

Chapter 88

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Frankfort 4-21-1969. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 5.
Planning Board — See Ch. 18.
Fire prevention and building code — See Ch. 38.
Flood damage prevention — See Ch. 43.
Junkyards — See Ch. 49.
Subdivision of land — See Ch. 76.
Wellhead protection — See Ch. 87, Art. I.

ARTICLE I
Title: Purpose

§ 88-1. Title.

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

§ 88-2. Purpose.

This chapter is enacted for the following purposes:

- A. To lessen congestion in the streets.
- B. To secure safety from fire, flood, panic and other dangers.
- C. To promote health and the general welfare.
- D. To provide adequate light and air.
- E. To prevent the overcrowding of land.
- F. To avoid undue concentration of population.
- G. To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.
- H. To conserve the value of buildings.
- I. To encourage the most appropriate use of land throughout the Town.
- J. To avoid the pollution of air, water, land and environment.
[Amended 8-21-1973]

ARTICLE II
Word Usage; Definitions

§ 88-3. Word usage.

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

- A. Words used in the present tense shall include the future. The singular number includes the plural, and the plural the singular.
- B. The word "person" includes a corporation as well as an individual.
- C. The word "building" includes the word "plot" or "parcel."
- D. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged or designed to be used or occupied."

§ 88-4. Definitions.

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

ACCESSORY BUILDING — A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ADULT BOOKSTORE — A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion-picture films if such building or portion of a building is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are

distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas. **[Added 11-24-1998 by L.L. No. 2-1998]**

ADULT CABARET — A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas. **[Added 11-24-1998 by L.L. No. 2-1998]**

ADULT DRIVE-IN THEATER — A drive-in theater that customarily presents motion pictures that are not open to the public generally but excludes any minor by reason of age. **[Added 11-24-1998 by L.L. No. 2-1998]**

ADULT MOTEL — A motel, inn, lodge or hotel which is not open to the public generally but excludes any minor by reason of age, or which makes available to its patrons in their rooms films, slide shows or videotapes, which, if presented in a public movie theater, would not open to the public generally but exclude any minor by reason of age. **[Added 11-24-1998 by L.L. No. 2-1998]**

ADULT MOTION-PICTURE THEATER or **ADULT MINI-MOTION-PICTURE THEATER** — A building or portion of a building with a capacity for less than 20 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical area for observation by patrons therein. **[Added 11-24-1998 by L.L. No. 2-1998]**

ADULT USES — Includes adult bookstores, adult motion-picture theaters, adult cabarets and other premises, enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are

capable of being seen by members of the public. **[Added 11-24-1998 by L.L. No. 2-1998]**

ALLEY — A service way which affords a secondary public means of vehicular access to abutting property.

AREA, BUILDING — The total ground area of a principal building and accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

BASEMENT — A space of full-story height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground, and which is not designed or used primarily for year-round living accommodations.

BUILDING — Any structure more than six feet in precut walls, floors and roof.

BUILDING LINE — A line established by law or by agreement, usually parallel to a property line, beyond which a structure may not extend.

BUILDING, FLOOR AREA — The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING, HEIGHT OF — Vertical distance measured from curb or grade level to the highest level of a flat or mansard roof, or to the average height of pitched, gabled, hip or gambrel roof, excluding bulkheads, penthouses and similar constructions enclosing equipment or stairs, provided that they are less than 12 feet in height and do not occupy more than 30% of the area of the roof upon which they are located.

CELLAR — That space of a building that is partly or entirely below grade, which has more than half of its height, measured

from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.¹

DWELLING, MULTIPLE-FAMILY — A building or group of buildings, designed for year-round occupancy by more than two families, including apartment houses and group houses, but excluding hotels and rooming houses.

DWELLING, ONE-FAMILY — A detached building other than a trailer, mobile home or any temporary structure, regardless if it's on a base or other foundation, designed for year-round occupancy by one family only. **[Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]**

DWELLING, TWO-FAMILY — A detached building other than a trailer, mobile home or any temporary structure, regardless if it's on a base or other foundation, designed for exclusive year-round occupancy by two families living independently of each other. **[Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]**

DWELLING UNIT — One or more rooms with provision for living, sanitary and sleeping facilities arranged for the use of one family.

FACTORY-MANUFACTURED HOME — A dwelling unit which incorporates structures or components designed for year-round residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a building site. "Factory-manufactured homes" shall be constructed and installed in accordance with the requirements of Chapter B of the New York State Uniform Fire Prevention and Building Code (Title 9, Subtitle S, Chapter 1, of the New York Codes, Rules and Regulations). For the purpose of this chapter, a "factory-manufactured home" shall be considered a one-family

1. Editor's Note: The definition of "dump," which immediately followed this definition, was repealed 6-12-1990 by L.L. No. 3-1990. See now the definition of "solid waste management facility."

dwelling or a two-family dwelling or a multiple-family dwelling, said decision to be based on the number of dwelling units contained therein, as defined in this section. **[Added 6-22-1987 by L.L. No. 5-1987]**

FAMILY — Any number of persons of recognized family relationship maintaining a common household, including domestic help; an organized group of persons living in one dwelling unit.

FARM — A parcel or tract of land which is used for the production or raising of agricultural products, except where such production is an accessory and noncommercial garden to a principal residential use on the same lot. Kennels or the raising of poultry, furbearing animals, hogs or goats shall be permitted in the discretion of the Zoning Board of Appeals in the R-A District upon the issuance of a special permit by the Board of Appeals under § 88-27 as amended. **[Amended 8-21-1973]**

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

GARAGE, PUBLIC — A building or part thereof used for the storage, hiring, selling, greasing, washing, servicing or repair of motor-driven vehicles, operated for gain.

GARAGE, STORAGE — A building or part thereof, used only for the storage of vehicles for gain, and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

GASOLINE STATION — Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term "gasoline station" shall be deemed to include filling station and service station.

HOG FARM — A farm used for the raising of hogs, the principal source of food of which is garbage transported to the farm from other locations.

HOME OCCUPATION — Any personal or professional service customarily conducted entirely within a dwelling and carried on only by resident members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof, and in which there is kept no stock-in-trade.

HOSPITAL — A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

HOTEL — A building or group of buildings where transient guests are lodged for hire, including motels but excluding rooming houses.

JUNKYARD — A lot, land or structure, or part thereof, used for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles, not in running condition, and for the sale of the parts thereof; also auto junkyards as included in § 136 of the General Municipal Law.

LAUNDERETTE — A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

LOT — A parcel of land considered as a unit, occupied or capable of being occupied by a building or use and accessory building or uses, or by a group of buildings united by a common use or interest, and including such open spaces as are required by this chapter and having its principal frontage on a public street or an officially approved place.

LOT AREA — The total horizontal area included within lot lines. No part of the area within a public right-of-way may be included in the computation of "lot area."

LOT, CORNER — A lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of intersection of less than 135°.

[Amended 8-21-1973]

LOT DEPTH — The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT, THROUGH — A lot having frontage on two parallel or converging streets other than a corner lot.

LOT WIDTH — The distance between side lot lines measured parallel to the front lot line at a distance from the front line equal to the front yard specified for the district.

MANUFACTURED HOME — Where referred in this chapter, the same meaning as "mobile home." **[Added 4-9-1991 by L.L. No. 1-1991]**

MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages. **[Added 11-24-1998 by L.L. No. 2-1998]**

MOBILE HOME — A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet in area and which is

built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained herein. "Mobile homes" shall be constructed in accordance with regulations set forth in the Compilation of Federal Regulations (CFR), Title 24, Housing and Urban Development, Chapter XX, Office of Assistant Secretary for Housing — Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Manufactured Mobile Home Construction and Safety Standards. For the purpose of this chapter, a "mobile home" is differentiated from one-family dwellings, factory-manufactured homes and recreational vehicles. **[Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]**

- A. **SINGLE-WIDE MOBILE HOME** — A structure as defined above, with a minimum dimension of 14 feet by 52 feet and a maximum dimension of 14 feet by 80 feet. **[Added 4-9-1991 by L.L. No. 1-1991]**
- B. **DOUBLE-WIDE MOBILE HOME** — A structure as defined above, with a minimum dimension of 24 feet by 40 feet and a maximum dimension of 26 feet by 76 feet.² **[Added 4-9-1991 by L.L. No. 1-1991]**

MODULAR HOME — Where referred to in this chapter, the same meaning as "factory-manufactured home." **[Added 4-9-1991 by L.L. No. 1-1991]**

MOTEL — See "hotel."

NONCONFORMING USE — Use of a building or of land that does not comply with the regulations for the district in which it is situated.

NURSING OR CONVALESCENT HOME OR HOME FOR THE AGED — A building used for the accommodation and care of

2. Editor's Note: The definition of "mobile home park or court," which immediately followed this definition was repealed 6-22-1987 by L.L. No. 5-1987.

persons with, or recuperating from, illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

NURSERY SCHOOL — Facilities for the daytime care or instruction of two or more children from two to five years, inclusive, and operated on a regular basis.

PARKING SPACE — An off-street space available for the parking of one motor vehicle and having an area of not less than 180 square feet, exclusive of passageway and driveways thereto.

PEEP SHOWS — A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age. **[Added 11-24-1998 by L.L. No. 2-1998]**

RECREATIONAL VEHICLE — A mobile unit designed to be used as a temporary dwelling for camping, recreational, travel or vacation use which is equipped with a chassis and provides housekeeping facilities, such as plumbing, heating, electrical, cooking and refrigeration systems and equipment. **[Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]**

RECREATIONAL VEHICLE CAMP OR PARK — An area occupied or designed for occupancy by two or more trailers other than for year-round occupancy. **[Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]**

ROOMING HOUSE AND TOURIST HOME — A dwelling where transient guests are lodged for hire.

SIGN — Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government or government agency, school or religious group or of any civic, charitable, patriotic, fraternal or similar organization or any official traffic

control device. Each display surface shall be considered to be a "sign."

SIGN, ADVERTISING — A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed and only incidentally on the premises if at all.

SIGN, BUSINESS — A sign which directs attention to a business or profession conducted or a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed. A "for sale" or "to let" sign relating to the lot on which it is displayed shall be deemed to be a "business sign."

SIGN, FLASHING — Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this chapter, any revolving, illuminated sign shall be considered a "flashing sign."

SOLID WASTE MANAGEMENT FACILITY — Any facility which manages solid waste beyond the initial solid waste collection process, including but not limited to storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; landfills; disposal facilities; solid waste incinerators; land-spreading facilities; composting facilities; surface impoundments; waste oil storage, reprocessing and rerefining; recyclable handling and recovery facilities; waste tire storage facilities; methane gas recovery facilities; resource recovery facilities; and baling facilities. Hazardous waste facilities under 6 NYCRR, Parts 371 and 373, are excluded. Devices, equipment and other structures necessary or desirable or required or ordered to be installed at a "solid waste management facility" by the New York State Department of Environmental Conservation shall be deemed to be an accessory use of the "solid waste management facility." The term "solid waste management facility" includes devices, equipment, buildings, uses or structures for the treatment, processing or beneficial use of by-products resulting from the treatment, processing or

disposal of solid waste (such as landfill gas and landfill leachate). Interpretation of "solid waste management facility" shall be governed by 6 NYCRR, Part 360. **[Added 6-12-1990 by L.L. No. 3-1990]**

SPECIFIED ANATOMICAL AREAS [Added 11-24-1998 by L.L. No. 2-1998] —

- A. Less than completely and opaquely covered:
 - (1) Human genitals, pubic region;
 - (2) Buttock, anus; or
 - (3) Female breast, below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES [Added 11-24-1998 by L.L. No. 2-1998] —

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Actual or simulated masturbation;
- D. Human genitals in a state of sexual stimulation or arousal; or
- E. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through D of this definition.

STABLE, PRIVATE — An accessory building in which horses are kept for private use and not for hire or sale.

STABLE, PUBLIC — An accessory building in which horses are kept for remuneration, hire or sale.

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

STORY, HALF — That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

STREET — A public or private way which affords the principal means of access to abutting property.

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

STRUCTURAL ALTERATION — Any change in the supporting members of a building.

THEATER, OUTDOOR — An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis.

YARD, FRONT — An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the main building projected to the side lines of the lot.

YARD, REAR — A space on the same lot with a main building, open and unoccupied except for accessory buildings, extending the full width of the lot and situated between the rear line of the main building projected to the side lines of the lot and the rear line of the lot.

YARD, SIDE — An open unoccupied space on the same lot with a main building, situated between the side line of the main building and the adjacent side line of the lot and extending from the front yard to the rear yard.

ARTICLE III
Districts; Map; Boundaries

§ 88-5. Establishment of districts. [Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]

The Town of Frankfort is hereby divided into the following zoning districts:

R-A	Residence-Agriculture District
R-10	Residence District
R-20	Residence District
R-40	Residence District
R-40M	Residence District — Multiple
C-1	Commercial District
C-2	Commercial District Class 2 Business
M-1	Manufacturing District (all manufacturing)
PR	Planned Residential District
PC	Planned Commercial District
PB	Planned Business District
PM	Planned Manufacturing District
PRD	Planned Recreation District
PMHP	Planned Mobile Home Park District
PRVC	Planned Recreational Vehicle Campsite District

§ 88-6. Zoning Map.

The locations and boundaries of the zoning districts hereby established are shown on a map entitled "Town of Frankfort Zoning Districts." The Zoning District Map and all notations, references and other information shown thereon are hereby declared to be a part of this chapter.³ The Town Planning Board shall delineate on the Zoning Maps all amendments to the district boundaries which are authorized by ordinance,

3. Editor's Note: The Zoning Map is on file in the office of the Town Clerk.

immediately upon the effective date of such ordinance, indicating the area, change and date of said amendment.

§ 88-7. Interpretation of boundaries.

Where uncertainty exists as to the locations of any boundaries shown on the Zoning Map, the following rules shall apply:

- A. District boundary lines are intended to follow center lines of streets or alleys, rights-of-way, watercourses or lot lines or be parallel or perpendicular thereto, unless such boundary lines are fixed by dimensions as shown on the Zoning Maps.
- B. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
- C. In unsubdivided land and where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.
- D. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine and fix the location of said line.
- E. Where a district boundary line divides a lot of record held in one ownership at the time of adoption of said district line, the regulations for the less restricted portion of such lot shall apply to the remainder of said lot up to a distance of not more than 50 feet from said district line.

ARTICLE IV
Use Regulations

§ 88-8. R-A Residence-Agriculture District.

The following use regulations shall apply in any R-A Residence-Agriculture District. The purpose of this district is to provide for the preservation and enhousement of low-density residential uses and agricultural uses in the Town of Frankfort.

A. Permitted uses shall be as follows:

- (1) One- or two-family dwelling.
- (2) Farm, including commercial woodlot or reforestation area.
- (3) Nursery, fruit or truck garden.
- (4) Church or other place of worship, parish house, rectory or convent.
- (5) Public or private school accredited by New York State.
- (6) Public park or playground, forest, recreation area or fish hatchery.⁴
- (7) Fire station or community building.
- (8) Conventional golf course or country club.
- (9) Cemetery.
- (10) Home occupation.
- (11) Antique sales where accessory to a dwelling.
- (12) Customary accessory use or structure, including private garage, private swimming pool or pond,

4. Editor's Note: Former Subsection A(7), pertaining to municipal uses, was deleted 10-28-2003 by L.L. No. 3-2003 and subsequent sections were renumbered.

toolhouse or storage shed, greenhouse, poultry or livestock shelter, barn, silo, sawmill, cold storage or agricultural products processing plant.

- (13) Sign: a nameplate, identification or "for sale" or "for rent" sign. No sign shall emit flashing or intermittent illumination nor be located in or project into the public way, nor be located above the first story. If illuminated, the source of light shall be shielded from the street or highway and adjacent lots.
 - (14) No septic dry well or leach field shall be closer than 10 feet from an adjacent property line. **[Added 8-21-1973]**
 - (15) No use in Subsection A(1) through (14) shall exceed 35 feet in height. **[Added 10-28-2003 by L.L. No. 3-2003]**
- B. Permitted uses upon issuance of a special permit in the discretion of the Board of Appeals shall be as follows: **[Amended 8-21-1973]**
- (1) Livestock or auction sale establishment. **[Amended 10-28-2003 by L.L. No. 3-2003⁵]**
 - (2) Sawmill, cold storage or agricultural produce processing plant not incidental to a permitted principal use.
 - (3) Private recreation area or use of land involving firearms or archery range, organized camp, campsite, ski facilities, marina, hunting preserve or model-airplane area.
 - (4) Golf driving range or pitch-and-putt golf course.
 - (5) Riding stable.

5. Editor's Note: This local law deleted former Subsection B(1), pertaining to public utility use, and renumbered subsequent sections.

- (6) Animal pound, commercial kennel or animal hospital.
- (7) Extraction and processing of sand, gravel, rock or other natural mineral product in accordance with § 88-25 of Article VII.
- (8) (Reserved)⁶
- (9) Airport, provided that there are adequate and safe approach areas.
- (10) Kennels, poultry, fur-bearing animals, hogs or goats or other animal farms subject to § 88-27.
- (11) Uses similar to those permitted in Subsection A.⁷
- (12) No use in Subsection B(1) through (11) shall exceed 35 feet in height. **[Added 10-28-2003 by L.L. No. 3-2002⁸]**
- (13) Convenience store (food items, dry goods/nonfood, prepared food (pizza/sandwiches), novelties/small gift items), subject to the following restrictions: **[Added 12-11-2008 by L.L. No. 3-2008]**
 - (a) No gas station or motor fuel pumps, except up to one two-hundred-fifty-gallon kerosene tank installed in accordance with the New York State Building Code.
 - (b) Maximum lot size: one acre.

6. Editor's Note: Former Subsection B(9), Single mobile home in connection with a dairy farm operation, was repealed 6-22-1987 by L.L. No. 5-1987. See now § 88-27.1 of this chapter.

7. Editor's Note: Former Subsection C, regarding permitted uses in accordance with the Waste Management Facilities Law, added 2-21-1995 by L.L. No. 2-1995, which immediately followed this subsection, was repealed 11-24-1998 by L.L. No. 3-1998.

8. Editor's Note: Former Subsection C, regarding permitted uses in accordance with the Waste Management: Facilities Law, added 2-21-1995 by L.L. No. 2-1995, which immediately followed this subsection, was repealed 11-24-1995 by L.L. No. 3-1995.

- (c) Maximum store size of 2,500 square feet.
- (d) Can be stand-alone or part of a mixed-use structure, but commercial use can only occur on the first floor.
- (e) On-site parking should be provided, up to a maximum of six spaces.

§ 88-9. R-10 Residence District.

The following regulations shall apply in any R-10 Residence District. The purpose of this district is to provide for single-family dwellings for family life.

A. Permitted uses shall be as follows:

- (1) One-family dwelling.
- (2) Uses regularly permitted under § 88-8A(4) through (8). **[Amended 8-21-1973]**
- (3) Customary accessory structure or use, including private swimming pool or pond, toolhouse or storage shed or greenhouse.
- (4) Only household pets shall be allowed, which shall include cats and dogs, and any other pets shall be considered as a nonconforming nature. **[Added 8-21-1973]**
- (5) No septic dry well or leach field shall be closer than 10 feet from an adjacent property line. **[Added 8-21-1973]**

B. Permitted uses upon issuance of a special permit by the Board of Appeals shall be as follows:

- (1) Public utility structure or use.
- (2) Uses similar to those permitted in Subsection A.

§ 88-10. R-20 Residence District.

The following use regulations shall apply in any R-20 Residence District. The purpose of this district is to provide and permit two-family dwellings for family life.

A. Permitted uses shall be as follows:

- (1) Uses regularly permitted in the R-10 Residence District.
- (2) Uses regularly permitted under § 88-8A(4) through (8). **[Amended 8-21-1973]**
- (3) Nursing or convalescent home or home for the aged.
- (4) Rooming house or tourist home.
- (5) No septic dry well or leach field shall be closer than 10 feet from an adjacent property line. **[Added 8-21-1973]**

B. Permitted uses upon issuance of a special permit by the Board of Appeals shall be as follows:

- (1) Public utility structure or use.
- (2) Motel.
- (3) Uses similar to those permitted in Subsection A.

§ 88-11. R-40 Residence District.

The following use regulations shall apply in any R-40 Residence District. The purpose of this district is to provide for low-density residential dwellings for family living.

A. Permitted uses shall be as follows:

- (1) Uses regularly permitted in the R-20 Residence District.

- (2) Uses regularly permitted under § 88-8A(4) through (8). **[Amended 8-21-1973]**
 - (3) No septic dry well or leach field shall be closer than 10 feet from an adjacent property line. **[Added 8-21-1973]**
- B. Permitted uses upon issuance of a special permit by the Board of Appeals shall be as follows:
- (1) Public utility structure or use.
 - (2) Riding academy or stable.
 - (3) Uses similar to those permitted in Subsection A.

§ 88-12. R-40M Residence District-Multiple.

The following use regulations shall apply in any R-40M Residence District. The purpose of this district is to provide for multiple residential dwellings for family living.

- A. Permitted uses shall be as follows:
- (1) Uses regularly permitted in the R-20 Residence District.
 - (2) Multiple-family residence.
 - (3) No septic dry well or leach field shall be closer than 10 feet from an adjacent property line. **[Added 8-21-1973]**
- B. Permitted uses upon issuance of a special permit by the Board of Appeals shall be as follows:
- (1) Public utility structure or use.
 - (2) Nursing home.

- (3) Uses similar to those permitted in Subsection A.⁹

§ 88-13. C-1 Commercial District.

The following use regulations shall apply in any C-1 Commercial District. The purpose of this district is to provide areas for control and related commercial uses.

A. Permitted uses shall be as follows:

- (1) Retail store.
- (2) Bank, savings or loan institution.
- (3) Restaurant or other place for serving food and beverages.
- (4) Motel or hotel.
- (5) Personal service, such as barbershop, beauty parlor, tailor or shoe repair shop.
- (6) Coin-operated laundry or dry cleaner or pickup station.
- (7) Household appliance sales or service.
- (8) Funeral home.
- (9) Social, recreational or fraternal club or ski lodge.
- (10) Business or professional office.
- (11) Municipal or public utility structure or use.
- (12) Automobile, boat, mobile home or trailer sales or rental, including accessory service.
- (13) Bowling alley, theater.

9. Editor's Note: Original Subsection B4, regarding mobile home courts, which immediately followed this subsection, was repealed 8-21-1973.

- (14) Customary accessory building or use.
- (15) Business sign.
- B. Permitted uses upon issuance of a special permit by the Board of Appeals shall be as follows:
 - (1) Drive-in food service establishments.
 - (2) Gasoline service station.
 - (3) Commercial recreation including golf driving range, miniature golf, par-three golf course, trampoline center.

§ 88-14. C-2 Commercial District.

In any C-2 Commercial District the following buildings and uses are permitted. The purpose of this district is to provide and promote the development and other related commercial uses.

- A. Permitted uses shall be as follows:
 - (1) Uses regularly permitted in the C-1 Commercial District.
 - (2) Drive-in service establishment.
 - (3) Laundry or dry cleaning shop.
 - (4) Fruit or vegetable market.
 - (5) Farm implement sales or service.
 - (6) Public garage.
 - (7) Heating, plumbing, air-conditioning, electrical, cabinet or similar hand-fabrication shop.
 - (8) Printing or publishing establishment.
 - (9) Public utility station, structure or use.

- (10) Radio, television or household appliance sales or service.
 - (11) Commercial recreation, including golf driving range, miniature golf, par-three golf, trampoline center or amusement park.
 - (12) Customary accessory uses.
 - (13) Animal hospital, commercial kennel or animal pound.
- B. Permitted uses upon issuance of a special permit by the Board of Appeals shall be as follows:
- (1) Junkyard: if permitted, shall conform with Town Junkyard Ordinance,¹⁰ and conform with Article VII, § 88-25, and will conform to § 136 of the New York State General Municipal Law.
 - (2) Truck terminal.

§ 88-14.1. C-3 Commercial District. [Added 11-24-1998 by L.L. No. 2-1998¹¹]

In any C-3 Commercial District the following uses are permitted. The purpose of this district is to provide for commercial uses, plus certain special uses.

- A. Permitted uses shall be as follows:
- (1) Uses regularly permitted in the C-2 Commercial District.
- B. Permitted uses upon issuance of a special permit by the Board of Appeals shall be as follows:
- (1) Adult bookstores, adult cabarets, massage establishment, adult motel, adult drive-in,

10. Editor's Note: See Ch. 49, Junkyards.

11. Editor's Note: This local law was filed with the Secretary of State 4-2-2002.

motion-picture, mini-motion-picture theaters and video theaters, peep shows and other similar adult uses, provided that no adult use may be located within a five-hundred-foot radius of any house of worship, school, day-care center, playground or the border of any residential district, nor within one-half mile of another such use.

§ 88-15. M-1 Manufacturing District.

The following use regulations shall apply in any M-1 Manufacturing District. Minimum lot size, yards and other requirements of Schedule A¹² will be met. The purpose of this district is to provide and encourage the development of manufacturing and related industrial uses.

A. Permitted uses shall be as follows:

- (1) Uses permitted in the C-2 Commercial District.
- (2) Lumber, feed, fuel sales or storage.
- (3) Manufacture, assembly, processing or treatment of the following:
 - (a) Textiles, leather or plastics.
 - (b) Candy or cosmetics.
 - (c) Pharmaceutical or food products.
 - (d) Electrical, precision, surgical, dental or musical instruments.
 - (e) Toys or novelties.
 - (f) Paper, plastic, metal, stone or wood products from previously prepared materials.
 - (g) Asphaltic concrete.

12. Editor's Note: The Schedule A is included at the end of this chapter.

- (4) Warehousing and distribution.
- (5) Laundry or dry-cleaning plant.
- (6) Development or research center.
- (7) Machine shop.
- (8) Welding or metal craft shop.
- (9) Accessory building or use.
- (10) Business sign.

§ 88-16. Planned development districts.

A. Purpose. The regulations for planned development districts are intended to provide a means for the development of residential business, commercial, manufacturing or recreational subdivisions or combinations thereof in which economics of scale or creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of the Zoning Ordinance. In no case shall the regulations of this section be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of adjoining properties. Planned development districts may be established only in accordance with the procedures specified below:

B. Area.

- (1) The minimum area for a planned development district shall be as follows: **[Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]**

Type of District	Area (acres)
Residential	5
Business	5

Type of District	Area (acres)
Commercial	5
Manufacturing	10
Recreational	25
Mobile home park	25
Recreational vehicle campsite	10

- (2) The calculation of area for a planned development district shall not include easements, parks, existing streets or otherwise dedicated land, water areas in excess of 5% of the minimum gross acreage, lands designated on the Official Map for public purposes or land undesirable by reason of topography, drainage or adverse subsoil conditions. Sites proposed for a combination of two or more use classifications shall consist of the total land area required for each such use. The proposed development shall conform to the Town Master Plan.
- C. Application for establishment of a planned development district, or a development project within such a district, shall be made to the Town Board. The Town Board shall refer the application to the Planning Board within 30 days from receipt of the application. The applicant shall furnish to the Planning Board basic site data pertaining to the boundaries of the proposed planned development, existing zoning, the topography and subsoil conditions and such preliminary plans as may be required for an understanding of the proposed development, with a petition for the desired zoning change, if required.
- D. Planned development districts shall be considered as a single parcel for the purpose of applying the regulations for exterior yard dimensions as specified in Schedule A. Individual building projects within such district shall conform to the interior yard regulations of Schedule

A.¹³ The requirements for off-street parking, loading and unloading, screening and other transitional measures shall be as specified by the Planning Board in conformance with Schedule B.¹⁴

- E. The Planning Board may require such changes in said preliminary plans as are found to be necessary to meet the requirements of this chapter. The Board may make such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the town. In reaching its decision on the proposed development and changes, if any, in the preliminary plans, the Planning Board shall consider, among other things, the following:
- (1) The need for the proposed land use in the proposed location.
 - (2) The existing character of the neighborhood.
 - (3) The location of principal and accessory buildings on the site in relation to one another.
 - (4) The pedestrian circulation and open space in relation to structures.
 - (5) The traffic circulation features within the site, and the amount, location, and access to automobile parking areas.
 - (6) The height and bulk of buildings and their relation to other structures in the vicinity.
 - (7) The proposed location, type and size of display signs, driveways, loading zones and landscaping.

13. Editor's Note: Schedule A is included at the end of this chapter.

14. Editor's Note: See § 88-22B.

- (8) The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
 - (9) Storm drainage and ^{*}sanitary waste disposals in and adjacent to the area.
- F. The Planning Board shall approve, approve with modifications or disapprove such application and shall report its findings to the Town Board within 45 days following the date of referral by the Town Board to the Town Planning Board.
- G. The Town Board shall hold a public hearing on a proposal to create or change a planned development district, with public notice, as provided by law as in the case of any amendment to the Zoning Ordinance.
- H. The Town Board may amend the Zoning Ordinance after the public hearing so as to define the boundaries of the planned district. Such action shall have effect only of establishing a planned development district for the use proposed in the preliminary plans filed with the Town Board. Such planned district shall be designated as Planned Residential, Planned Business, Planned Commercial, Planned Manufacturing, Planned Recreational, Planned Mobile Home Park or Planned Recreational Vehicle Campsite District according to the type of development. Such amendment of the Zoning Ordinance shall not constitute or imply a permit for construction or approval of construction plans. **[Amended 8-21-1973; 6-22-1987 by L.L. No. 5-1987]**
- I. Any permit for a building project within a planned development shall be issued only after approval of the project and preliminary plans thereof by the Town Planning Board, except as noted below.
- J. In the event the Planning Board disapproves a planned development district proposal or a project within such district or approves with modifications which the applicant

is unwilling to make, an affirmative vote of not less than 3/4 of the members of the Town Board shall be requested to establish such planned district or to authorize a building permit within such district.

ARTICLE V

Lot Area and Width; Yards; Building Coverage and Height

§ 88-17. General regulations.

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are as specified in Schedule A.¹⁵ The regulations appearing in Schedule A are subject to the supplementary regulations of Article VII and additional regulations as follows.

§ 88-18. Area regulations.

A. Lots of less than required dimensions.

- (1) Any lot with an area or a width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this chapter and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements.
- (2) In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Board of Appeals shall determine and fix yard and

15. Editor's Note: Schedule A is included at the end of this chapter.

coverage requirements for said lot to permit its reasonable utilization for a permitted use.

- B. Reduction of lot area. The minimum yards and open spaces, including lot area per family, required by this chapter for any building existing at the time of adoption of this chapter or for any building hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this chapter.
- C. Corner lot. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a zoning permit. Nothing in this regulation shall be so interpreted as to reduce the building width of a corner lot facing an intersecting street, and of record at the time of the passage of this chapter to less than 24 feet.
- D. Visibility at street corners. On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured 20 feet distant from the point of intersection, measured along said lines.
- E. Front yard exceptions. The front yard of all buildings and structures hereafter constructed within a residence district shall be not less than the average front yard of all buildings in the block for a distance of 300 feet on each side of such building. A vacant lot within the three-hundred-foot distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.

F. Transition yard requirements.

- (1) Where two districts abut on the same street between two intersecting streets, and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less restricted district a front yard equal in depth to the average of the required depth in the two districts.
- (2) Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restricted district.

G. Projecting architectural features, terraces, porches and fire escapes.

- (1) The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than two feet into any required yard.
- (2) A paved terrace shall not be considered as part of a building in the determination of yards sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure exceeding six feet in height.
- (3) In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches, or porches open at the side but roofed, shall be considered a part of the building.
- (4) An open fire escape may extend into any required yard not more than six feet, provided that such fire

escape shall not be closer than four feet at any point to any lot line.

- (5) Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six feet.

H. Walls, fences and hedges. The yard requirements of this chapter shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by town ordinance, provided that, in any residence district, such fence, wall or hedge shall be no closer to any front lot line than two feet and shall comply with visibility at street corners as provided in this Article.

§ 88-19. Height regulations.

- A. Chimneys, spires, etc. The height limitations of this chapter shall not apply to barns, silos and other farm buildings, belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flagpoles, monuments, transmission towers and cables, radio and television antennas or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.
- B. On through lots. On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.

§ 88-20. Accessory buildings.

- A. Number. There shall be not more than two accessory buildings on each zone lot intended or used for residential purposes, except that a farm and large-scale planned commercial and industrial developments shall not be subject to such provisions.
- B. Height. Maximum height of accessory buildings shall be one story or 25 feet.
- C. Location. Unattached accessory buildings in residence districts. Accessory buildings which are not attached to a principal building may be erected within the rear yard in accordance with the following requirements:
 - (1) For garage, tool house or similar storage: five feet from side or rear line, except when abutting an alley, then 10 feet.
 - (2) For stable, poultry house, rabbit hutch, kennel or other animal shelter: 25 feet from side or rear line.
 - (3) Side yard, street side of corner lot: same as for principal building.
 - (4) Not closer to a principal building or another accessory building than 10 feet.
- D. Attached accessory buildings in residence districts. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.
- E. Accessory buildings in business or manufacturing district. Nondwelling accessory buildings shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than 10 feet.

§ 88-21. Residential living area. [Added 8-21-1973; amended 6-22-1987 by L.L. No. 5-1987]

Minimum living areas measured from exterior faces of exterior walls, exclusive of garage, cellars and unenclosed porches, shall be as follows:

District	Minimum Living Area per Dwelling Unit (square feet)
R-A Residence- Agriculture	
1 story	1,000
More than 1 story	1,200
R-10 Residence	
1 story	1,000
More than 1 story	1,200
R-20 Residence	
1 story	1,000
More than 1 story	1,200
R-40 Residence	
1 story	1,000
More than 1 story	1,200
R-40M Residence-Multiple	
1 story	600
More than 1 story	600

ARTICLE VI
Off-Street Parking and Loading

§ 88-22. Off-street parking.

A. General regulations.

- (1) Off-street parking space shall be required for all buildings constructed after the effective date hereof. Each off-street space shall consist of at least 180

square feet with a minimum width of nine feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements are specified in Schedule B.

- (2) For uses not specified, the Board of Appeals shall, on appeal and after recommendation of the Planning Board, establish parking requirements in specific cases consistent with those specified in Schedule B.
- (3) For any building having more than one use, parking space shall be required as provided for each use.
- (4) Parking spaces required in residence districts shall be located in the side or rear yard on the same lot or tract as the principal use.
- (5) Floor areas for the purposes of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic areas used primarily for storage or service.

B. Schedule B: Off-Street Parking.

Use	Spaces Required
Dwelling	1 for each dwelling unit
Rooming house, tourist home, motel or hotel	1 for each guest room
Administrative, professional, eleemosynary, governmental or utility office	1 for each 200 square feet of floor space
Funeral home	10, plus space for all employee and resident personnel cars.
Church or temple	1 for each 10 seating spaces in main assembly room

Use	Spaces Required
School	2 for each classroom
Theater or other place of assembly	1 for each 5 seating spaces
Nursing or other convalescent home	1 for each 4 beds
Retail store or bank	1 for each 250 square feet of floor space devoted to customer use
Club and restaurant	1 for each 250 square feet of floor space devoted to patron use
Bowling alley	5 for each alley
Wholesale, storage, freight, terminal or utility use	1 for each 1,000 square feet of gross floor area
Industrial or manufacturing use	1 for each 2 employees on the maximum working shift
Home occupation	1 for each client or patient at any one time
Planned shopping center	3 square feet of parking for each square foot of floor space
Miniature golf course and golf driving range	10, plus 1 for each employee on duty during any one shift

§ 88-23. Off-street loading.

- A. At least one off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet, computed as described in § 88-22. Space for off-street loading shall be in addition to space for off-street parking.

- B. An off-street loading space may occupy any part of any required side or rear yard, except no such berth shall be located closer than 100 feet to any lot in any residence district unless wholly within a completely enclosed area or within a building.¹⁶

ARTICLE VII

Supplementary Regulations

§ 88-24. Lots in two districts.

Where a district boundary line divides a lot in one ownership at the time of adoption of said district line, the regulations for the less restricted portion of such lot shall extend not more than 50 feet into the more restricted portion provided the lot has frontage on a street in the less restricted district.

§ 88-25. Commercial excavation.

The Frankfort Town Board recognizes that sand, gravel and rock resources within its area are necessary and beneficial to the economy of the town and the welfare of its citizens. To provide utilization of these resources in a manner compatible with nearby residential areas and to ensure restoration of commercial excavation areas at the conclusion of operations in such a manner as to conform to the Town Land Development Plan, the following regulations are hereby established:

- A. Except when incidental to the construction of a building on the same lot, the excavation, processing and sale of topsoil, sand, gravel, clay or other natural mineral deposit, or the quarrying of any kind of rock formation is subject to the approval of the Board of Appeals.
- B. Before issuing a permit for such use, the Board of Appeals shall find that such excavation or quarrying will not

16. Editor's Note: Original Section 22A, Mobile home courts, which immediately followed this section, was repealed 8-21-1973.

endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic congestion, or other condition. The Board of Appeals may specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit, including the following:

- (1) The slope of material in such topsoil, sand, gravel, clay or other pit shall not exceed the normal angle of repose of such material.
- (2) The top and the base of such slope shall not be nearer than 50 feet to any property line or nearer than 100 feet to the right-of-way line of any street or highway.
- (3) In the case of a quarry or other excavation in rock, the Board of Appeals may require a substantial fence at all points 40 feet or more from the face of any quarry walls.
- (4) Restoration and rehabilitation of the commercial excavation area shall be a continuing operation during each year, and the area quarried shall be regraded and drained so as to assure conformance with the public health, safety and welfare. The Board of Appeals may require a performance bond to assure adequate rehabilitation of commercial excavation sites.

§ 88-26. Dumping; junkyards.

A.¹⁷ No junkyard shall be established or maintained within a distance of 100 feet from any highway or 25 feet from any property line nor elsewhere except after obtaining a permit therefor from the Board of Appeals subject to the Town Junkyard Ordinance¹⁸ and such regulations as the Board may prescribe by general standards and to any conditions that the Board may impose in connection with a particular permit.

A. Any of the uses referred to in this section shall be subject to the requirement that such dumping or junkyard:

- (1) Will not be objectionable by reason of appearance, dust, fumes, odors, smoke, vermin or otherwise detrimental to the public health or safety.
- (2) Will not interfere with drainage to the extent of being injurious to adjacent land or buildings and water.
- (3) Shall conform with the requirements of § 136 of the New York State General Municipal Law.

§ 88-27. Raising of animals. [Added 8-21-1973]

In the discretion of the Zoning Board of Appeals, dogs, poultry, fur-bearing animals, hogs or goats may be raised on a farm, provided that the following conditions are met:

- A. Recognizing property owners within a five-hundred-foot radius of the property do not object;
- B. That areas used for such animals are kept clean; and

17. Editor's Note: Former § 88-26A, which prohibited the location of waste management facilities near certain areas unless a permit could be obtained from the Town Board, amended 6-12-1990 by L.L. No. 3-1990, was repealed 2-21-1995 by L.L. No. 2-1995. This local law also redesignated former § 88-26B as § 88-26A and former § 88-26C as § 88-26B. See now Ch. 86, Waste Management Facilities.

18. Editor's Note: See Ch. 49, Junkyards.

C. That no refuse or garbage be used as feed.

§ 88-27.1. Mobile homes. [Added 6-22-1987 by L.L. No. 5-1987]

A. Individual mobile homes. Location of an individual mobile home may be permitted in any zoning district upon authorization of a special permit by the Zoning Board of Appeals when the Board determines that one of the following criteria has been met:

- (1) Temporary mobile home. The location of the mobile home is temporary and shall exist only for the purpose of a residence during the construction or reconstruction of a permanent dwelling. In such situations a one-year temporary permit shall be issued, which permit may be renewed for not more than one additional period of six months, upon due cause shown by the applicant. The Board of Appeals, in considering an application for such a temporary mobile home residence, shall determine that:
 - (a) An application for a building/use permit for a permanent residence has been applied for and granted;
 - (b) The location, including front, side and rear yards, and the provision for all sanitary facilities for the temporary mobile home are adequate; and
 - (c) That, upon completion or occupancy of the permanent residence, whichever shall come first, the mobile home will be removed by the owner immediately. In the event that said mobile home is not removed within 30 days of the date of completion or occupancy of the permanent residence, the Town Codes Enforcement Officer shall notify the owner, in writing, that he is in violation of this section of

the Code and that the owner has 30 days from the date of said notification to remove the mobile home from the site. If, at the end of said thirty-day period, the mobile home still has not been removed, then the town shall initiate the necessary and appropriate legal action to enforce the removal of said mobile home. Said notification shall include notice that the owner of said mobile home will be responsible for all costs of said removal, including legal fees and court costs incurred by said town in any action to enforce the removal thereof.

- (2) Agricultural-related mobile home. The location of the mobile home is in conjunction with an operating farm and for the sole purpose of providing residential quarters for a full-time employee deriving a minimum of 75% of his annual income from the farm, and said mobile home shall be within 500 feet of the principal dwelling of the owner of the farm. The Board of Appeals, in considering an application for a mobile home to be located as an accessory dwelling to an operating farm, shall determine that:
 - (a) The location, including front, side and rear yards, and the provision for all sanitary facilities are adequate; and
 - (b) Proper assurances are provided for the removal of any mobile home no longer used for occupancy by a full-time employee of such operating farm, including but not limited to the requirement that the owner of said mobile home shall remove the same from the premises immediately upon the discontinuance of its use by a full-time employee. In the event that said mobile home is not removed within 30 days of the date of discontinuance of its use by a full-time employee, the Town Codes Enforcement Officer shall notify the owner in

writing that he is in violation of this section of the Code and that the owner has 30 days from the date of said notification to remove the mobile home from the site. If, at the end of said thirty-day period, the mobile home still has not been removed, then the town shall initiate the necessary and appropriate legal action to enforce the removal of said mobile home. Said notification shall include notice that the owner of said mobile home will be responsible for all costs of said removal, including legal fees and court costs incurred by said town in any action to enforce the removal thereof. Proof of occupancy in connection with farm use shall be filed with the Codes Enforcement Officer annually. The permit shall be valid for a period of one year, at which time renewal of the permit shall be required.

B. Mobile home parks.

- (1) A mobile home park shall be located and maintained only in those districts as permitted in this chapter and in accord with the standards herein set forth.
- (2) Any proposal for the creation of a new or the alteration of an existing mobile home park shall be required to comply with § 88-16, Planned development districts, and Subsection C, General standards, of this section.
- (3) Any proposal for a mobile home park shall be required to comply with Part 7 of the New York State Sanitary Code, together with any revisions thereof.
- (4) All mobile home parks shall obtain an annual operating permit from the Enforcement Officer. All operating permits shall be effective until June 30 of the calendar year of their issuance. An application for a renewable operating permit shall be made to

the Enforcement Officer 60 days prior to the expiration date of the previous permit. The Enforcement Officer shall issue or deny such permit in accord with the requirements set forth in this chapter and the established fee schedule. Such renewed operating permit shall run for a period of 12 months, from July 1 through June 30.

- (5) All existing mobile home parks of record shall comply with these regulations, including the obtaining of an annual operating permit, except that, as long as no addition, expansion or alteration of the use or operation is proposed, they shall not be subject to Subsection B(2) of this section and the area requirements of Schedule A. If, however, any addition, expansion or alteration of the existing mobile home park of record is proposed, said addition, expansion or alteration shall be subject to all provisions of this chapter, including Subsection B(2) of this section and the area requirements of Schedule A.¹⁹ All existing mobile home parks shall be limited to the number and size of mobile homes presently accommodated at the time of adoption of this chapter, except as they shall meet the minimum requirements set forth herein. In addition, existing parks shall comply in every regard with minimum standards for health, sanitation and cleanliness.
- C. General standards. In addition to any requirements found elsewhere in the chapter, any mobile home shall be subject to the following conditions:
 - (1) The mobile home shall be provided with a fire-resistant skirt or covering.
 - (2) The mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the mobile home

19. Editor's Note: Schedule A is included at the end of this chapter.

due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure.

§ 88-27.2. Parking and storage of travel trailers, boats and trailers and recreational vehicles. [Added 6-22-1987 by L.L. No. 5-1987]

No travel trailer, boat or boat trailer or recreational vehicle shall be parked or stored in any residential district, except in the side or rear yard. No travel trailer, boat or boat trailer or recreational vehicle shall be used for any residential, commercial or industrial purpose on the premises for a period exceeding two weeks annually. No travel trailer, boat or boat trailer or recreational vehicle shall be located within 10 feet of any property line. For any single property, no more than one type of each unit shall be placed on such property at any given time.

§ 88-27.3. Mobile home fee schedule. [Added 6-22-1987 by L.L. No. 5-1987]

Fees for mobile homes shall be as follows:

- A. Temporary mobile home [maximum allowable use, 18 months]:
 - (1) One hundred fifty dollars for the first year, upon application.
 - (2) One hundred fifty dollars for the second period of six months, upon application.
- B. Agricultural-related mobile home:
 - (1) One hundred dollars upon application for the first year.
 - (2) One hundred dollars for each succeeding year.
- C. Mobile home parks (new or expansion of existing):

- (1) One hundred twenty-five dollars per unit, upon application.
- (2) Fifty dollars annually thereafter for each approved space, whether or not occupied.

§ 88-27.4. Mobile homes as one-family dwellings. [Added 4-9-1991 by L.L. No. 1-1991]

A mobile home shall be allowed as a one-family dwelling as referred to in this chapter upon meeting the following conditions:

- A. The mobile home must be replacing an existing single-wide or double-wide mobile home which has been destroyed by fire or other causes or has structurally deteriorated to place it beyond repair.
- B. Said mobile home must be placed upon a foundation consisting of a concrete slab or cellar.
- C. Said mobile home must meet the dimensions of a double-wide mobile home.
- D. No building or structure shall be erected until the appropriate permits have been obtained as set forth in Chapter 29 of the Town Code.
- E. The structure shall have a minimum roof pitch of 4/12.
- F. The exterior overhang shall be a minimum of 12 inches.
- G. The structure shall have a shingled roof and vinyl, aluminum or wood siding.
- H. All area regulations, height regulations and lot size regulations, as more fully set forth in this chapter, must be met.

ARTICLE VIII
Nonconforming Uses

§ 88-28. Continuation.

The lawful use of any land or building existing at the time of the adoption of this chapter may be continued, although such use does not conform to the provisions of this chapter, and any such building may be reconstructed or structurally altered and the nonconforming use therein changed, subject to the following regulations.

§ 88-29. Nonconforming use of buildings.

- A. Additions. A nonconforming building or use shall not be added to or enlarged unless such nonconforming building or use is made to conform to the regulations of the district in which it is located.
- B. Alterations. A building nonconforming as to use may not be reconstructed or structurally altered during its life to an extent exceeding an aggregate cost of 50% of the fair value of the building, unless the use of such building is changed to a conforming use.
- C. Changes. A nonconforming use may be changed to another nonconforming use of the same or higher classification according to the provisions of this chapter and when so changed such use shall not thereafter be changed to a nonconforming use of a lower classification.
- D. Discontinuance. Whenever a nonconforming use has been discontinued for a period of one year, any future use shall be in conformity with the provisions of this chapter. A reasonable interim, however, between tenants or occupants shall not be construed to mean discontinuance.
- E. Restoration. **[Amended 4-9-1991 by L.L. No. 1-1991]**
 - (1) A building nonconforming as to use which has been damaged by fire or other causes to the extent of more

than 75% of its fair value, exclusive of its foundation, shall not be repaired or rebuilt except in conformity with the regulations of this chapter.

- (2) In the case of structural deterioration of an existing single-wide mobile home placing the structure beyond repair or damage to an existing single-wide mobile home as set forth in the above subsection, the structure may be replaced by a new single-wide mobile home if the lot size is insufficient for placement of a conforming use or double-wide mobile home. Any planned replacement by other than a new single-wide mobile home must be approved by the Town Code Officer. For purposes of this section, it shall be assumed that any lot presently so occupied with dimensions less than 50 feet of frontage and 100 feet of depth shall qualify under this subsection.
 - (3) Prior to replacement, permits must be obtained as set forth in Chapter 29 of the Town Code.
- F. Removal. If any building in which nonconforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform to the regulations of the district.
- G. Validity of permit. Any building for which a permit has been lawfully granted, and on which the construction has been started and diligently prosecuted before the effective date of this chapter may be completed.

§ 88-30. Nonconforming use of land.

The nonconforming use of land, including signs, shall not be enlarged or extended beyond the area of land occupied by such use at the time of this chapter. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter. A nonconforming use of

land shall not be changed to another nonconforming use. If a nonconforming use of land is discontinued for a period of 12 consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located. All nonconforming uses of land shall be discontinued within two years after the effective date of this chapter as amended, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

ARTICLE IX Administration

§ 88-31. Enforcement officer.

The provisions of this chapter shall be administered and enforced by a person designated by the Town Board as the enforcement officer who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. No zoning permit or certificate of occupancy required hereunder shall be issued by the enforcement officer except in compliance with the provisions of this chapter, or as directed by the Board of Appeals under the provisions of Article X.

§ 88-32. Building and zoning permits.

- A. No building permit shall be issued unless building plans are submitted 30 days in advance, with the exception of R-A, R-10 and R-20 District areas. No building shall be erected, moved, altered, added to or enlarged, and no excavation for any building shall be begun unless and until a zoning permit for such work has been issued by the enforcement officer. **[Amended 8-21-1973]**
- B. Applications for zoning permits shall be submitted in duplicate on a form or forms provided by the enforcement officer. Each application shall set forth the purpose for which the building is intended to be used and shall be

accompanied by a plot plan showing the dimensions of the lot and the building, and dimensions of required and proposed yards. The enforcement officer may require such additional information, other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use, and the use of the land are in conformity with the provisions of this chapter. The enforcement officer shall approve or disapprove a zoning permit within five days from the date of the application, Saturdays, Sundays and legal holidays excepted.

§ 88-33. Certificates of occupancy.

- A. A certificate of occupancy is required for any of the following:
- (1) Occupancy and use of a building hereafter erected, altered, moved or extended.
 - (2) Change in the use of existing building.
 - (3) Occupancy and use of vacant land, except for any use consisting primarily of forest practices or tilling the soil or similar use.
 - (4) Change in the use of land, except for any use consisting primarily of forest practices or tilling the soil or similar use.
- B. A certificate of occupancy may be obtained, on application, from the enforcement officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter. The enforcement officer shall make an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within 10 days from the date of application, Saturdays, Sundays and legal holidays excepted. Failure to make a determination within a reasonable period of time

shall be deemed to be disapproval of the application for certification of occupancy.

§ 88-34. Penalties for offenses; additional remedies.

- A. Any person or corporation, whether as owner, or lessee, agent or employee, who shall violate any of the provisions of this chapter or who fails to comply with any order or regulation made thereunder; or who erects, alters, moves or uses any building or uses any land in violation of any detailed statement or plans submitted by him and approved under the provisions of this chapter shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding \$250 or imprisonment not exceeding six months, or both, in accordance with the provisions of Article 16 of the Town Law and any amendments thereto and any other statutes relating thereto. Each week's continued violation shall constitute a separate additional violation. **[Amended 2-12-1985 by L.L. No. 1-1985]**
- B. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this chapter, the proper local authorities of the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such building, structure or land.

ARTICLE X
Board of Appeals

§ 88-35. Establishment; composition; terms; vacancies; statutory powers and duties.

- A. A Board of Appeals is hereby established. It shall consist of five members. The term of office of the members of the Board of Appeals and the manner of their appointment shall be in accordance with the provisions of the Town Law. Vacancies occurring in said Board shall be filled for such unexpired period only.
- B. The Board of Appeals shall have the duties, rights, powers and functions conferred upon it by § 267 of Article 16 of the Town Law and any other provisions of the Town Law and any other provisions of law or ordinance applicable thereto, including the following.

§ 88-36. Meetings.

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Such Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

§ 88-37. Records.

All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the enforcement officer. Every rule, regulation, amendment or repeal thereof and every order requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record. Each decision shall set forth fully the

reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards of § 88-40 where the appeal is for a variance or a special exception.

§ 88-38. Appeals.

- A. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the enforcement officer. It shall also hear and decide all matters referred to it upon which it is required to pass under this chapter. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the enforcement officer, or to decide in favor of the applicant any matter upon which it is required to pass under this chapter or to effect any variation in this chapter. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town.
- B. Such appeal may be taken within 30 days, or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the enforcement officer and with the Board of Appeals a notice of appeal specifying the grounds thereof. The enforcement officer shall forthwith transmit to the Board all of the papers constituting the records upon which the action appealed from was taken.

§ 88-39. Stay of proceedings.

An appeal stays all proceedings in furtherance of the action appealed from unless the enforcement officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him that by reason of acts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case, proceedings shall not be stayed otherwise than by a restraining order which

may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

§ 88-40. Additional powers and duties.

The Board of Appeals shall have the following powers and duties prescribed by statute and by this chapter:

- A. Interpretation. On appeal from a determination of the enforcement officer, to hear and decide on questions where it is alleged there is an error in any order, requirement, decision or determination made by the enforcement officer involving the interpretation of any provision of the chapter.
- B. Variance. On appeal from a determination of the enforcement officer, to grant a variance where the property owner can show that his property was acquired in good faith and where the strict application of this chapter would result in practical difficulty or unnecessary hardship. Variances cannot be granted for land uses. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case that: because of exceptional narrowness, shallowness or shape of the specific parcel or because of extraordinary topographic conditions or other extraordinary physical condition or location of the specific parcel, the strict application of the provisions of this chapter actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property and that the variance granted by the Board is the minimum variance that will provide for the reasonable use of the property; or the granting of the variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the owner, which

conditions are peculiar to such land or building and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter; and in any case, the granting of the variance will be in harmony with the intent and purpose of this chapter, will not constitute, in effect an amendment of any district regulations or boundaries, and will not be injurious to the neighborhood.

- C. Special exception. On application, supplementing an application to the enforcement officer for a zoning permit or certificate of occupancy, the Board of Appeals may grant a permit for any use for which approval of the Board is required under this chapter. In granting such permit, the Board may specify appropriate conditions in harmony with the following standards:

- (1) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.
- (2) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections and the general character and intensity of development of the neighborhood.
- (3) The location and height of buildings, the location, nature and height of walls and fences and the nature

and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

§ 88-41. Hearing and determination. [Amended 4-9-1991 by L.L. No. 1-1991]

- A. The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and by publication at least once in the official newspaper seven days before the date of the hearing, and shall decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premises and, to that end, shall have all the powers of the officer from which the appeal is taken.
- B. Notice of such hearing shall be mailed to all owners of property bordering the property which is the object of the hearing as set forth on the last completed tax roll of the town.

**ARTICLE XI
Amendments**

§ 88-42. Initiation.

- A. The Town Board may, from time to time, on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this chapter.
- B. Whenever the owners of 50% or more of the frontage in any district or part thereof shall present a petition duly

signed and acknowledged to the Town Board, requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be in the duty of the Town Board to vote upon said petition within 30 days after the filing of the same by the petitioners with the Town Clerk.

- C. The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of the regulations. Within 30 days from the time such resolution is filed with the Town Clerk, it shall be the duty of the Board to vote on such proposed amendment.

§ 88-43. Referral to Planning Board.

All proposed amendments, supplements or changes originating by petition, or by motion of the Town Board, shall be referred to the Planning Board for a report and recommendations thereon. The Planning Board will submit its report within 21 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

§ 88-44. Notice and hearing.

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. Such hearing may be held by the Town Board, by a committee of the Board, or by the Planning Board on request of the Town Board. In addition to the public notice of a hearing, notice shall be given in writing to all property owners of the land included in such proposed change, and the land immediately adjacent extending 100 feet therefrom, and the land directly opposite thereto extending 100 feet from the street or highway frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the town.

§ 88-45. Adoption.

After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend the Zoning Ordinance except as described in § 88-46, Protests.

§ 88-46. Protests.

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 150 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of four members of the Town Board.

§ 88-47. Review.

From time to time, at intervals of not more than three years, the Planning Board shall reexamine the provisions of this chapter and the location of district boundary lines and shall submit a report to the Town Board recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or the general welfare.

ARTICLE XII More Restrictive Standards

§ 88-48. More restrictive standards to apply.

The provisions of this chapter shall be held to the minimum requirements for the promotion of public health, safety and general welfare. When this chapter imposes a greater restriction on the use of buildings or land or the height of buildings or requires larger open spaces or makes any other

greater requirement than is imposed or required by any other ordinance, rule or regulation or by easements, covenants or agreements, the provisions of this chapter shall govern.²⁰

20. Editor's Note: The two original unnumbered paragraphs, regarding trailers and pyrotechnics, which immediately followed this section, were deleted 2-12-1985 by L.L. No. 1-1985.

