time, by resolution.

59. Editor’s Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
60. Editor’s Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
<table>
<thead>
<tr>
<th>District Use</th>
<th>Minimum Lot Area (square feet)</th>
<th>Minimum Yards Requirements (setbacks) (linear feet)</th>
<th>Maximum Lot Coverage</th>
<th>Maximum Building Height (feet)</th>
<th>Stories</th>
<th>Minimum Habitable Dwelling Area Per Unit (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>5 acres</td>
<td>300</td>
<td>80</td>
<td>N/A</td>
<td>2</td>
<td>N/A</td>
</tr>
<tr>
<td>Residence</td>
<td>5 acres¹</td>
<td>300</td>
<td>80</td>
<td>80</td>
<td>35</td>
<td>2</td>
</tr>
<tr>
<td>Other</td>
<td>5 acres²</td>
<td>450</td>
<td>40</td>
<td>40</td>
<td>10%</td>
<td>2</td>
</tr>
<tr>
<td>One-unit residential</td>
<td>10 acres</td>
<td>500</td>
<td>80</td>
<td>80</td>
<td>100</td>
<td>2</td>
</tr>
<tr>
<td>2-unit residential</td>
<td>10 acres</td>
<td>500</td>
<td>80</td>
<td>80</td>
<td>100</td>
<td>2</td>
</tr>
<tr>
<td>Mobile home park</td>
<td>10 acres</td>
<td>500</td>
<td>80</td>
<td>80</td>
<td>100</td>
<td>2</td>
</tr>
<tr>
<td>Other permitted uses</td>
<td>10 acres</td>
<td>500</td>
<td>80</td>
<td>80</td>
<td>100</td>
<td>2</td>
</tr>
</tbody>
</table>

Note 1: Minimum Lot Area is determined by the lesser of the applicable minimum area for each land use or the area required to accommodate a 20’ x 20’ dwelling unit.

Note 2: Maximum Lot Coverage is the lesser of the applicable maximum coverage for each land use or the area required to accommodate a 20’ x 20’ dwelling unit.

Note 3: Maximum Building Height is the lesser of the applicable maximum building height for each land use or the height required to accommodate a 20’ x 20’ dwelling unit.

Note 4: Minimum Habitable Dwelling Area Per Unit is the lesser of the applicable minimum habitable dwelling area for each land use or the area required for a 20’ x 20’ dwelling unit.
### ZONING

<table>
<thead>
<tr>
<th>District Use</th>
<th>Minimum Lot Area Per Principal Use (square feet)</th>
<th>Minimum Lot Width (feet)</th>
<th>Minimum Yard Requirements (setback) (linear feet)</th>
<th>Maximum Lot Coverage</th>
<th>Maximum Building Height</th>
<th>Minimum Habitable Dwelling Area Per Unit (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residence</td>
<td>Other</td>
<td>Front</td>
<td>Side</td>
<td>Rear</td>
<td>Feet</td>
</tr>
<tr>
<td>All other uses</td>
<td>5,000</td>
<td>60</td>
<td>25</td>
<td>15</td>
<td>20</td>
<td>40%</td>
</tr>
<tr>
<td>NB</td>
<td></td>
<td>Note 3</td>
<td>Note 3</td>
<td>40</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td>GB</td>
<td></td>
<td>Note 3</td>
<td>Note 3</td>
<td>40</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td>M</td>
<td></td>
<td>Note 3</td>
<td>Note 3</td>
<td>40</td>
<td>12</td>
<td>20</td>
</tr>
</tbody>
</table>

**NOTES:**

1. DU = Dwelling unit
2. Maximum impervious lot coverage where stormwater management design meets Town standards.
3. Shall be as established in the alternative dwelling park regulations, § 217-89.
4. Minimum lot size shall be determined by the Planning Board at the time of site plan approval and shall be based on the land area required to support the proposed use, building size/bulk, setbacks, buffers and all ancillary facilities.
5. Setback to residential use property line.
6. Upon approval by Health Department of acceptable septic system, lot area may be as small as 3 acres with site plan approval of Planning Board.
ZONING

217 Attachment 2

Town of Elmira

Schedule A

Stormwater Management Practices Acceptable for Water Quality
(From: New York State Stormwater Management Design Manual, Table 5.1)

<table>
<thead>
<tr>
<th>Group</th>
<th>Practice</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pond</td>
<td>Micropool Extended Detention Pond (P-1)</td>
<td>Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension</td>
</tr>
<tr>
<td></td>
<td>Wet Pond (P-2)</td>
<td>Pond that provides storage for the entire water quality volume in the permanent pool</td>
</tr>
<tr>
<td></td>
<td>Wet Extended Detention Pond (P-3)</td>
<td>Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time</td>
</tr>
<tr>
<td></td>
<td>Multiple Pond System (P-4)</td>
<td>A group of ponds that collectively treat the water quality volume</td>
</tr>
<tr>
<td></td>
<td>Pocket Pond (P-5)</td>
<td>A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool</td>
</tr>
<tr>
<td>Wetland</td>
<td>Shallow Wetland (W-1)</td>
<td>A wetland that provides water quality treatment entirely in a shallow marsh</td>
</tr>
<tr>
<td></td>
<td>Extended Detention Wetland (W-2)</td>
<td>A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface</td>
</tr>
<tr>
<td></td>
<td>Pond/Wetland System (W-3)</td>
<td>A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time</td>
</tr>
<tr>
<td></td>
<td>Pocket Wetland (W-4)</td>
<td>A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool</td>
</tr>
</tbody>
</table>
ZONING

217 Attachment 3

Town of Elmira

Schedule B
Sample Stormwater Control Facility Maintenance Agreement

Whereas, the Town of Elmira ("Municipality") and the ____________ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.

2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.

3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.

4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five-year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.

5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.

6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.

7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).

8. This agreement shall be recorded in the Office of the County Clerk, County of Chemung together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to ____________.

9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

10. This agreement is effective ____________.

217 Attachment 3:1 06-01-2012