

LOCAL LAW NUMBER 2 OF 2016
as enacted by the Town Board of
the Town of Urbana, New York

Chapter 105

ZONING

[HISTORY: Adopted by the Town Board of the Town of Urbana 6-15-1988 as L.L. No. 1-1988. Article II and §§ 105-15, 105-16, 105-17, 105-18, 105-19, 105-29, 105-30 and 105-49A(1), (2), (4), (5) and (6) amended at time of adoption of Code; see Ch.1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 18.

Excavations — See Ch. 52.

Fire prevention and building construction — See Ch. 57.

Flood damage prevention — See Ch. 59.

Subdivision of land — See Ch. 93.

§ 105-1. Scope.

This chapter regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures and the use of land in the town of Urbana, Steuben County, New York, which is situate outside of the Village of Hammondsport, New York, and for said purposes divides the town into zoning districts.

§ 105-2. Title.

This chapter shall be known and may be cited as Chapter 105 of the Code of the Town of Urbana, Steuben County, New York, and such legislation is a zoning law.

§ 105-3. Statutory authorization; purposes.

These regulations are enacted pursuant to § 10 of Article 2 of the Municipal Home Rule Law and Article 16 of the Town Law, Chapter 61 of the Consolidated Laws to protect and promote the public health, safety, morals, comfort, convenience, economy, town aesthetics and the general welfare and for the following additional purposes:

- A. To promote and effectuate the orderly physical development of the Town of Urbana in accordance with the Comprehensive Development Plan.

- B. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property.
- C. To control the spread of strip business development and provide for more adequate and suitably located commercial facilities and consequently eliminate many roadside hazards and add to community attractiveness.
- D. To create a suitable system of open spaces and recreation areas and to protect and enhance existing wooded areas, scenic areas and waterways.
- E. To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, in order to prevent undue concentration of population, in order to lessen congestion on streets and highways and in order to provide efficient municipal utility services.
- F. To improve transportation facilities and traffic circulation and to provide adequate off-street parking and loading facilities.
- G. To realize a development plan properly designed to conserve the use of land and the cost of municipal services.
- H. To assure privacy for residences and freedom from nuisances and things harmful to the senses.
- I. To protect the community against unsightly, obtrusive and noisome land uses and operations.
- J. To enhance aesthetic aspects of the town.

§ 105-4. Word usage; definitions.

- A. Word usage.
 - (1) Except where specifically defined herein, all words used in this chapter shall carry their customary meanings.
 - (2) Words used in the present tense shall include the future.
 - (3) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
 - (4) The word “shall” is always mandatory.
 - (5) The word “may” is permissive.
 - (6) “Building” or “structure” includes any part thereof.
 - (7) The word “lot” includes the word “plot” or “parcel”.

- (8) The word “person” includes an individual person, a firm, a corporation, a copartnership and any other agency of voluntary action.
- (9) The phrase “used for” includes the phrases “arranged for,” “designed for,” “intended for,” “maintained for” and “occupied for.”

B. The following words and terms are specifically defined as noted:

ACCESSORY BUILDING — A building detached from and subordinate to a principal building on the same lot and used for purposes incidental to those of such principal building. Where an “accessory building” is attached to the main building in a substantial manner, as by a wall or roof, such “accessory building” shall be considered part of the main building.

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

ALTERATION — A change or rearrangement in the structural parts or existing facilities of a building or structure or any enlargement thereof, whether by extension of any side or by any increase in height or the moving of such building or structure from one location to another.

AREA, BUILDING — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings on a lot, exclusive of terraces and uncovered steps.

ATTIC — That space of building which is immediately below and wholly or partly within the roof framing. An “attic” with a finished floor shall be counted as 1/2 story in determining the permissible number of stories.

AUTO JUNKYARD — A lot occupied by two or more unregistered motor vehicles no longer in condition for legal use on the public highway.

BASEMENT — A story partly below finished grade, but having at least 1/2 of its height, measured from floor to ceiling, not less than four feet above average finished grade. A “basement” shall be counted as one story in determining the height of a building in stories.

BILLBOARD — A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered elsewhere than the lot on which such sign is situated.

BOARDINGHOUSE — A building, other than a hotel, containing a general kitchen and a general dining room, in which at least two or more but not more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist home, bed and breakfast or rooming house shall be deemed a “boardinghouse.”

BREWERY --- A facility, licensed by the State of New York, where beer and/or any fermented beverages of any name or description manufactured from malt, wholly or in part, or from any substitute therefor, is produced and manufactured for sale; A brewery may also contain tasting areas open to the public, retail area offering product sales for off premise consumption and/or items related to or promoting the facility and its products.

BUILDING — Any structure which is permanently affixed to the land, has one or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING, ACCESSORY — See “accessory building.”

BUILDING, DETACHED — A building surrounded by open space on the same lot.

BUILDING GROUP — A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and with required yards in common.

BUILDING LINE — The line, established by statute, local law or ordinance, beyond which a building shall not extend, as specifically provided by law.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which it is located.

BUILDING, SEMIDETACHED — A building having but one side yard and attached by a party wall to another building normally of the same use or another lot.

BULK — A term used to describe the size, volume, area and shape of buildings and 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 all open spaces required in connection with a building, other structure or tract of land.

CAMP — Any lot on which there are located two or more motor homes, tents, temporary shelters or other structures used for temporary living purposes, including a day camp, but not including a mobile home park, cottage development, boardinghouse, hotel or motel.

CELLAR — Any space in a building, the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building. A “cellar” shall not be counted in determining the permissible number of stories.

CLUB, MEMBERSHIP — An organization catering exclusively to members and their guests or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

COMMERCIAL VEHICLE — A vehicle of more than one-ton capacity used for the transportation of persons or goods primarily for gain or a vehicle of any capacity carrying a permanent affixed sign exceeding one square foot in area of lettering of a commercial nature.

COMMUNITY POLE — A sign owned and maintained by the Town Board or by a group of businesses as approved by the Town Board and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the community.

CONTRACTOR’S YARD — Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery or vehicles or parts thereof, which are in active use by a construction contractor.

CORNER LOT — See “lot, corner.”

COTTAGE DEVELOPMENT — Any lot on which there are located two or more cottages, cabins or other accommodations of a design or character suitable for seasonal living purposes, including a summer colony or resort, but not including a camp, mobile home park, boardinghouse, hotel or motel.

COVERAGE — That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

CRIME - A misdemeanor or a felony.

DAY-CARE CENTER — A facility duly permitted by the New York State Department of Social Welfare for the care of seven or more children for less than 24 hours each day.

DISTRICT, MORE RESTRICTED OR LESS RESTRICTED — In the following list, each district shall be deemed to be more restricted than the districts which follow it: A, R, B, I, F.

DRIVE-IN MOVIE — An open lot or part thereof with appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

DUMP — A lot of land used primarily for the disposal or abandonment, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING — A building principally used for living quarters by one or more families. The terms “dwelling,” “one-family dwelling,” “two-family dwelling,” “multifamily dwelling,” “multiple dwelling” or “dwelling group” shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy. (See “residence.”)

DWELLING GROUP — A group of from three to nine attached single- or two-family dwellings separated by party walls. (See also “townhouse.”)

DWELLING MULTIFAMILY — A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY — A building containing one dwelling unit only.

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

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family.

EXTRACTIVE OPERATION — The removal of soil, gravel, sand or fill for purposes unrelated to excavation for construction where the extractive operation is conducted.

FAMILY — Consists of:

- (1) One person or two or more persons related by blood, marriage or adoptions; or
- (2) Not more than five persons not necessarily related by blood, marriage or adoption and, in addition, any domestic servants or gratuitous guests, who live together in a single dwelling unit and maintain a common household.

FARM — Any parcel of land consisting of at least 10 acres which is used for the raising of agricultural products, livestock, poultry or dairy products. It includes necessary farm structures and the storage of equipment used. It excludes riding academies and dog kennels.

FARM WINERY---as specified in NYS Alcohol Beverage Control Article 6, Section 76-a. In summary a farm winery is an operation which is authorized to produce and sell no more than 150,000 gallons of wine or approximately 63,078 9-liter cases. In addition to wine, a farm winery is authorized to produce and sell grape juice and other grape related products like jellies and jams as well as retail trade gifts, wine related tourists products and wine-making products and supplies from its retail tasting rooms. See Section NYS 76-a for details.

FINISHED GRADE — The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line or intersection is not reasonably horizontal, the finished grade, in computing height of buildings and other structures or for other purposes, shall be the average elevation of all finished grade elevations around the periphery of the building, except that this average shall not exceed 1/2 of the floor-to-ceiling height.

FLOOR AREA — The aggregate sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior walls or from the center line of walls separating two buildings.

- (1) In particular, the “floor area” of a building or buildings shall include:
 - (a) Basement space.
 - (b) Elevator shafts and stairwells at each floor.
 - (c) Floor space for mechanical equipment, with structural headroom of seven feet six inches or more.
 - (d) Penthouses.
 - (e) Attic space, whether or not a floor has actually been laid, providing structural headroom of seven feet six inches or more.
 - (f) Interior balconies and mezzanines.
 - (g) Enclosed porches.

- (h) Accessory uses, not including space for accessory off-street parking.
- (2) However, the “floor area” of a building shall not include:
- (a) 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.
 - (b) Elevator and stair bulkheads, accessory water tanks and cooling towers.
 - (c) Floor space used for mechanical equipment, with structural headroom of less than seven feet six inches.
 - (d) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet six inches.
 - (e) Uncovered steps and exterior fire escapes.
 - (f) Terraces, breezeways, open porches and outside balconies and open spaces.
 - (g) Accessory off-street parking spaces.
 - (h) Accessory off-street loading berths.

FRONTAGE — See “lot frontage.”

GASOLINE FILLING STATION — An area of land, including structures thereon, or any building or part thereof that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubrication substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding or painting.

HEIGHT OF BUILDING — The vertical distance measured from the average finished grade along the wall of the building or adjacent to the side of the structure to the highest point of such building or structure.

HOSPITAL — A building containing beds for four or more patients and used for the diagnosis, treatment or other care of human ailments.

HOTEL — 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 contain one or more dining rooms.

JUNKYARDS — An area of land, with or without buildings, used for the storage, keeping or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. The deposit on a lot of two or more wrecked or broken-down vehicles or the major parts thereof for three months or more shall be deemed to make the lot a “junkyard.”

KENNEL — Any premises where there are kept four or more dogs more than four months of age or any premises where any number of dogs are kept for the primary purpose of sale or are kept for boarding, care or breeding and for which a fee is charged or paid.

LIGHT INDUSTRY — Those types of businesses which employ electric power or other motor power or utilize hand labor for fabrication or assembly.

LOT — A defined portion or parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings which are united by a common interest, use or ownership and the customary accessories and open spaces belonging to the same. A “lot” shall abut and be accessible from a public or private street.

LOT, CORNER — A lot situated at the junction of and with frontage on two or more intersecting streets when the interior angle of intersection does not exceed 135°.

LOT, COVERAGE — See “coverage.”

LOT, DEPTH OF — The mean distance from the frontline of a lot to its rear lines.

LOT, FRONTAGE — A lot line which is coincident with a street line, except that for Keuka Lake shoreline lots, “frontage” also coincides with the mean high-water line.

LOT LINES — The lines bounding a lot, as defined herein.

LOT, THROUGH — A lot with frontage on two streets at opposite ends of the lot and which is not a corner lot.

LOT WIDTH — The width of a lot measured along the rear line of the required front yard.

MISDEMEANOR - An offense, other than a "traffic infraction", for which a sentence to a term of imprisonment in excess of fifteen days may be imposed, but for which a sentence to a term of imprisonment in excess of one year cannot be imposed.

MOBILE HOME — A structure, transportable in one or more sections, which is eight body feet or more in width and 32 body feet or more in length, 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 including the plumbing, heating, air-conditioning and electrical systems contained therein. A “mobile home” shall have been built in conformity with the National Mobile Home Construction and Safety Standards Act of 1974.

MOBILE HOME PARK — A tract of land which is used for the placement of two or more mobile

homes or modular homes for occupancy, excluding sales yards where mobile homes are displayed but not connected to utilities.

MODULAR HOME — A building that is factory-built in compliance with a construction code other than the National Mobile Home Construction and Safety Standards Act of 1974.

MOTEL — A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and use principally by motor vehicle travelers. The term “motel” includes but is not limited to every type of similar establishment known variously as an “auto court,” “motor hotel,” “motor court,” “motor inn,” “motor lodge,” “tourist court,” “tourist cabin” or “roadside hotel.”

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

NONCONFORMING USE — Any use of a building, other structure or tract of land which does not conform to the use regulations for the district in which such use is located, either following the effective date of this chapter or as a result of subsequent amendment thereto.

NURSERY SCHOOL — Any place, however designated, licensed by the State of New York, operated for the purpose of providing daytime care or instruction for two or more children, from two to five years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries and day-care centers. Children residing in the subject premises shall not be included in this total number.

NURSING OR CONVALESCENT HOME — A building with less than 15 sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

PREMISES — A lot, together with all the buildings and uses thereon.

PRINCIPAL BUILDING — See “building, principal.”

RESIDENCE, RESIDENTIAL — A building or any part of a building which contains living and sleeping accommodations for permanent occupancy, including one-family, two-family, multifamily, boarding, fraternity and sorority houses. However, “residence” shall not include:

- (1) Transient accommodations, such as hotels, motels, camps, vacation resorts and hospitals; or
- (2) That part of a building containing both residences and other uses which are used for any nonresidential uses, except accessory uses for residences.

RIDING ACADEMY — Any establishment where horses are kept for riding, driving or stabling for compensation.

ROAD STAND — A light structure with a roof, either attached to the ground or movable, intended for the sale of local products to the general public.

SETBACK — The distance in feet from the street line to the principal building on a lot.

SIGN — Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking or representation used as or which is in the nature of an announcement, direction or advertisement. A “sign” includes a billboard, neon tube, fluorescent tube or other artificial light or string of lights, outlining or hung upon any part of a building or lot for the purposes mentioned above but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civil, professional, religious or similar organization, campaign, drive, movement or event which is temporary in nature.

SIGN, ADVERTISING — A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises or only incidentally on the premises.

SIGN AREA — The area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes.

SIGN, BUSINESS — A sign which directs attention to a business or profession conducted on the premises. A sign offering the sale or rental of the property on which it is displayed shall be deemed a “business sign.”

SIGN, DIRECTLY ILLUMINATED — A sign which incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent material or electricity-activated gaseous material or other fluorescent substance.

SIGN, FLASHING — An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

SIGN, INDIRECTLY ILLUMINATED — A sign illuminated with an artificial light which is separated from or is not an intrinsic part of the sign itself.

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

SINGLE OWNERSHIP — Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 30 years, regardless of any division of such land into parcels for the purpose of financing.

STORY — That part of a building comprised between a floor and the floor or roof next above it. (See “attic,” “basement” and “cellar.”)

STORY, HALF — That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to 1/2 the floor-to-ceiling height of the story below.

STREET — An existing public or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by all appropriate official agencies, including the Town Planning Board, and/or recorded in the office of the County Clerk.

STREET LINE — The edge of the traveled portion of the street or other roadway.

STREET WIDTH — The width of the right-of-way or the distance between property lines on opposite sides of a street.

STRUCTURE — A static construction of building materials, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings, whether mobile or stationary at the time, and the like.

TERRACE — An open, often paved, area connected to a house and serving as an outdoor living area.

THROUGH LOT — See “lot, through.”

TOWNHOUSE — A building consisting of a series of one-family attached dwelling units having party walls between contiguous dwelling units.

USE:

(1) The purpose for which any building, other structure or land may be arranged, designed, intended, maintained or occupied.

(2) Any occupation, business activity or operation conducted or intended to be conducted in a building or other structure or on land.

VACATION RESORT — Any lot on which are located two or more cabins or cottages or a hotel or group of buildings containing living and sleeping accommodations hired out for compensation which has a public lobby serving the guests and may contain one or more dining rooms and recreation facilities of a design and character suitable for seasonal or more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.

VIOLATION - An offense, other than a "traffic infraction", for which a sentence to a term of imprisonment in excess of fifteen days cannot be imposed.

WAY — A thoroughfare, however designated, permanently established for passage of persons or vehicles.

YARD, FRONT — A yard extending along the lot frontage between the side lot lines. (See “lot frontage”)

YARD, REAR — A yard extending along the rear lot line between the side lot lines.

YARD, REQUIRED — That portion of the open area of a lot extending open and unobstructed from the ground upward along a lot line for a depth or width as specified by the area and bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, SIDE — A yard extending along a side lot line from the front yard to the rear yard.

§ 105-5. Enumeration of districts.

In order to fulfill the purposes of this chapter, the Town of Urbana, Steuben County, New York, establishes and hereby divides the town into the following zoning districts:

- A = Agriculture
- R = Residence
- B = Highway Business
- I = Industry
- F = Floodplain

§ 105-6. District boundaries.

District boundaries for zoning districts within the Town of Urbana shall be as follows:

- A. Agriculture: all area in the town except the Village of Hammondsport and other zoning districts.
- B. Residence.
 - (1) All area between the Keuka Lake shoreline and New York State Route 54 and New York State Route 54-A.
 - (2) All area along Steuben County Route 88 west of the Village of Hammondsport to the industrial area of Vogt Hill Road, south of the road to the floodplain and 300 feet north of road.
 - (3) All area south of the Village of Hammondsport, bordered on the west by the floodplain, on the south by New York State Route 54 and on the east by the school and town property.
- C. Highway Business: all area bordered by New York State Route 54 and Back Valley Road, extending across New York State Route 54 to the floodplain.
- D. Industrial: all area bordered on the north by Germania Road, on the east by the land of Vintners International, on the south by Keuka Inlet and on the west by Steuben

County Route 88. Also, all real property owned by Mercury Aircraft, Inc., situate in the Town of Urbana outside the Village of Hammondsport, New York. Both areas are determined by ownership of record as of June 1, 1988.

§ 105-7. Zoning Map.

- A. The location and boundaries of said zoning districts are shown on the map designated “Official Zoning Map of the Town of Urbana,” adopted on February 8, 1988, and certified by the Town Clerk. Said Map, together with everything shown thereon and all amendments thereto, is hereby adopted.¹
- B. An amendment to the Zoning Map was duly adopted on June 15, 1988, prior to adoption of this chapter.

§ 105-8. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines or rights-of-way lines of streets, highways, public utility easements or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a center line or right-of-way line of such street, highway, public utility or watercourse is moved up to a maximum of 50 feet.
- B. Where district boundaries are indicated as approximately following the town boundary lines, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- C. Where district boundaries are so indicated that they are approximately parallel to the town boundary lines, property lines, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- D. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion.
- E. In all other cases, where not dimensioned, the location of boundaries shown on the Map shall be determined by the use of the scale appearing thereon, but in no instance will a district depth be less than the specified minimum lot depth shown for each district in §§ 105-15, 105-16, 105-17, 105-18 and 105-19.

¹ Editor’s Note: The Zoning Map is on file in the office of the Town Clerk.

- F. In the event that an agreement cannot be reached upon any boundary determination, an aggrieved party may appeal the determination of the Zoning Enforcement Officer to the Zoning Board of Appeals.

ARTICLE II

Use Regulations²

§ 105-9. A Districts.

Except as otherwise approved herein, no building or premises shall hereafter be erected, altered or used in any A District except for one or more of the uses designated below:

A. Residential uses:

- (1) Uses permitted by right shall be as follows:
 - (a) One-family dwelling.
 - (b) Mobile home.
- (2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:
 - (a) Two-family dwelling.
 - (b) Multifamily dwelling.
 - (c) Boardinghouse.

B. General uses:

- (1) Uses permitted by right shall be as follows:
 - (a) Agriculture, including the keeping of fowl or farm animals.
 - (b) Retail sale of agricultural produce grown on the same lot from a road stand.
 - (c) Church or other place of worship.
 - (d) Public or private academic school.
 - (e) Day nursery.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (f) Golf course.
- (g) Farm Winery.

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:

- (a) Vacation resort, etc.
- (b) Hospital.
- (c) Nursing or convalescent home or sanitarium.
- (d) Cultural facilities (library, art gallery, museum, etc.).
- (e) Membership club (excluding golf course).
- (f) Philanthropic institution or use.
- (g) Cemetery.
- (h) Crematory.
- (i) Public utility or transportation.

C. Business uses:

(1) Uses permitted by right shall be as follows:

- (a) Riding academy.

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:

- (a) Funeral home.
- (b) General and professional office.
- (c) School conducted for profit.
- (d) Self-service laundry.
- (e) Hotel or motel.
- (f) Restaurant.

- (g) Bar or nightclub.
- (h) Dance hall or skating rink.
- (i) Bowling alley.
- (j) Theater or concert hall.
- (k) Newspaper office and printing shop.
- (l) Commercial parking lot.
- (m) Gasoline filling station.
- (n) Automobile repair.
- (o) Car washing station.
- (p) Equipment rental or sales yard.
- (q) Laundry or dry-cleaning plant.
- (r) Veterinarian office, animal hospital or kennel.
- (s) Drive-in movie.
- (t) Mobile home park.
- (u) Airport.
- (v) Retail business or service not otherwise specifically mentioned herein.
- (w) Wholesale business or service not otherwise specifically mentioned herein.

D. Industrial uses:

- (1) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:
 - (a) Printing shop.
 - (b) Research laboratory.
 - (c) Manufacture, fabrication, extraction, assembly, warehousing and other handling of material.

(d) Extractive operation and soil mining.

E. Accessory uses:

(1) Uses permitted by right shall be as follows:

(a) Home occupation.

(b) Signs.

(c) Stable for horses (noncommercial).

(d) Other use customarily incident to any of the permitted uses listed above.

F. In those instances where an A District overlaps an F District, the uses provided for hereinabove must also meet the requirements of Chapter 59, Flood Damage Prevention, of the Code of the Town of Urbana.

§ 105-10. R Districts.

Except as otherwise approved herein, no building or premises shall hereafter be erected, altered or used in any R District except for one or more of the uses designated below:

A. Residential uses:

(1) Uses permitted by right shall be as follows:

(a) One-family dwelling.

(b) Two-family dwelling.

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:

(a) Boardinghouse.

B. General uses:

(1) Uses permitted by right shall be as follows:

(a) Agriculture (not including the keeping of fowl or farm animals).

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:

- (a) Retail sale of agricultural produce grown on the same lot from a road stand.
- (b) Church or other place of worship.
- (c) Private or public academic school.
- (d) Day nursery.
- (e) Hospital.
- (f) Nursing or convalescent home or sanitarium.
- (g) Cultural facilities (library, art gallery, museum, etc.).
- (h) Membership club (excluding golf course).
- (i) Philanthropic institution or use.
- (j) Cemetery.
- (k) Public utility or transportation.

C. Business uses:

- (1) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:
 - (a) Theater or concert hall.

D. Accessory uses.

- (1) Uses permitted by right shall be as follows:
 - (a) Home occupation.
 - (b) Signs.
 - (c) Other use customarily incident to any of the permitted uses listed above.

E. In those instances where an R District overlaps an F District, the uses provided for hereinabove must also meet the requirements of Chapter 59, Flood Damage Prevention, of the Code of the Town of Urbana.

§ 105-11. B Districts.

Except as otherwise approved herein, no building or premises shall hereafter be erected, altered or used in any B District except for one or more of the uses designated below:

A. General uses:

(1) Uses permitted by right shall be as follows:

- (a) Agriculture (not including the keeping of fowl or farm animals).
- (b) Farm Winery.

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:

- (a) Retail Sale of agricultural produce grown on the same lot from a road stand.
- (b) Church or other place of worship.
- (c) Public or private academic school.
- (d) Cultural facilities (library, art gallery, museum, etc.).
- (e) Membership club (excluding golf course).
- (f) Philanthropic institution or use.
- (g) Public utility or transportation.

B. Business uses:

(1) Uses permitted by right shall be as follows:

- (a) Funeral home.
- (b) General and professional office.
- (c) School conducted for profit.
- (d) Self-service laundry.
- (e) Hotel or motel.
- (f) Restaurant.
- (g) Bar or nightclub.

- (h) Dance hall or skating rink.
 - (i) Bowling alley.
 - (j) Commercial parking lot.
 - (k) Gasoline filling station.
 - (l) Automobile repair.
 - (m) Car washing station.
 - (n) Laundry or dry-cleaning plant.
 - (o) Retail business or service not otherwise specifically mentioned herein.
 - (p) Wholesale business or service not otherwise specifically mentioned herein.
 - (q) Farm Winery
 - (r) Brewery
- (2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board.
- (a) Theater or concert hall.
 - (b) Newspaper office and printing shop.
 - (c) Equipment rental or sales yard.
 - (d) Veterinarian office, animal hospital or kennel.
 - (e) Drive-in movie.

C. Industrial uses:

- (1) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board.
 - (a) Printing shop.

D. Accessory uses:

- (1) Uses permitted by right shall be as follows:

- (a) Home occupation.
- (b) Signs.
- (c) Other use customarily incident to any of the permitted uses listed above.

E. In those instances where a B District overlaps an F District, the uses provided for hereinabove must also meet the requirements of Chapter 59, Flood Damage Prevention, of the Code of the Town of Urbana.

§ 105-12. I Districts.

Except as otherwise approved herein, no building or premises shall hereafter be erected, altered or used in any I District except for one or more of the uses designated below:

A. General uses:

- (1) Uses permitted by right shall be as follows:
 - (a) Agriculture (not including the keeping of fowl or farm animals).
 - (b) Farm Winery.
- (2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:
 - (a) Crematory.
 - (b) Public utility or transportation.

B. Business uses:

- (1) Uses permitted by right shall be as follows:
 - (a) Newspaper office and printing shop.
 - (b) Commercial parking lot.
 - (c) Automobile repair.
 - (d) Car washing station.
 - (e) Laundry or dry-cleaning plant.
 - (f) Wholesale business or service not otherwise specifically mentioned herein.

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:

- (a) Gasoline filling station.
- (b) Equipment rental or sales yard.
- (c) Veterinarian office, animal hospital or kennel.

C. Industrial uses:

(1) Uses permitted by right shall be as follows:

- (a) Printing shop.
- (b) Research laboratory.
- (c) Manufacture, fabrication, extraction, assembly, warehousing and other handling of material.

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board:

- (a) Extractive operation and soil mining.

D. Accessory uses:

(1) Uses permitted by right shall be as follows:

- (a) Home occupation.
- (b) Signs.
- (c) Other use customarily incident to any of the permitted uses listed above.

E. In those instances where in I District overlaps an F District, the uses provided for hereinabove must also meet the requirements of Chapter 59, Flood Damage Prevention, of the Code of the Town of Urbana.

F. Prohibited uses. In an I District, where manufacturing or light industry is permitted, there shall not be allowed any manufacturing, trade, industry, use or purpose that is noxious or offensive by reason of the emission of odor, dust, smoke, toxic or noisome fumes, radiation, gas, noise, vibration or excessive light or any combination of the above which is dangerous and prejudicial to the public health, safety and general welfare.

§ 105-13. F Districts.

Except as otherwise approved herein, no building or premises shall hereafter be erected, altered or used in any F District except for one or more of the uses designated below:

A. General uses:

(1) Uses permitted by right shall be as follows:

(a) Agriculture (not including the keeping of fowl or farm animals).

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board.

(a) Retail sale of agricultural produce grown on the same lot from a road stand.

(b) Golf course.

B. Business uses:

(1) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board.

(a) Riding academy.

(b) Commercial parking lot.

C. Industrial uses:

(1) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board.

(a) Extractive operation and soil mining.

D. Accessory uses:

(1) Uses permitted by right shall be as follows:

(a) Home occupation.

(b) Signs.

(2) Special permit uses. The following are temporary and/or conditional uses contingent on securing a special use permit in each case from the Planning Board.

- (a) Stable for horses (noncommercial).
- (b) Other use customarily incident to any of the permitted uses listed above.

ARTICLE III

Area and Bulk Regulations

§ 105-14. Purpose.

In order to provide adequate open spaces for access to light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population and to lessen congestion on streets, no building or premises shall hereafter be erected, altered or used except in accordance with the area and bulk regulations herein set forth.

§ 105-15. A Districts.³

The minimum permitted lot area, lot width and yard depth and the maximum lot coverage and building height in A Districts shall be as follows:

- A. For residential uses:
 - (1) Lot area shall be a minimum of two acres.
 - (2) Lot width shall be a minimum of 250 feet.
- B. For nonresidential uses:
 - (1) Lot area shall be a minimum of two acres.
 - (2) Lot width shall be a minimum of 250 feet.
- C. For all uses:
 - (1) Yard depth:
 - (a) Front yard depth shall be a minimum of 50 feet.
 - (b) Side yard depth shall be a minimum of 20 feet.
 - (c) Rear yard depth shall be a minimum of 50 feet.
 - (2) Lot coverage shall be a maximum of 20%.
 - (3) Building height shall be a maximum of:

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (a) Two and one-half stories.
- (b) Thirty-five feet.

§ 105-16. R Districts.⁴

The minimum permitted lot area, lot width and yard depth and the maximum lot coverage and building height in R districts shall be as follows:

- A. For residential uses:
 - (1) Lot area shall be a minimum of 10,000 square feet.
 - (2) Lot width shall be a minimum of 75 feet.
 - (3) On Keuka Lake shoreline lots, the lot width shall be a minimum of 50 feet.
- B. For nonresidential uses:
 - (1) Lot area shall be a minimum of 10,000 square feet.
 - (2) Lot width shall be a minimum of 75 feet.
- C. For all uses:
 - (1) Yard depth:
 - (a) Front yard depth shall be a minimum of 20 feet.
 - (b) Side yard depth shall be a minimum of 10 feet.
 - (c) Rear yard depth shall be a minimum of 30 feet.
 - (d) On Keuka Lake shoreline lots:
 - [1] Front yard depth shall be a minimum of 15 feet.
 - [2] Rear yard depth shall be a minimum of 20 feet.
 - (2) Lot coverage shall be a maximum of 25%.
 - (3) Building height shall be a maximum of:
 - (a) Two and one-half stories.

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

- (b) Thirty-five feet.

D. Exemptions.

One landing and/or stairway is permitted for the purpose of providing access to a residence or property where a conforming method of access is not available due to steep slope or terrain. The following standards must be met:

- (1) The landing shall not exceed forty (40) inches in width or depth.
- (2) The stairway structure shall not exceed forty (40) inches in width.
- (3) Both the stairway and landing shall meet the NYS Uniform Fire and Building Code standards for such construction, regardless of whether or not it is connected to a residence or any structure.
- (4) Encroachment into the existing roadside setback shall be the minimum distance required that will allow access while adhering to the aforementioned construction standards.
- (5) No portion of the landing or stairway shall protrude into or cause the reduction of any existing off-street parking. The applicant must provide documentation that this requirement has been met.
- (6) No portion of the landing or stairway shall encroach upon any required side yard setback.

§ 105-17. B Districts.⁵

The minimum permitted lot area, lot width and yard depth and the maximum lot coverage and building height in B Districts shall be as follows:

- A. Residential uses are not permitted in B Districts.
- B. For nonresidential uses:
 - (1) Lot area shall be a minimum of 10,000 square feet.
 - (2) Lot width shall be a minimum of 100 feet.
- C. For all uses:
 - (1) Yard depth:
 - (a) Front yard depth shall be a minimum of 35 feet.
 - (b) Side yard depth shall be a minimum of 20 feet.

⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (c) Rear yard depth shall be a minimum of 20 feet.
- (2) Lot coverage shall be a maximum of 50%.
- (3) Building height shall be a maximum of:
 - (a) Three stories.
 - (b) Forty feet.

§ 105-18. I Districts.⁶

The minimum permitted lot area, lot width and yard depth and the maximum lot coverage and building height in I Districts shall be as follows:

- A. Residential uses are not permitted in I Districts.
- B. For nonresidential uses:
 - (1) Lot area shall be a minimum of 30,000 square feet.
 - (2) Lot width shall be a minimum of 200 feet.
- C. For all uses:
 - (1) Yard depth:
 - (a) Front yard depth shall be a minimum of 50 feet.
 - (b) Side yard depth shall be a minimum of 25 feet.
 - (c) Rear yard depth shall be a minimum of 50 feet.
 - (2) Lot coverage shall be a maximum of 35%.
 - (3) Building height shall be a maximum of:
 - (a) Three stories.
 - (b) Forty feet.

§ 105-19. F Districts.⁷

The minimum permitted lot area, lot width and yard depth and the maximum lot coverage in F Districts shall be as follows:

⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- A. Residential uses are not permitted in F Districts.
- B. For nonresidential uses:
 - (1) Lot area shall be a minimum of one acre.
 - (2) Lot width shall be a minimum of 150 feet.
- C. For all uses:
 - (1) Yard depth:
 - (a) Front yard depth shall be a minimum of 50 feet.
 - (b) Side yard depth shall be a minimum of 25 feet.
 - (c) Rear yard depth shall be a minimum of 50 feet.
 - (2) Lot coverage shall be a maximum of 10%.

§ 105-20. Specific bulk regulations.

- A. Corner lots and through lots. On a corner lot or through lot, the standards for front yards shall apply to both frontages.
- B. Projections into required yards. The following projections into required yards are allowed:
 - (1) Open fire escape: four feet into side or rear yards.
 - (2) Awnings or movable canopies: six feet into yard.
 - (3) Cornices, eaves and other similar architectural features: three feet into any yard.
 - (4) Any open or enclosed porch, deck or carport shall be considered a part of the building in the determination of the size of the required yard or lot coverage. Nonroofed terraces shall not be considered a part of the building.
- C. Height exceptions. District building height regulations shall not apply to flagpoles, radio or television antennas, transmission towers or cable, spires or cupolas, chimneys, elevator or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers or any similar structures, provided that such structures in their aggregate coverage occupy no more than 10% of the roof area of the building.
- D. Compliance with minimum lot dimensions. No lot existing on the effective date of this chapter or amendment thereto shall be reduced in area or dimension below the minimum requirements set forth herein. Lots created after such date shall comply with the requirements of this chapter.

- E. Side yards for dwelling groups or townhouses. Required side yards for dwelling groups or townhouses shall be provided at the ends of the total structure.
- F. Distance between principal buildings on the same lot. No detached principal building shall be closer to any other principal building on the same lot than the average height of said buildings.

§ 105-21. Modification.

A. Pursuant to Town Law, Article 16, § 281, the Planning Board is empowered to modify the allowable dwelling types specified in § 105-9A and the density provisions of §§ 105-15, 105-16, 105-17, 105-18 and 105-19 above when approving a residential subdivision plat in accordance with § 93-11 of chapter 93, the Town of Urbana. Any Subdivision of Land, of the code of such modifications incorporated in a duly recorded plat shall be properly noted by the Town Clerk as amendments to these zoning regulations.

B. This procedure shall be governed by the following requirements:

- (1) Density. Although the Planning Board may hereunder approve reductions from the required lot area, lot width and yard dimensions, the total number of dwellings permitted in such a development shall in no way exceed the number which could be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements specified in §§ 105-15, 105-16, 105-17, 105-18 and 105-19 of these regulations.
- (2) Open space. In the event that this procedure results in land being available for open space, agriculture or recreation uses, such lands shall either be deeded to the town or held in corporate ownership by the owners of the lots within the development, and, in such cases, the deeds of all property within the development shall carry a clause giving the lot owners an interest in such open space uses only. Such lot owners shall enter into agreements providing for the continuing maintenance of such lands.
- (3) Site plan review. The application for such development shall include a proposed site plan. This shall be submitted to the Planning Board. It shall show areas within which structures may be located, the height and spacing of buildings, open spaces, landscaping, parking areas, streets and other physical features as shown or otherwise described in the written application. The site plan shall be subject to review and public hearing by the Planning Board as provided for in § 274-a of the Town Law.

ARTICLE IV

Supplementary Regulations

§ 105-22. Performance standards.

In any district, the following standards for activities shall apply:

- A. No offensive or objectionable vibration, odor or glare shall be noticeable at or beyond the property line.
- B. No activity shall create a physical hazard, by reason of fire, explosion, radiation or other such cause, to persons or property in the same or an adjacent district.
- C. There shall be no discharge of any liquid or solid waste into any stream or body of water or any public or private disposal system or into the ground of materials of any nature that may contaminate any water supply, including groundwater supply.
- D. There shall be no storage of any material, either indoors or outdoors, in such a manner that it facilitates the breeding of vermin or endangers health in any way.
- E. There shall be no emission of smoke, fly ash or dust which can cause damage to the health of persons, animals or plant life or to other forms of property.

§ 105-23. Home occupations.

In any district, nothing in this chapter shall prevent an individual from conducting his business, trade or profession in his principal residence, provided that no more than two persons be employed in addition to the entrepreneur; that no other person shall be permitted to share, let or sublet space for such business or professional use; that there be no external evidence of such use except for one sign not exceeding two square feet in area; and that there shall not be any exterior storage of materials or equipment.

§ 105-24. Excavations.

- A. Any proposed excavation adversely affecting natural drainage or structural safety or adjoining buildings or lands shall be prohibited.
- B. Excavations shall not create any noxious or injurious substance or conditions or cause a public hazard.
- C. In any district, excavation relating to the construction on the same lot of a building or structure for which a building permit has been issued shall be permitted.
- D. In the event that construction of a building or structure is stopped prior to completion and the building permit is allowed to expire, the premises shall promptly be cleared of any rubbish or building materials, and any excavation with a depth greater than two feet below existing grade shall be filled in and topsoil replaced or all such excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area in which the excavation is located.

§ 105-25. Setbacks from mapped streets.

After the planned right-of-way line for future streets, for future extensions of existing streets and for future street widening is established on the Official Map, if any, buildings and structures shall be set back from such line as though it were a street line.

§ 105-26. Accessory buildings and uses.

- A. An accessory building not attached to a principal building shall be located no closer to the principal building than 12 feet or a distance equal to the height of such accessory building, whichever is greater.
- B. In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot as the dwelling, may not be constructed in the side or front yard of such lot and shall be distant not less than 20 feet from any lot line nor less than 10 feet from the dwelling and shall not adversely affect the character of adjacent residential areas by reason of noise, glare or hazard.

§ 105-27. Corner sight clearances.

For the purpose of maintaining sight distance in order to minimize traffic hazards at street intersections, on any corner lot no obstructions higher than 2 1/2 feet above the adjacent top-of-curb elevation shall be permitted to be planted, placed, erected or maintained within the triangular area formed by the intersecting pavement lines or their projections (where corners are rounded) and a straight line joining the pavement lines at points feet distant from their point of intersection.

§ 105-28. Walls and fences.

- A. In any residence district, walls and fences up to four feet in height shall be permitted anywhere on a lot, except where corner sight clearances are required for traffic safety.
- B. In any business or industry district, there shall be no restriction on fences or walls except on a residence district boundary line where such fences or walls shall be limited to eight feet in height and except where corner sight clearances are required.
- C. All fences must have the good side out.

§ 105-29. Off-street automobile parking.⁸

In all districts, off-street automobile parking spaces for the various permitted uses shall be required at the time any of the main buildings or structures of such uses are constructed or altered, as follows:

- A. 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

⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structures, as follows:

- (1) Business uses.
 - (a) Requirements.
 - [1] For retail business or service, bank or post office: one space for each 200 square feet of customer floor area.
 - [2] For office uses, including professional, personal service, public utility or governmental: one space for each 300 square feet of gross office floor area.
 - [3] For restaurant, bar or nightclub: one space for each 50 square feet of customer floor area.
 - [4] For funeral home: one space for each five seats of auditorium capacity.
 - [5] For hotel, motel and vacation resort: one space for each bedroom, plus one space for each four employees.
 - [6] For any commercial use: one space for each company vehicle.
 - (b) Spaces in municipal parking lots, where available, may be credited toward the parking requirements for such nonresidential uses, provided that:
 - [1] These spaces are within 400 feet of the uses to be served;
 - [2] The parking needs of existing facilities [within four 400 feet and computed on the same basis as for new facilities] are satisfied first and only excess capacity is used for this purpose.
 - [3] A special permit for such use is obtained from the Planning Board
- (2) Industrial uses.
 - (a) One space for each 400 square feet of floor area devoted to manufacture, including printing, publishing and laundry or dry-cleaning plants.
 - (b) One space for each 2,000 square feet of floor area devoted to storage or stationary operating equipment.

- (c) One space for each 3,000 square feet of area devoted to outside storage, including used car lots and equipment rental or sales yards.
- (d) For any industrial use: one space for each company vehicle.
- (3) Public and semipublic uses.
 - (a) For places of public assembly, including churches: one space for each six seats of auditorium or stadium capacity.
 - (b) For elementary school or nursery: two spaces for each classroom.
 - (c) For high school or college: five spaces for each classroom.
 - (d) For museum, art gallery or philanthropic institution or use: one space for each 800 square feet of gross floor area.
 - (e) For hospital, sanitarium or nursing or convalescent home: one space for each two beds.
- (4) Recreational uses.
 - (a) For membership club: one space for each 200 square feet of gross floor area.
 - (b) For dance hall: one space for each 50 square feet of dance floor area.
 - (c) For golf course or driving range, bowling alley or billiard hall: four spaces for each tee, alley or table, respectively.
 - (d) For skating rink: one parking space for each 250 square feet of area available for skating.
- (5) Residential uses.
 - (a) For dwellings: one space for each dwelling unit to be provided on the lot.
 - (b) For dentist or doctor: two spaces, plus one for each employee.
 - (c) For home occupation: one space for each employee.
 - (d) For boardinghouse: one space for each bedroom.
- (6) Required off-street parking for uses not listed herein shall be as specified by the Planning Board.

B. Calculation of automobile parking spaces. In the case of a combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the

requirements for the various uses, unless it can be proven that staggered hours of use would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.

C. Dimensions for automobile parking spaces.

- (1) Every such space provided shall have dimensions no less than the following, as appropriate, for the particular layout used:
 - (a) Ninety-degree angle parking: nine feet by 19 feet.
 - (b) Sixty-degree angle parking: 10 feet by 19 feet.
 - (c) Forty-five-degree angle parking: 12 feet by 19 feet.
 - (d) Parallel parking: nine feet by 23 feet.
- (2) Driving lanes shall be at least 12 feet in width if one-way and 20 feet in width if two-way.

D. Location of automobile parking spaces.

- (1) In any residential district, required automobile parking spaces shall be provided on the same lot.
- (2) In any business or industrial district, required automobile parking spaces shall be provided on the same lot or not more than 400 feet therefrom.
- (3) No open or enclosed parking area shall encroach on a required side or rear yard to within three feet of a property line.
- (4) No entrance and exit drives connecting an off-street parking area with a street shall be permitted within 25 feet of the intersection of two public rights-of-way.

E. Commercial parking lots shall comply with the provisions of Subsection D above and § 105-32C.

§ 105-30. Off-street truck loading spaces.⁹

In all districts, truck loading spaces for the various permitted uses shall be required at the time any of the main buildings or structures of such use is constructed or altered, as follows.

A. Off-street truck loading spaces shall be provided as follows:

- (1) For permitted general uses: one space for 10,000 square feet to 25,000 square feet of floor area and one additional space for each additional 25,000 square

⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

feet of floor area, unless it can be proven that truck deliveries shall not exceed one vehicle per day.

- (2) For funeral homes: one space for each chapel.
- (3) For other permitted business uses: one space for 10,000 square feet to 25,000 square feet of floor area and one additional for each additional 25,000 square feet of floor area.
- (4) For permitted light industrial uses: one space for the first 10,000 square feet of floor area and one additional space for each additional 40,000 square feet of floor area.

- B. Dimensions for off-street truck loading spaces. Each required truck loading space (open or enclosed) shall have the following minimum dimensions: 35 feet long, 12 feet wide and 14 feet high, except that for funeral homes, spaces may be 20 feet long, 10 feet wide and eight feet high.
- C. Location of off-street truck loading spaces. All off-street truck loading spaces shall be located on the same lot as the use for which they are permitted or required. Open off-street truck loading spaces shall not encroach on any required front or side yard, accessway or automobile parking area, except that in business districts, the off-street automobile parking area may be used for truck loading, provided that such spaces shall not be so used for more than three hours during the daily period that the establishment is open for business.
- D. Review by Planning Board. The proposed location, number, size and design of off-street truck loading areas for nonresidential uses and the accessways thereto shall be subject to review by the Planning Board. Prior Planning Board approval thereof is required before the issuance of a zoning permit, building permit or certificate of occupancy.

§ 105-31. Construction, landscaping and screening of parking and loading areas.

- A. Construction of off-street parking and truck loading areas. Such areas shall be suitably paved. The individual spaces shall be visibly marked with a paint or other durable material where appropriate.
- B. Landscaping and visual screening.
 - (1) All truck loading areas, automobile parking areas of three or more spaces that abut a residential lot line and any parking lot of more than 20 cars shall be screened by a six-foot-high solid masonry wall or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen from the adjoining property.
 - (2) Any parking lot for 10 or more cars shall include a provision for shade trees to be planted in perimeter or island planting areas. Such trees shall be of

appropriate deciduous species that, at maturity, can be expected to shade a circular area not less than 15 feet in radius and shall be located so that at least 20% of the parking lot will be shaded.

- (3) All parking areas and landscaping shall be properly maintained thereafter in a sightly and well-kept condition.

§ 105-32. Industrial District.

A. Standards. The following standards are hereby adopted and must be complied with for and by any use in any industrial district and before the same is permitted, established, maintained or conducted:

- (1) Outdoor storage. Materials, supplies or semi-finished products shall be stored, if not within a building, on the rear 1/2 of the property and shall be screened from any residential or business district or existing or proposed street.
- (2) Loading space. No truck loading space shall be on any street frontage. Provisions for handling all freight shall be on those sides of any building which do not face on any street or proposed streets.
- (3) Landscaping. All areas of the plot not occupied by buildings, parking, driveways or walkways or storage shall be landscaped attractively with lawn, trees, shrubs or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises and the nature and condition of the terrain as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises. Along the property line adjacent to any residential district there shall be maintained a buffer strip, suitably landscaped, at least 100 feet wide within the Industrial District.
- (4) Fences and walls. Along property lines adjacent to a residential or business district there shall be a wall, fence, compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen not less than six feet high at the time of planting. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six-foot solid masonry wall, a chain-link fence covered with an evergreen vine or a compact evergreen hedge. Such wall, fence or hedge shall be located no closer to any street than the depth of the required yard.

B. Water supply/waste disposal. Proper and adequate means for water supply, sewerage and solid waste disposal must be provided in accordance with regulations of the New York State Departments of Health and Environmental Conservation.

C. Traffic. Special consideration must be given to the traffic generated by each proposed use in an industrial district and no undue traffic volumes shall be permitted

on residential streets. No access drive for any industrial district shall intersect a street within 300 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station unless a street 50 feet or more wide intersects the street between such access drive and such building or use.

§ 105-33. Gasoline filling stations.

In any district where permitted, a gasoline filling station shall be subject to the following regulations:

- A. No filling station access drive shall be within 200 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station unless a street 50 feet or more wide lies between such service station and such building or use.
- B. No fuel pump shall be located closer than 25 feet from any side lot line nor closer than 50 feet from any street line, measured from the outside edge of the fuel island. The area for use by motor vehicles, except access drives thereto, as well as any structures shall not encroach on any required yard area.
- C. All repair work and storage shall be within a completely enclosed building. Such repair work shall not include any body repair work or spray painting.

§ 105-34. Signs.

No sign or other device for advertising purposes shall be erected or placed without first applying for and subsequently receiving a permit from the Zoning Enforcement Officer. This permit shall be renewable every two years.

- A. Signs in residential districts.
 - (1) Permitted nonresidential uses and legal nonconforming nonresidential uses may display signs pertaining to the use of property on which such sign is situated. Such sign shall have an aggregate total face area of not more than 30 square feet and project no more than 24 inches beyond the principal building to which it is attached; except that where such nonresidential uses are set back from property lines, one sign pertaining thereto may be erected in the ground, provided that such ground signs, if parallel to the lot frontage, shall not exceed 15 square feet in total face area, shall not exceed five feet in height and shall be no nearer than 10 feet to any property line. If such freestanding signs face substantially at right angles to the lot frontage or display in more than one direction, they shall have a face area of not more than eight square feet per side with no more than two sides and shall not exceed five feet in height and shall be no nearer than 10 feet to any property line.

- (2) Multifamily dwellings may display a nonilluminated sign identifying the premises, having an aggregate total face of not more than 12 square feet and not projecting beyond the principal building on the lot more than 24 inches.
 - (3) Any dwelling unit townhouse structure may display one nameplate or professional sign not exceeding two square feet in area.
 - (4) Any boardinghouse may display one sign not exceeding five square feet in area and not projecting more than 24 inches from the principal building on the lot.
- B. Signs in business and industrial districts. Two signs, each having a total face area of not more than 100 square feet on each side in a business district or 400 square feet on each side in an industrial district may be displayed for each establishment, provided that such signs shall be located not less than 10 feet from any property line and not less than 40 feet from the center of the road and, provided further, that such signs shall not extend more than 20 feet above ground level nor more than five feet above the height of the roof of a building at the point of the sign's location, whichever is less restrictive.
 - C. Representational signs. Representational signs in any district shall not project more than five feet beyond the principal structure to which they are attached and shall not have a face area of more than 15 square feet. Only one such sign per establishment shall be permitted.
 - D. Billboards. Billboard signs shall be restricted to those related to or associated with businesses which are situate within the Town of Urbana, Steuben County, New York. In no event shall such signs exceed 450 square feet. All presently existing billboard signs will be permitted to continue.
 - E. Community poles. Community poles shall have signs measuring three feet by four feet and shall first be approved by the Zoning Enforcement Officer. The location of such poles shall be approved by the Town Board.
 - F. Projecting signs. Signs projecting into a public right-of-way shall have a clearance of not less than 10 feet above the sidewalk or surrounding ground and not less than 15 feet above any public driveway or thoroughfare. No sign may project into any public right-of-way without written approval from the Town Board, said approval being revocable on 90 days' written notice from the Town Board.
 - G. Subdivision signs. Any person offering lots for sale in a subdivision may erect nonilluminated, directional signs within the limits of the subdivision or adjoining property in the same ownership, having a total face area of not more than 50 square feet on each side. The permit for such signs shall be issued for a period of one year and may be renewed for successive periods of one year each following a determination by the Zoning Enforcement Officer that the signs have been repainted or are in good condition in each case.

H. Signs not requiring a permit.

- (1) Real estate signs which advertise the sale, rental or lease of the premises upon which said signs are located, having an aggregate total face area of not more than six square feet within any residential district and business district nor more than 20 square feet within any industrial or agricultural district shall be permitted.
- (2) One sign denoting the architect, engineer and/or contractor when placed upon work under construction and not exceeding 24 square feet in area, shall be permitted.
- (3) Memorial signs or tables, names of buildings, and dates of erection, when cut into any masonry surface or when constructed of bronze, stainless steel or similar material, shall be permitted.
- (4) Traffic or other municipal signs, legal notices and such temporary, emergency or nonadvertising signs as may be authorized by the Town Board shall be permitted.

I. Illuminated signs.

- (1) In every district, directly illuminated signs require a permit.
- (2) Illumination of signs shall not be of intermittent or varying intensity or produce direct glare beyond the limits of the side property line.
- (3) Colored lights of such shape and hue that they may be confused with traffic lights and signals shall be prohibited.
- (4) All bare light sources and immediately adjacent reflecting surfaces shall be shielded from view.

J. Banners. Banners and similar devices are prohibited, except nonpermanent ones displayed for the occasion of special events which shall be displayed no longer than for a three-week period and shall not be repeated more than twice in a twelve-month period.

K. Posters. Temporary, nonpermanent posters covering such things as sporting events, shows and similar-type events shall not be displayed more than four weeks prior to the event. All such posters, as well as political posters (which may be displayed for any reasonable time period before the occurrence of their subject matter), shall be removed not later than two weeks thereafter.

L. Removal of certain signs. Any sign now or hereafter existing which no longer advertises a bona fide business being conducted or a product which is available for purchase by the public on the premises or which is in a state of disrepair shall be taken down and removed by the owner, agent or person having the beneficial use of

the land, building or structure upon which such sign is situate within 10 days after receipt of written notification from the Zoning Enforcement Officer. Upon the failure by such person to comply with such written notice within the specified time period, the Zoning Enforcement Officer is hereby authorized to cause the removal of such sign, and any expenses incident thereto shall be paid by the owner of the building or structure to which such sign is attached or of the land on which such sign is located.

§ 105-35. Commercial excavation.

Excavation for the purpose of soil mining, such as gravel pits, quarrying or any subsoil removal, shall be subject to the provisions of Chapter 52, Excavations, of the Code of the Town of Urbana.

§ 105-36. Mobile homes.

All mobile homes in the Town of Urbana shall conform to the following, in addition to all other regulations of the town:

- A. Code requirements. All mobile home units installed shall meet the requirements of the New York State Uniform Fire Prevention and Building Code.
- B. Permissible locations.
 - (1) No mobile home shall be located within 300 feet of New York State Route 54 or New York State Route 54-A nor within the following districts:
 - (a) Highway Business (B Districts).
 - (b) Industrial (I Districts).
 - (c) Residential (R Districts).
 - (2) Any existing mobile homes in the districts listed in Subsection B(1) may be replaced by another of equal or greater value than the existing unit, must be 14 wide or wider and shall have a ridged roof with a minimum pitch of three feet by 12 feet.
 - (3) Mobile homes are allowed in agricultural districts and may, under the following provisions, be placed or replaced. This provision shall not apply to mobile home parks existing as of June 1, 1988.
 - (a) The new unit must be 14 feet wide or wider and of equal or greater value than the existing unit.
 - (b) The roof on the new unit must be a ridged roof with a minimum pitch of three feet by 12 feet.

- (4) Mobile homes can be temporarily put on a qualified building lot with a special six-month permit during construction of a permissible building or home.
 - (a) Notwithstanding anything herein to the contrary, at the end of the six-month permit, the foundation and first floor deck of the building must be complete. If it is not, such permit shall become void.
 - (b) A new six-month permit may be issued to complete the building.

§ 105-37. Cemeteries.

In any district where permitted, no burial or memorial plots or buildings shall be located less than 50 feet from a highway right-of-way nor less than 50 feet from any residential lot line, except that when there is maintained a dense evergreen hedge or a wall or landscaped strip, at least six feet in height, affording complete visual screening from all adjacent residential property, burial or memorial buildings of less than six feet in height may be located no closer than 20 feet from any residential lot line.

§ 105-38. Sewage and waste disposal.

No person shall undertake to construct any building in the Town of Urbana without first meeting the requirements for a system or facilities for the separate disposal of waterborne sewage and domestic or trade wastes in accordance with applicable regulations of the town, the New York State Department of Health or other governmental authorities.

§ 105-39. Floodplain District.

- A. The areas of the municipality which are subject to periodic inundation, as delineated on the Zoning Map, are designated as Floodplain Districts for the purposes of protecting human life, preventing material losses and reducing the cost to the public of rescue and relief efforts occasioned by the unwise occupancy of areas subject to floods. The boundaries of the Floodplain District are defined as the boundaries of the areas of the one-hundred-year flood designated by the Federal Insurance Administration (FIA) on the Flood Insurance Rate Map (FIRM) of the Town of Urbana, effective January 19, 1978, and later revisions thereof.
- B. Special requirements for development within the Floodplain District are set forth in Chapter 59, Flood Damage Prevention, of the Code of the Town of Urbana, which requirements are in addition to those set forth herein.

§ 105-40. Lakeshore rights-of-way.

No person shall grant, permit, convey or lease a right-of-way to the shore of Keuka Lake (except for the purpose of providing for the drawing of water) of less than 50 feet of lake frontage for each dwelling unit served. Such right-of-way or access may be aggregated with others, but in no event shall there be less than 50 feet of lake frontage for each dwelling unit so served.

§ 105-41. Junkyards.

Auto junkyards and junkyards are permitted as defined in § 136 of the General Municipal Law.

§ 105-42. Solar access.

To the extent practicable, and in accordance with Chapter 742 of the Laws of 1979,¹⁰ the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of this chapter. All new buildings and structures shall be designed and located so as to preserve the solar access of adjoining properties.

§ 105-43. Satellite antennas.

A. Satellite antenna size.

- (1) In all zones, satellite antennas shall not exceed 12 feet in diameter.
- (2) In residential and business zones, the total height of groundmounted antennas shall not exceed 15 feet above the ground.
- (3) In all districts, roof-mounted installations shall not exceed the height restrictions as set for the zoning district within which the installation is placed.

B. Satellite antenna location.

- (1) In a residential or commercial zone, 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 at least 20 feet from any principal building and lot line. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located in the side yard of the property, subject to the approval of a special use permit. For purposes of this provision, 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 by way of cable television.
- (2) In the event that a usable satellite signal cannot be obtained by locating the antenna in the rear or side yard of the property, such antenna may be placed on the roof of the dwelling structure, provided that a special use permit is obtained prior to such installation. Such permit shall be issued upon a showing by the applicant that a usable satellite signal is not obtainable from any other location on the property, and provided further that the construction

¹⁰ Editor’s Note: See § 263 of the Town Law.

and erection otherwise is in compliance with the applicable Building Code¹¹ and Electrical Code.

C. General provisions.

- (1) Satellite television antennas shall be located and designed to reduce visual impacts from surrounding properties at street level and from public streets.
- (2) Not more than one satellite television antenna shall be allowed in any residential zone on any lot less than 1/2 acre in size.
- (3) All antennas and the construction and installation thereof shall conform to applicable Building and Electrical Code regulations and requirements.
- (4) Antennas shall meet all manufacturers' specifications, be of noncombustible and corrosive-resistant material and be erected in a secure, wind-resistant manner.
- (5) Every antenna must be adequately grounded for protection against a direct strike by lightning.

§ 105-44. Nonconforming uses.

A. Continuation. Any lawful building, structure or use of premises existing at the time of enactment of this chapter or any subsequent amendment thereto applying to such building, structure or use of the premises may be continued although such building, structure or use of the premises does not conform to the provisions thereof, except as follows:

- (1) Any sign which becomes nonconforming upon the date of enactment or amendment of this chapter shall be removed or shall conform thereto within one year after such date.
- (2) Any undeveloped lot in a subdivision that was not properly approved by the Planning Board and/or not filed in the office of the Steuben County Clerk and whose area and/or depth are less than the specified minimum lot requirements and average density requirements of this chapter shall be deemed in violation of this chapter.
- (3) Any undeveloped lot in a subdivision that was not properly approved by the Planning Board and/or not filed in the office of the Steuben County Clerk and whose area and/or depth are less than the specified minimum lot requirements and average density requirements of this chapter shall be deemed in violation of this chapter.

¹¹ Editor's Note: See Ch. 57, Prevention and Building Construction.

- B. Discontinuance. Any building or land use for or occupied by a nonconforming use which is changed to or replaced by a conforming use shall not thereafter be used for or occupied by a nonconforming use.
- C. Necessary maintenance and repairs. A building or structure of nonconforming use may be repaired or restored to a safe condition.
- D. Change to other nonconforming use. A nonconforming use of a building, structure or land may be changed to another nonconforming use more nearly conforming to the requirements of the district in which it is situated.
- E. Prior construction. The construction of any building or structure which has legally been commenced prior to the effective date of this chapter or any subsequent amendment applicable thereto may be completed and used in accordance with its plans and specifications.
- F. Existing undersized lots.
 - (1) Any lot held in single and separate ownership prior to the adoption of this chapter and whose area and/or width and/or depth are less than the specified minimum lot requirements of this chapter for the district may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:
 - (a) Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district;
 - (b) Such lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line if it is to be used for residential purposes;
 - (c) The following minimum yard dimensions are maintained for residences:
 - [1] Side yards of eight feet;
 - [2] Front and rear yards of 25 feet; and
 - (d) There is compliance with all other bulk requirements for that district.
 - (2) In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single-family dwelling.
 - (3) A lot of nonconforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining

properties to increase the size of said owner's or owners' property or properties.

G. Exemption of certain lots.

- (1) In accordance with Town Law § 265-a, any lot proposed for residential use in a subdivision whose plat delineates one or more new streets(s), roads or highways and for which said subdivision plat has been properly approved by the Planning Board and filed in the office of the Steuben County Clerk prior to the passage of this chapter and whose area and/or width and/or depth are less than the specified minimum lot requirements of this chapter for that district shall be considered as complying with such minimum lot requirements for two years after the filing of such subdivision plat.
- (2) If at the time of the filing of a subdivision plat, as referred to above, the Town Planning Board has not been authorized to approve subdivision plats, then the exemption for a residential lot in such case shall apply for a period of one year after the filing of said subdivision plat in the office of the Steuben County Clerk.

ARTICLE V

Administration

§ 105-45. Enforcement.

- A. This chapter shall be enforced by the Zoning Enforcement Officer, who shall be appointed by the Town Board. The Zoning Enforcement Officer is authorized to issue an appearance ticket for a violation of the provisions of this Chapter.
- B. A violation of any of the provisions of this Chapter shall not constitute a crime, but rather a violation as defined in Section 105-4, B. Any person, upon conviction of a violation of this Chapter, shall be fined an amount not to exceed \$100.00 for the first offense and an amount not to exceed \$200.00 for the second or any subsequent offense reoccurring within a consecutive twelve month period. Additionally, such person shall be subject to imprisonment for a term not to exceed fifteen days for each offense or both such fine and imprisonment. The Court may issue a warrant for a person's arrest in the same manner as in a misdemeanor case. The continuation of

any offense against the provisions of this Chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

- C. No permit or certificate shall be issued by the Zoning Enforcement Officer and no permit or license for any purpose shall be issued by an official of the town if the same would be in conflict with the provisions of this chapter.

§ 105-46. Zoning permit.

No building or structure shall hereafter be erected, moved, added to or enlarged nor shall any use of such building be established without a zoning permit first being issued by the Zoning Enforcement Officer in compliance with these regulations unless the Zoning Enforcement Officer receives a written order from the Zoning Board of Appeals deciding an appeal on a variance. Application for a zoning permit constitutes application for a certificate of compliance as well.

§ 105-47. Certificate of compliance.

A Certificate of compliance is required for any of the following:

- A. Occupancy and use of buildings hereafter erected, moved, added to or enlarged, certifying compliance with the terms of the zoning permit under which the work was undertaken and the provisions of this chapter.
- B. Change in the use of an existing building, certifying compliance with the provisions of this chapter.
- C. Occupancy and use of vacant land (except for any use consisting primarily of tilling the soil or similar customary agricultural use), certifying compliance with the provisions of this chapter.

§ 105-48. Applications.

Applications for any permits, certificates, appeals, variances and other matters provided for herein shall be submitted to the Zoning Enforcement Officer on forms provided by him and shall be processed by him only in conformance with all the provisions of these regulations.

- A. Each application shall set forth the purpose which is intended and shall be accompanied by two copies of a plot plan, scale drawings and/or sketches and descriptions of the lot, existing and proposed buildings, dimensions of required yards and such other information as may lawfully be required by the Zoning Enforcement Officer for the purposes of this chapter.
- B. The Zoning Enforcement Officer shall make or cause to have made an inspection of each building, structure or lot for which he has an application for a certificate of compliance before issuing such certificate.
- C. The original copy of each application and supporting plans and/or illustrative and explanatory material shall be filed at the town offices.

§ 105-49. Fees.

- A. A schedule of fees as adopted by the Town Board shall be effective with the enactment of these regulations. Fees shall be paid at the office of the Town Clerk upon the filing of an application.
- B. No action shall be taken on any application or appeal until the applicable fees have been paid.

ARTICLE VI

Zoning Board of Appeals

§ 105-50. Establishment; Chairman; exclusivity of membership; removal of members.

Pursuant to the Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its Chairman and shall provide for such other expenses as may be necessary and proper. A member of the 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 Board of Appeals for cause and after public hearing has first been held thereon.

§ 105-51. Terms of appointment.

- A. Of the members of the Board of Appeals first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years from and after his appointment.
- B. Succeeding members shall be appointed for terms of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by an appointment for the unexpired term.

§ 105-52. Staff.

The Board of Appeals may employ such clerical, expert, legal and other staff assistance as may be necessary and prescribe their duties. However, it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.

§ 105-53. Powers and duties.

The Board of Appeals shall have the following duties:

- A. To decide any appeal from a decision of the Zoning Enforcement Officer (§ 105-58).
- B. To decide upon any application for a variance from the strict application of any requirements of this chapter (§ 105-59).
- C. Such other duties as may be provided for by law.

§ 105-54. Rules of procedure; bylaws and forms.

The Board of Appeals shall have the power to make, adopt and promulgate written rules of procedure, bylaws and such forms as it may deem necessary for the proper execution of its duties and to secure the intent of this chapter. Such rules, bylaws and forms shall not be in conflict with nor have the effect of waiving any provisions of this chapter or any other ordinance or local law of the Town of Urbana. Such rules, bylaws and forms and any subsequent amendments or supplements thereto shall be submitted to the Town Board by the Board of Appeals for approval and filing for public view. The Town Board shall move to approve, reject or modify such rules, bylaws and forms within 60 days after submission. Failure of the Town Board to so move shall be deemed to constitute approval thereof.

§ 105-55. Meetings; voting; minutes.

- A. Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman or at such other times as such Board may determine. All meetings shall be open to the public. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public to the extent provided in Article 7 of the Public Officers Law.
- B. This Board will require a quorum to conduct its business. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official charged with the enforcement of this chapter 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. An appeal hereunder may be taken by an officer, department or Board of the Town.
- C. Minutes. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination by the Board of Appeals shall be filed in the office of the Town Clerk and shall be public record.

§ 105-56. Advisory opinions of Planning Board.

Upon determining the date of any hearing scheduled to be held in connection with an appeal or application submitted to the Board of Appeals, said Board shall transmit to the Planning Board a copy thereof and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said appeal or application. In this regard, the submission requested by the Zoning Board of Appeals shall afford the Planning Board a period of time not to exceed 10 days within which it may choose to respond, and its advisory opinion, if any, shall be submitted to the Board of Appeals at least two days prior to the scheduled hearing date and shall be read into the record at the Public Hearing.

§ 105-57. Public notice of hearings.

Public notice of any required hearing by the Board of Appeals shall be given in accordance with the Town Law as follows:

- A. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Town of Urbana not less than 10 days prior to the date of such hearing.
- B. By giving written notice of the hearing to any appellant or applicant and any other such notice to property owners in an affected area as may be required by the Board of Appeals and to the Planning Board not less than five days prior to such hearing.
- C. By giving written notice of hearing to any required municipal, county, regional, state or federal agency in the manner prescribed by law.

§ 105-58. Procedure for appeals.

The Board of Appeals shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Enforcement Officer under this chapter in accordance with the procedure set forth herein:

- A. A notice of appeal shall be filed by appellant with the Zoning Enforcement Officer and the Secretary to the Board of Appeals within 30 days of the date of the action appealed from, specifying the grounds thereof.
- B. Upon receiving a notice of appeal, the Zoning Enforcement Officer shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.
- C. The Board of Appeals shall set a reasonable date for the hearing of each appeal. The appellant shall be given notice of the scheduled hearing date, and at this hearing he shall appear in person or by an agent or by an attorney.
- D. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Appeals, after a notice of appeal shall have been filed with him, that, by reason of facts stated, a stay would, in his opinion, cause imminent peril to life or property, in which case such 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 Zoning Enforcement Officer and on due cause shown.
- E. Following public notice and hearing, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to be made and, to that end, shall have all the power of the Zoning Enforcement Officer. If the action by the Board of Appeals is to reverse the action of the Zoning Enforcement Officer in whole, then the filing fee shall be

refunded to the appellant. The Board of Appeals shall decide appeals within 60 days after final hearing.

§ 105-59. Variances.

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the Board of Appeals shall have the power, after public notice and hearing, to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.
- B. Any variance granted which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Board of Appeals.
- C. All applications for variances shall be filed by the applicant with the Secretary of the Board of Appeals and shall be accompanied by a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
- D. A variance of the provisions of this chapter may be granted by the Board of Appeals in order to vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive the owner of the reasonable use of the land or building involved, but in no other case. In no case shall a variance be granted solely for reason of additional financial gain on the part of the owner of the land or building involved.
- E. No variance in the strict application of any provision of this chapter shall be granted by the Board of Appeals except by the adoption of a resolution fully setting forth the reasons for the following findings:
 - (1) There are special circumstances or conditions applying to such land or buildings and not applying generally to land or buildings in the vicinity and under identical district classification, and said circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or buildings or of privileges enjoyed by other properties in the vicinity and under identical district classification.
 - (2) The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted by the Board of Appeals is the minimum variance that will accomplish this purpose.

- (3) The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to properties in the vicinity or otherwise detrimental to the public welfare.
- (4) The variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated.

§ 105-60. Special use permits. [Amended 7-21-1998 by L.L. No. 1-1998]

The Planning Board of the Town of Urbana shall have the power, after public notice and hearing, to grant approval by special use permit for such uses as are specifically allowed by special use permit in the several districts herein. A special use permit shall be granted in accordance with the procedures and the criteria enumerated in Chapter 105 of the Code of the Town of Urbana.

- A. All applications for special use permits shall be filed with the Town Clerk of the Town of Urbana and shall be accompanied by a plan, drawn to scale and accurately dimensioned, showing the locations of all existing and proposed uses, buildings and structures on the lot. Additional information deemed necessary by the Board shall be provided by the applicant. Public hearings shall be as provided for in Chapter 105, § 105-57, of the Code of the Town of Urbana.
- B. The Planning Board shall review the application for compliance with all provisions of these regulations and, more specifically, it shall ascertain whether satisfactory provision has been made, where applicable, with respect to each of the following criteria:
 - (1) Proper ingress and egress to the proposed use and structures for automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.
 - (2) Adequacy of off-street parking and loading, where required, considering the effects on the adjoining properties and property generally in the neighborhood.
 - (3) Location and adequacy of refuse handling and service areas and driveway areas.
 - (4) Location and compatibility of utility structures.
 - (5) Adequacy of plans for screening and buffers, where needed.
 - (6) Signs, including size, location, lighting, glare, traffic safety, compatibility and harmony with nearby properties.
 - (7) Adequacy of yards and open space.

- (8) General compatibility with adjacent property in accordance with general or specific objectives of the Municipal Comprehensive Plan and these regulations.
 - (9) Harmony of proposed structures, activities and uses with the intended character of the area, having due regard for potential problems of noise, vibration, odor, traffic congestion, air pollution, drainage, aesthetics and other environmental effects.
 - (10) Potential damage or loss of natural, scenic or historic features of importance.
 - (11) Traffic-generating characteristics of the proposed use in relation to the design and capacity of roads or streets serving the area.
- C. Time of decision. The Planning Board shall render its decision within 62 days after the termination of the Public Hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board.
 - D. Filing of decision. The decision of the Planning Board shall be filed in the Town Clerk's office within five business days after the day the decision is rendered, and a copy thereof shall be mailed to the applicant.
 - E. Expiration of special use permit. A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than six months for any reason.
 - F. Existing violation. No special use permit shall be issued for a property where there is an existing violation of these regulations.

§ 105-61. Further appeal.

- A. Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York, the provisions of which shall govern such action, except that:
 - (1) It must be instituted, as therein provided, within 30 days after the filing of a decision in the office of the Town Clerk;
 - (2) The Court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter; and
 - (3) The Court at special term shall itself dispose of the case on the merits, determining all questions which may be presented for determination.

- B. Costs shall not be allowed against the Board of Appeals unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision from which the subject appeal has been taken.

ARTICLE VII

Amendments

§ 105-62. Procedure.

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 petitions for any amendment of the regulations or districts herein established shall be filed, in writing, in a form required by the Town Board.

§ 105-63. Report by Planning Board.

Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report 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 45 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 disapproves the proposed amendment or recommends modifications 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.

§ 105-64. Notice of hearing.

The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- A. By publishing a notice of the proposed amendment and the time and place of the public hearing in its official newspaper not less than 10 days prior to the date of public hearing.
- B. By giving written notice of the hearing to any required municipal, county, regional, state or federal agency in the manner prescribed by law.

§ 105-65. Protest.

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

§ 105-66. Changes by Planning Board.

Pursuant to Town Law, Article 16, § 281, the Planning Board is empowered to modify the allowable dwelling types specified in § 105-9A and the density provisions of § 105-21B(1) above when approving a residential subdivision plat in accordance with § 93-11 of Chapter 93, Subdivision of Land, of the Code of the Town of Urbana. Any such modifications incorporated in a duly recorded plat shall be properly noted by the Town Clerk as amendments of these zoning regulations.

§ 105-67. Publication and posting.

Every amendment to the chapter, including any map incorporated therein, adopted in accordance of any map incorporated therein, and a copy of such amendment, together with a copy of any map incorporated therein, shall be posted on a sign board maintained by the Town Clerk pursuant to Subdivision 6 of § 30 of the Town Law. Affidavits of this required posting thereof shall be filed with the Town Clerk.

ARTICLE VIII

Interpretation and Penalties

§ 105-68. Minimum requirements; conflicts with other provisions.

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety and general welfare.
- B. This chapter shall not interfere with, abrogate, annul or repeal any ordinance, local law, rule, regulation or permit previously or hereafter legally enacted, adopted or issued, provided that where this chapter imposes greater restrictions, its provisions shall control unless specifically excepted.

§ 105-69. Penalties for offenses.

- A. A violation of any of the provisions of this Chapter shall not constitute a crime, but rather a violation as defined in Section 104, B. Any person, upon conviction of a violation of this Chapter, shall be fined an amount not to exceed \$100.00 for the first offense and an amount not to exceed \$200.00 for the second or any subsequent offense reoccurring within a consecutive twelve month period. Additionally, such person shall be subject to imprisonment for a term not to exceed fifteen days for each offense or both such fine and imprisonment. The Court may issue a warrant for a person's arrest in the same manner as in a misdemeanor case. The continuation of any offense against the provisions of this Chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.
- B. However, for the purpose of conferring jurisdiction upon court 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.

- C. Each week's continued violation shall constitute a separate additional violation.