

PROPOSED LOCAL LAW No. 3-2022
A LOCAL LAW REGULATING LAND USE IN THE TOWN OF EDEN

Be it enacted by the Town Board of the Town of Eden, County of Erie, State of New York, as follows:

As part of the implementation of the new Town of Eden Comprehensive Plan, Chapter 225 of the Town of Eden Code entitled “Zoning” is hereby amended as follows:

Section 1. Section 225-4 (“Definitions”) is repealed in its entirety and replaced with the following:

§ 225-4 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meaning herein indicated:

ACCESSORY BUILDING

A building clearly incidental or subordinate to, and customary in connection with, the principal building on the same lot.

ACCOMMODATION UNIT

Each bed, bunk, cot or other arrangement for sleeping by a single person or family shall be an accommodation unit.

ADDITION

Extension or increase in area, height or equipment of a building.

AGRICULTURE or COMMERCIAL FARMING

The commercial cultivation of soil for food products or other useful or valuable growths in the field or garden, exclusive of facilities for display of products and marketing on the premises, whether wholesale or resale. Agriculture shall be deemed also to include those uses further outlined in NYS Agriculture and Markets Law, Section 301, including, but not limited to maple sap, timber operations, horticulture, livestock and livestock products, field crops, and fruits.

ALTERATION

Any change, rearrangement or addition to a building, other than repairs; any modification in construction or in building equipment.

ANIMAL SERVICES:

BREEDER

Any person, business, or principal operation of a business that breeds nine (9) or more cats

or dogs per year.

GROOMING

Any person or business that engages in commercial grooming, cleaning, styling, or other non-medical services to domestic animals at a commercial building, mobile unit, or place of residence and may include temporary boarding facilities for no more than 24 hours.

KENNEL/BOARDING

Any building, structure or premises in which the primary use is where more than five (5) domestic animals are kept, boarded or trained involving compensation of any kind for more than 24 hours.

VETERINARY

A facility or business involved in the medical treatment of animals which may include incidental boarding facilities.

BED-AND-BREAKFAST ACCOMMODATIONS

A dwelling occupied by the owner thereof in which overnight accommodations are provided for transient guests for compensation.

BILLBOARD

A sign, including the type commonly known as a "billboard," which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidentally upon such lot.

BUILDING

Any combination of materials forming any construction, except where entirely underground, so as to permit the use of the ground above the same as if no building was present. The term "building" shall include the term "structure" as well as the following:

- A. Walls other than retaining walls projecting above the ground not more than three feet at the higher ground level and not more than 6 1/2 feet at the lower ground level.
- B. Radio and television receiving and transmitting towers and antennas, except for such antennas installed on the roof of a building and extending not more than 20 feet above the highest level of the roof of such building.
- C. Porches, outdoor bins and other similar structures.

BREW PUB

An establishment that brews beer on the premises or at a production facility of a related entity for sale and consumption on-site which may also include the preparation, sale, and on-site consumption of food.

CAMP

One or more temporary or permanent tents, buildings or structures, together with the lot or tract of land appertaining thereto, established or maintained as living quarters for temporary

occupancy and normally not arranged or intended for such occupancy except during the period or part of the period from April 1 to October 1 in any year.

CELLAR

Any space in a building the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street. A cellar shall not be considered in determining the permissible number of stories.

CLUBHOUSE or LODGE

A building, structure, lot or land area used as a private club or social organization with annual membership dues and not conducted for profit or gain.

COMMERCIAL RECREATION FACILITY

Any recreational facility in private ownership requiring compensation or admission fees for the use thereof, other than accessory to single-family residential uses.

COMPREHENSIVE PLAN

As defined in § 272-a of the Town Law.

CONVALESCENCE FACILITY

A building facility utilized for the purpose of aiding or assisting the recovery of health and/or rehabilitation following sickness.

COURT, INNER AND OUTER

Any unobstructed open area bounded on three or more sides by the walls of a building or buildings, not including any such area with no windows opening upon it except windows on a stairway. An inner court does not extend to a street or yard; an outer court extends to a street or yard.

COVERAGE, BUILDING

The percentage of the area of the lot covered by a building or buildings.

COVERAGE, DEVELOPMENT

The percentage of a lot covered by buildings, parking areas, accessory structures and any impervious materials.

CURB LEVEL

The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line.

DISTRICT, OVERLAY

An area designated on the Zoning Map recognizing unique characteristics of land which require modification of the use and bulk regulations of the primary district.

DISTRICT, PRIMARY

A zoning district within which a uniform set of bulk and use regulations is applied to protect the public health, welfare and safety and as a means of implementing the Comprehensive

Plan for the Town of Eden.

DOMESTIC ANIMAL

Various species of animals, such as cats, dogs, hamsters and the like, which normally and conventionally board in residential dwellings or adjacent thereto.

DUMP

Any area, lot or parcel for the storage or abandonment of refuse.

DWELLING, CONVENTIONAL MULTIPLE

A structure containing three or more dwelling units which have a common floor/ceiling separating one dwelling unit from another, in addition to common or party walls between units.

DWELLING, MULTIPLE

A structure containing three or more dwelling units.

DWELLING, ONE-FAMILY

A detached building containing one dwelling unit only.

DWELLING, SEMI-ATTACHED

A one-family dwelling having one party wall separating it from another one-family dwelling, each dwelling being situate on a separate lot.

DWELLING, TOWNHOUSE MULTIPLE

A one-family dwelling with two common or party walls separating it from adjacent units on both sides.

DWELLING, TWO-FAMILY

A detached building containing two dwelling units only on one lot.

DWELLING UNIT

A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A trailer, boardinghouse or rooming house, convalescent home, fraternity or sorority house, hotel, inn, lodging, nursing or other similar home or other similar structure shall not be deemed to constitute a dwelling unit.

EXTERIOR ARCHITECTURAL FEATURE

The architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to view from a public way, including kind, color and texture of building materials and type of all windows, doors, lights, signs and other fixtures appurtenant to such portion.

FAMILY

One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit.

FLOOD, ONE-HUNDRED-YEAR

A flood the magnitude of which is likely to occur once every 100 years (i.e., that has a one-percent probability of occurring each year).

FLOODPLAIN

The land area adjoining a river, stream, watercourse or lake which is likely to be flooded.

FLOOD PROTECTION ELEVATION

The elevation of floodwaters in the one-hundred-year flood.

FLOODWAY

The channel of a river or another watercourse and the adjacent land areas required to carry and discharge a flood.

FLOOR AREA

The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

FLOOR AREA, LIVABLE

All spaces within the exterior walls of a dwelling unit, exclusive of garages, breezeways, unheated porches, cellars, heater rooms and basements having a window area of less than 10% of the square foot area of the room. Usable floor area shall include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit and all attic space having a clear height of six feet from finished floor level to pitch of roof rafter or with a clear height of seven feet six inches from finished floor level to ceiling level over 50% of the area of such attic space.

FLOOR AREA RATIO

The floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

FRONTAGE

The location of a parcel of land with respect to improved and accepted access.

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein and no space therein for more than one car is leased to a nonresident of the premises.

GARAGE, REPAIR

Any garage, other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GASOLINE SERVICE STATION

A building or other structure or a tract of land used or heretofore used primarily for the servicing of motor vehicles. It shall signify a retail place of business engaged primarily in the sale of motor fuels and also in supplying goods and services generally required in the operation and maintenance of motor vehicles, to include sale of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services and the performance of routine automotive maintenance and repairs.

HEIGHT

The vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure, excluding a chimney.

HOBBY FARM

Any use accessory to the principal use in which property owners are engaged in personal farming activities and are not involved in commercial operations or retail sales as a means of primary income.

HOME OCCUPATION

Any gainful personal service occupation customarily conducted within a dwelling unit or an accessory structure in a residential district which is clearly incidental and subordinate to its use for residential purposes by the occupant thereof. Home occupations shall not be construed to include uses such as the following: a clinic or hospital, restaurant, animal hospital or the selling at retail from the premises of goods not produced by the residents thereof.

HOSPITAL

A building used for the diagnosis, treatment or other care of human ailments, unless otherwise specified. A hospital shall be deemed to include a sanitarium, clinic, convalescent home, nursing home, rest home or other building with an equivalent appellation.

HOTEL or MOTEL

A building or buildings containing accommodation units for housing transient guests for compensation.

JUNKYARD

Any area of land, including buildings thereon, which is used primarily for the collecting, storage and/or sale of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition and for the sale of parts thereof. Two or more motor vehicles stored outside without current license plates for a period of 30 days shall constitute a junkyard.

LABORATORY

A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products and uses accessory thereto, wherein products are not manufactured primarily for wholesale or retail sale; wherein commercial

servicing or repair of commercial products is not performed; and wherein there is no display of any material or products. A laboratory shall meet the same performance standards as nonnuisance industry.

LIVESTOCK

Animals, including but not limited to domestic animals, such as sheep, horses, cattle and goats.

LOT

Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its accessory buildings, if any, or by a group of buildings accessory thereto, if any, together with the required open spaces appurtenant to such building or group of buildings.

LOT AREA

The gross horizontal area between the lot lines adjusted as follows:

- A. No more than 10% of the lot area may consist of land with slopes equal to or greater than one foot vertical in three feet horizontal, land underwater more than three months of the year and land in easements precluding construction of buildings.
- B. No more than 10% of the lot area may be comprised by land with a horizontal dimension between boundary lines of 50 feet or less.
- C. Lot area consisting of soils classified by the United States Soil Conservation Service as alluvial, poorly drained, very poorly drained or unstable shall be considered as counting for .75 square feet of lot area for each 1.0 square foot of gross lot area.
- D. In any Conservation or Agricultural District, the minimum size of the lot for a dwelling in existence since May 11, 1977, and conveyed for use as a dwelling need not exceed one acre per dwelling unit except to the extent required for an approved septic system.

LOT, CORNER

A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

LOT DEPTH

The minimum distance from the street line of a lot to the rear lot line of such lot.

LOT LINE

Any boundary of a lot other than a street line.

LOT LINE, REAR

The lot line generally opposite to the street line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT WIDTH

The average distance between side lot lines from the front yard or building line and measured at right angles to the side lot lines or along a line parallel to the street, to the rear lot line or line conforming to the lot depth, whichever results in a lesser average.

MAIN FLOOR

The largest area found by the projection of a horizontal plane through the livable floor area which is enclosed by the exterior walls of the building.

MANUFACTURING

Any process whereby the nature, size or shape of articles or raw materials is changed or where articles are assembled or packaged in quantity.

MANUFACTURING, LIGHT

Any process whereby the nature, size or shape of articles or raw materials is changed or where articles are assembled such that no chemical or compressive processes are required and whose finished size does not exceed 40 cubic feet or weigh in excess of 2,000 pounds per unit.

MEDICAL AND DENTAL CLINIC

Any facility in which two or more physicians and/or dentists practice cooperatively for the diagnosis and treatment of patients.

MOBILE HOME

A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

MOTOR LODGE

Any establishment consisting of a building or group of buildings providing living and/or sleeping accommodations with individual bathrooms and designed for use by transient automobile travelers and provided with accessory off-street parking areas. The term "motor lodge" includes buildings designated as tourist courts, overnight cabins and other similar appellations, but shall not be construed to include a trailer or mobile home.

NONCONFORMING BUILDING

Any building which contains a use permitted in the district in which it is located but does not conform to the district regulations for lot area, width or depth; front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit.

NONCONFORMING USE

Any use of a building or structure, lot or land, or part thereof, lawfully existing at the effective date of this chapter or any amendment thereto affecting such use which does not conform to the use regulations of this chapter for the district in which it is located.

OFFICIAL MAP

The Official Map adopted and established by the Town Board of that part of the town outside of the limits of any incorporated village, showing the streets, highways, parks and drainage systems laid out on such map, including any references to more detailed maps and studies. The Official Map is final and conclusive with respect to the location and width of streets, highways, drainage systems and parks shown thereon, and the Official Map is hereby declared to be established to conserve and protect the public health, safety and general welfare.

OWNERSHIP, SAME

Includes all vested or contingent interests of any person or his or her agent, representative, successor or assignee, and irrespective of whether or not such interest is recorded, in the following circumstances:

- A. Direct ownership by such person or his or her child, parent, sibling or spouse of sibling, heir or next of kin or agent, corporation, firm, entity, partnership or unincorporated association.
- B. Property owned by different corporations, firms, partnerships, entities or unincorporated associations in which such a person is a stockholder, a partner or associate or his or her child, parent, sibling or spouse of sibling, heir or next of kin owns a ten-percent or greater interest in each corporation, firm, partnership, entity or unincorporated association.
- C. When such person or his or her estate, successors, or assigns, or any person or entity included in Subsections **A** and **B** herein, may be materially or substantively affected by the relief sought or by any determination made in any proceeding sought before any board, body, commission or agency of the Town of Eden, whether or not such person is a party to such application or proceeding and whether or not such person appears on the record of such proceeding.

PARKING AREA

A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

PARKING SPACE

A stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area.

PERSON

Any individual, firm, company, association, society, corporation or group.

PERSONAL SERVICE SHOP

Any commercial facility in which the product offered is the work or action performed, as in shoe repair shops and typewriter repair facilities.

PLANNED UNIT DEVELOPMENT

A development in accordance with a single plan for compatible land uses and the placement of buildings which may not correspond to the bulk, yard and height regulations of this Code.

POND

Any man-made body of water (other than a store-bought, pre-fab type of decorative reservoir or basin), with a surface area greater than 100 square feet and/or a depth of more than 18 inches.

PRINCIPAL BUILDING

A building in which is conducted the main or principal use of the lot on which said building is located. Where more than one use is on a lot, the lower or more intense use of the lot shall be considered the principal use.

QUARRY AND EXCAVATION OPERATIONS

Any place where stone, sand, gravel, minerals or other natural material, except topsoil, is removed for the purpose of sale or any other commercial purpose, other than such as may be incidental to excavating or regrading in connection with or in anticipation of building development or landscaping on the site.

REPAIR

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

RESIDENT PROFESSIONAL OFFICE

Any gainful professional occupation conducted within the dwelling in a residential district by the residents thereof, clearly secondary to the use of the dwelling for living purposes, and that does not change the character of the structure as a residence. Not more than one nonresident may be employed as an assistant or associate, and only occupations which are of recognized professions, including medicine, law, dentistry, engineering, architecture, community planning, landscape architecture, land surveying, accounting, insurance, real estate, teachers of music, art or dance (limited to not more than four students at one time) or photography, shall be permitted.

RESTAURANT

Any structure designed, intended as, or used in whole or primarily for the retail sale of food and/or beverages for on-site consumption within a building or elsewhere on the premises.

RETAIL SALES, ARTISAN

Retail store selling art, glass, ceramics, jewelry, crafts, and other similar handcrafted items,

where the facility includes an area for the crafting of the items being sold.

RETAIL SALES, AGRICULTURAL PRODUCTS

Facility for seasonal or year-round sales of agricultural products predominantly grown or raised on the site or other properties owned or leased by the farm operator and pre-packaged goods processed from onsite agricultural production. Facilities for the on-site preparation/processing of such products may be included.

SCHOOL OF SPECIAL INSTRUCTION

Any nonpublic school conducting a regularly scheduled comprehensive curriculum of study and operated by nonstock corporations under the Education Law of the State of New York.

SEWER AND WATER

Sewage disposal and water supply systems designed and constructed to standards required for municipally operated systems and approved by the Town Board.

SHORT-TERM RENTAL

A dwelling unit, which may or may not be inhabited by the owner of record or their immediate family member, that is rented, in whole or in part, for a temporary period of time set forth in this Chapter to any person or entity, but including a hotel, motel, inn, campground, or bed and breakfast.

SIGN

Any structure or part thereof, or any device attached to a building or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag or representation which is in the nature of or which is used as an announcement, direction or advertisement, for commercial purposes or otherwise. A sign includes a billboard and a neon tube, string of lights or similar device outlining or hung upon any part of a building or lot, but does not include the flag or insignia of any nation or group of nations or of any governmental agency, educational, charitable, philanthropic, civic, professional, religious or like (political) campaign, drive, movement or event. Excluded from this definition are signs which are solely devoted to prohibiting trespassing, hunting or fishing.

SIGN AREA

Includes all faces of a sign measured as follows:

- A. When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.
- B. When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the matter of which such sign consists may be inscribed.

SIGN WALL AREA

The area of a building wall fronting on a street, not including doors and windows.

SOLID WASTE

Useless, unwanted or discarded material with insufficient liquid content to be free flowing.

- A. **AGRICULTURAL** Solid waste that results from the raising and slaughtering of animals and the processing of animal products and orchard and field crops.
- B. **COMMERCIAL** Waste generated by stores, offices and other activities that do not actually turn out a product.
- C. **INDUSTRIAL** Wastes that result from industrial processes and manufacturing.
- D. **INSTITUTIONAL** Waste originating from educational, health care and research facilities.
- E. **MUNICIPAL** Residential and commercial solid waste generated within a community.
- F. **PESTICIDE** The residue from the manufacturing, handling or use of chemicals intended for killing plant and animal pests.
- G. **RESIDENTIAL** Waste that normally originates in a residential environment, sometimes called "domestic solid waste."

STORY

That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STREET

A street, improved to the satisfaction of the Planning Board, which is one of the following: an existing town, county or state highway or street; a street shown on an approved subdivision final plat; a street shown on a map filed with the County Clerk (in accordance with § 280-a of the Town Law) prior to Planning Board authorization to review subdivisions; or a street shown on the Official Map of the town.

STREET LINE

The line between the street and a lot or a line established by the Official Map as the street right-of-way, whether or not in public ownership.

STRUCTURAL ALTERATION

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

STRUCTURE

A combination of materials to form a construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, gates, posts, capitals, pillars, billboards and display signs.

SUMMER COTTAGE or BUNGALOW

A single-family detached dwelling which is arranged, designed and intended to be used or occupied only during the period or part of the period from April 1 to December 1 in any year.

SWIMMING POOL, PRIVATE

Any constructed body of water or structure to contain water and any accessory buildings or equipment pertaining thereto used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. It shall not be operated for gain and shall be located on a lot only as an accessory use to the dwelling thereon, to a membership club or to a motel or hotel.

SWIMMING POOL, PUBLIC

Any constructed body of water or structure to contain water and any accessory buildings or equipment pertaining thereto which are operated for profit or gain and are used or intended to be used for swimming or bathing by persons who pay admission on a daily, weekly or other basis, including season tickets.

TOPOGRAPHICAL ALTERATION

Any change in the configuration of a surface area, including its relief, relative elevations and position of natural or man-made features, excepting those changes incidental to or normally part of agricultural operations or home gardening. In all cases, removal of trees over eight inches in diameter measured three feet above the ground shall be considered a topographical alteration.

TOWN ATTORNEY

The duly designated attorney or legal advisor of the Town of Eden.

TRAILER

Any vehicle mounted on wheels movable either by its own power or by being drawn by another vehicle and equipped to be used for living or sleeping quarters and designed to be used for travel or camping purposes. This definition is intended to include recreational vehicles.

TURNAROUND, FULL

A driveway on a single lot by which vehicles can completely turn around so that the vehicles need not back onto the adjoining highway.

USABLE OPEN SPACE

An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the minimum dimension of which is 40 feet and which is available and accessible to all occupants of the buildings on said lot for purposes of active or passive outdoor recreation.

USE

The specific purpose for which land or a building is used or a building is used or occupied or maintained.

USE, ACCESSORY

A use customarily incidental and subordinate to the main use on a lot, whether such accessory use is conducted in a principal or accessory building, or open space.

YARD, FRONT

An unoccupied ground area fully open to the sky between the street line, or the street line established by the Official Map of the town or an approved subdivision plat, and a line drawn parallel thereto.

YARD LINE

A line drawn parallel to a street or lot line at a distance therefrom equal to the representative yard dimension required by this chapter.

YARD, REAR

An unoccupied ground area fully open to the sky between the rear lot line and a line drawn parallel thereto.

YARD, SIDE

An unoccupied ground area fully open to the sky between any property line other than a street or rear lot line and a line drawn parallel thereto between the front and rear yards.

Section 2: Article III (Zoning Districts and Zoning Map) is repealed in its entirety and replaced with the following:

Article III
Zoning Districts and Zoning Map

§ 225-5 Classes of districts.

There are hereby established, and the Town of Eden is divided into, classes of districts as listed below:

Symbol	Title	Type
FPO	Floodplain Overlay	An overlay district restricting the use of land for the prevention of flood hazards and changes in the landform that would alter characteristics of floodplains and flood-prone areas. The overlay area shall be that area identified in the most current Flood Insurance Rate Map (FIRM) established by the United States Department of Housing and Urban Development.
PK	Parkland	The intent of this District is to preserve conservation assets that generally consist of areas of ecological/natural value and/or key local and regional

Symbol	Title	Type
AG	Agricultural Priority	<p>recreational assets that are identified in local, County, and State open space and/or recreational plans. Among the ecological/natural values of these areas are the extensive woodlots, plant and wildlife habitat, numerous streams, and natural character that contribute to the rural character of Eden. For dedicated conservation areas, development is limited to passive recreational and supportive pursuits such as trails, parking areas, overlooks, pavilions, picnicking facilities, etc. Accessibility and proper identification/wayfinding of these resources can be utilized for marketing, tourism, and economic development pursuits. Outside of dedicated areas, development adjacent to conservation assets should consist of low-impact, low-density development that includes adequate buffers to protect sensitive natural features.</p> <p>The primary intent of this District is to preserve, enhance, and stabilize those portions of the Town that have a higher concentration of active farmlands, high value agricultural soils, or are within County Agricultural Districts. Agricultural-supportive businesses and industries are encouraged as well as other agribusiness ventures that promote or provide secondary income to active, local farms (e.g., tourism, recreation, value-added products, retail, lodging, events, etc.). This District also provides a means for open space preservation and maintaining the rural character of the Town of Eden in conjunction with the vision and goals of the Comprehensive Plan. Non-agricultural development is encouraged provided that best practices are followed, including the avoidance of active farmlands, high value agricultural soils, and underground farm infrastructure; development on less desirable agricultural lands; discourage frontage homes with long, narrow lots; provide lots that are appropriate for private utility systems; encourage clustered subdivisions and avoid large-lot subdivisions; and provide buffers between non-agricultural and agricultural uses. This District is considered a “sending area” for Transfer of Development Rights as a means to conserve/protect valuable farmlands.</p>
RR	Rural Residential	<p>The Rural Residential District provides for areas where the rural atmosphere and character can be maintained and where limited farming operations such as general crop farming, suburban horse ranchettes, growing of orchards, etc. can be conducted. This zone is not</p>

Symbol	Title	Type
R2	Neighborhood Residential	<p>intended to allow intense farming operations (e.g., feed lots) yet also not intended for dense residential development as public water and sewer is likely not available. Due to this, larger parcels (2 acres +/-) are still needed to provide adequate space for private septic systems and wells with lots more than 10 acres in size being more appropriate for agricultural uses and the keeping of larger animals. Low-impact and environmentally sensitive development is preferred to protect natural features and the environmental quality of the Town.</p> <p>These areas are serviced by public water and sewer or are near potential expansion areas and therefore can support a higher density of development (less than one acre). This District is intended to provide the Town with residential development capacity to support commercial activity within Eden Center. Residential uses would range from single-family residential to townhouses and developments catered to specific lifestyles (seniors, empty-nesters, first-time homeowners, etc.) and income levels. For single-family uses, rather than the typical “bowling alley” type of lots developed along major thoroughfares, subdivisions are encouraged to have dedicated roadways or clustering to better utilize lands and maintain the semi-rural character. Recreational, community service, institutional, conservation, and limited residential-commercial mixed uses are also encouraged in the Neighborhood Residential District to provide neighborhood vibrancy without detracting from the main commercial centers of Eden Center and East Eden. This District is considered a “receiving area” for Transfer of Development Rights as a means to conserve/protect land in other areas of the Town and provide opportunities for greater density where feasible.</p>
MFR	Multi-Family Residential	<p>This floating district is intended to provide the broadest range of residential living opportunities within the Town and to support the goals and objectives contained in the Comprehensive Plan. This District may contain a mix of single- or two-family homes as well as higher-density developments, such as apartments or townhouses, on lots that may be as small as 7,000 square feet in size. Developments in this district shall employ techniques to minimize negative impacts (including circulation, parking, glare, noise, etc.) on existing residential areas.</p>

Symbol	Title	Type
MU-1/MU-2	Mixed-Use 1 & Mixed-Use 2	<p>The Town of Eden’s 2010 Comprehensive Plan recognizes the community’s desire to maintain its historic rural farm-village character, provide for enhanced walkability, and support a vibrant economic and neighborhood environment. The traditional community character presented within the Town is of paramount importance to the provision of these elements. A key component of this land use classification conveys the important role that well designed, publicly accessible open spaces play in creating and organizing high quality higher density residential neighborhoods, even in a rural setting. Such spaces, be they a park or simply a well-designed Town street that invites the public to stroll its length, can ensure that higher density housing is sensitively knitted to the larger fabric of the Town.</p> <p>As such, two distinct Mixed-Use Districts have been established to provide specific site and building design guidelines to promote desired key characteristics in the hamlet including multi-story buildings, a consistent building edge, inviting ground floor facades, and a mix of uses and architectural styles handed down to the Town through history. The MU areas of the Town contain a mix of spaces and uses, meant to evolve over time, at their own pace building-by-building, in response to changing lifestyles and needs. While similar in many aspects, the Mixed Use 2 (MU-2) District reflects the higher density and more “Village-like” qualities currently found in the hamlet; the Mixed Use 1 (MU-1) District encompasses a larger area and slightly less dense by comparison. Another key characteristic is the area’s proximity to established, residential neighborhoods. Areas of the Town classified as a MU zone consist of both existing higher density residential areas and areas that have been identified as appropriate for residential development in the future.</p>
LI	Light Industrial	<p>The intent of the Light Industrial District is to take advantage of the proximity of lands to transportation corridors, including the NYS Thruway, railroad, and State Route 62, as well as the availability of public utilities for low-intensity, light manufacturing and related production/distribution activities. Uses and activities should be designed to fit inconspicuously</p>

Symbol	Title	Type
		with the surrounding land and incorporate design standards such as landscaping, buffering, and building design to protect nearby areas from undesirable aspects typical of light industrial uses including, but not limited to light, noise, odors, operating hours, and traffic.
RMS4O	Regulated MS4 Overlay	A district intended to identify the area within the Town of Eden which has been determined by federal and state agencies to be a regulated municipal separate storm sewer system (RMS4) under the Phase II Stormwater Permit Program.

§ 225-6 Zoning Map.

The boundaries of said districts are hereby established as shown on the Zoning Map, Town of Eden, which map, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date in the office of the Town Clerk for the use and benefit of the public. Note: Zoning Map is attached as Exhibit A to this local law.

§ 225-7 District boundaries.

In determining the boundaries of districts shown on the map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lands shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be 200 feet back from the rights-of-way of said streets.
- D. In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter for the less restricted district shall apply to such portion of the more restricted portion of said lot which lies within 30 feet of such district boundary. For purposes of this section, the more restricted district shall be deemed that district subject to regulations which prohibit the use intended to be made of said lot or require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.
- E. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- F. In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

§ 225-8 Effect of establishment of districts.

A. Following the effective date of this chapter:

- (1) No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used, for any purpose or in any manner except in conformity with all regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.
- (2) No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- (3) No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all provisions of this chapter.
- (4) No yard or lot existing at the time of passage of this chapter or amendment thereto shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter or any amendment thereto shall meet at least the minimum requirements established by this chapter or amendment for each prospective use.

B. Nothing contained in this chapter shall require any change in the construction or designated use of a building complying with regulations in force prior to this chapter.

C. Determination of similar uses.

- (1) The Building Inspector may determine that a use not specifically listed in any districts established by this chapter is a similar use to those uses enumerated in a specific district. In making a determination that a use is similar, the Building Inspector may consult with the Town Engineer and/or the Town Attorney and shall first determine that:
 - (a) The proposed use is not listed as a permitted use in any other district; and
 - (b) The proposed use conforms to the basic characteristics of the district in which it is proposed to be placed.

Section 3: Article IV (Use Regulations) is amended as follows:

Article IV
Use Regulations

§ 225-9 General provisions.

A. The general regulations affecting the use of buildings, structures and land for each of the districts established by Article **III** are hereby established and set forth in this article. Single-

family uses are keyed in this article by the parentheses around respective use groups or references.

- B. Any dwelling which existed as a residence in any district except the SR* District on May 11, 1977, may be changed from a one-family dwelling to a two-family dwelling, provided that the outside dimensions of the structure are not enlarged and further provided that each dwelling unit contains the required minimum livable floor area for a single-family dwelling in such district.

§ 225-10 **District Uses.**

- A. The Zoning Ordinance outlines permitted and specially permitted uses within each District into five categories as outlined below as well as accessory uses.
 - a. Agricultural
 - b. Residential
 - c. Institutional
 - d. Commercial
 - e. Industrial
- B. Each use category is further divided into more specific “subcategories.” Use subcategories classify principal land uses and activities based on typical functions, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. Some use subcategories are further broken down to identify specific use, business or activity types that are regulated differently than the parent sub-category as a whole.
- C. Specific regulations associated with the use are noted in the table and provided in the applicable section of this Chapter. For the MU-1 and MU-2 Districts, regulations are contained within the Prohibited uses are set forth in § **225-28**.
- D. Site plan approval. All uses listed require site plan approval by the Planning Board in accordance with § **225-30** with the following exceptions: agriculture, forestry, cemeteries, reservoirs, one-family dwellings, two-family dwellings, semi-attached dwellings and permitted accessory uses thereto.
- E. All uses are subject to performance standards set forth in § **225-28**.
- F. Transfer of development rights shall apply to those Districts noted and in accordance with § **225-34**
- G. Use Table:

Table IV-1: Table of Permitted Uses	PK	AP	RR	MFR	R2	LI	Regulatory Reference
P Permitted Use SP Special Use Permit – Not Permitted							
AGRICULTURAL USES							
Commercial Farming	P	P	P	-	SP	SP	225-13

Table IV-1: Table of Permitted Uses	PK	AP	RR	MFR	R2	LI	Regulatory Reference
P Permitted Use SP Special Use Permit – Not Permitted							
Retail Agricultural Sales	-	P	P	-	SP	SP	
Livestock & Animal Husbandry	-	P	P	-	SP	SP	225-13
RESIDENTIAL USES							
Residential Living							
Single-Family Detached	P	P	P	-	P	-	
Temporary Housing (single-family)	-	SP	SP	SP	SP	-	225-14B
Single-Family Attached	-	-	P	SP	P	-	
Multi-Unit Building	-	-	SP	P	SP	-	225-14B
Group Living							
Assisted Living Facility	-	-	P	P	-	-	225-14B
Nursing Home	-	-	SP	P	-	-	225-14B
Personal Care Home (under 7 residents)	-	-	SP	P	-	-	225-14B
Personal Care Home (7+ residents)	-	-	SP	SP	-	-	225-14B
Temporary Group Housing	-	-	SP	-	-	-	225-14B
Transitional/Rehabilitation Housing	-	-	SP	SP	-	-	225-14B
INSTITUTIONAL USES							
Cemetery	-	-	SP	-	-	-	
Club or Lodge	SP	-	SP	-	SP	-	
Educational Services							
School	-	-	P	P	SP	-	
Business or Trade School	-	-	P	P	SP	-	
Municipal Services	P	P	P	P	P	P	
Place of Worship	P	P	P	P	P	-	
Medical Services (small scale)	-	-	SP	-	SP	-	225-15B
Sports and Recreation							
Small Indoor (<i>less than 100 occupants</i>)	SP	-	SP	SP	SP	-	225-15B
Large Indoor (<i>more than 100 occupants</i>)	SP	-	SP	SP	SP	-	225-15B
Outdoor	SP	-	-	SP	SP	-	225-15B
Public Utility	SP	SP	SP	SP	SP	SP	
Telecommunication Facilities	SP	SP	SP	SP	SP	SP	
5G Facilities	P	P	P	P	P	P	
Hotels and Motor Lodges	-	-	SP	-	-	-	
COMMERCIAL USES							
Day Care	-	-	SP	P	SP	-	

Table IV-1: Table of Permitted Uses	PK	AP	RR	MFR	R2	LI	Regulatory Reference
P Permitted Use SP Special Use Permit – Not Permitted							
Library/Cultural Exhibits	P	P	P	P	P	-	
Drive-Thru Facility							
Primary Use	-	-	-	-	-	-	
Accessory to any use	-	-	-	-	-	-	
Eating and Drinking Establishments							
Restaurant	P	SP	SP	-	-	P	
Brewpub	P	SP	SP	-	-	P	
Craft Brewery/Distillery/Winery	P	SP	SP	-	-	P	
Entertainment/Spectator Sports							
Indoor	P	SP	SP	-	-	-	
Outdoor	P	SP	SP	-	-	-	
Financial Services							
Bank, Credit union, Brokerage, Investment	-	-	-	-	SP	SP	
All Other Financial Services	-	-	-	-	SP	SP	
Funeral and Mortuary Services	-	-	-	-		SP	
Lodging							
Bed and Breakfast	P	P	P	P	SP	-	225-15B
Short-Term Rental/AirBnB	P	P	P	-	P	-	225-15B
Vacation Camps and Summer Colonies	SP	SP	SP	-	-		225-15B
Commercial Office	SP	SP	-	-	-	SP	
Parking							
Municipal	P	P	P	P	P	P	
Private	-	SP	-	-	-	-	
Retail Sales & Services							
Retail Ag Complimentary Products	P	P	P	-	SP	SP	
Artisan Retail Sales	P	P	P	-	SP	SP	
General Retail Sales	P	-	-	-	SP	SP	
Personal Services	-	-	SP	-	SP	SP	
Firework Sales	-	-	-	-	-	-	
General Liquor Sales	-	-	-	-	-	-	
Vape Shop or other Tobacco Sales	-	-	-	-	-	-	
Sexually Oriented Business	-	-	-	-	-	SP	225-15B
Cannabinoid Hemp Products Sales	-	SP	SP	-S	-	SP	
Vehicle Equipment, Sales, and Services							

Table IV-1: Table of Permitted Uses	PK	AP	RR	MFR	R2	LI	Regulatory Reference
P Permitted Use SP Special Use Permit – Not Permitted							
Agricultural Sales and Repair	-	P	SP	-	-	SP	225-15B
Gasoline Sales	-	-	-	-	-	SP	225-15B
Vehicle Sales	-	-	-	-	-	SP	225-15B
Vehicle Rental	-	-	-	-	-	SP	225-15B
Vehicle Repair (Retail/Commercial)	-	SP	SP	-	-	SP	225-15B
Vehicle Cleaning Station	-	-	-	-	-	SP	225-15B
Tattoo Parlors	-	-	-	-	-	-	
Junk/Salvage Yard	-	-	-	-	-	-	
EV Charging Stations (Commercial)	-	-	-	SP	SP	SP	
Animal Services							
Boarding/Kennels	-	SP	SP	-	-	-	225-15B
Grooming	-	SP	SP	-	-	-	225-15B
Veterinary	-	SP	SP	-	-	SP	225-15B
Breeders/Dealers	-	SP	SP	-	-	-	225-15B
Consumer/Personal Services	-	-	-	-	-	SP	
INDUSTRIAL USES							
General Fabrication & Production							
Agricultural Equipment	-	SP	SP	-	-	P	
Artisan	-	SP	SP	SP	SP	P	
General	-	SP	SP	-	-	P	
Agricultural Processing & Production							
Food-based	-	P	P	-	-	P	
Liquor-based	-	SP	SP	-	-	P	
Cannabinoid Hemp Products Sales	-	SP	SP	-	-	P	
Storage, Distribution, and Wholesale Distribution							
Equipment and Material Storage	-	SP	SP	-	-	P	
Self-Service Storage	-	SP	SP	-	-	P	
Trucking and Transportation Terminal	-	SP	SP	-	-	P	
Warehouse	-	SP	SP	-	-	P	
Outdoor Storage	-	SP	SP	-	-	P	
Wholesale Sales and Distribution	-	SP	SP	-	-	P	
Utility Scale Solar/Wind Systems/Storage	-	SP	SP	-	-	SP	CHAPTER 172
ACCESSORY USES							
Accessory Buildings & Structures	-	P	P	P	P	P	

Table IV-1: Table of Permitted Uses	PK	AP	RR	MFR	R2	LI	Regulatory Reference
P Permitted Use SP Special Use Permit – Not Permitted							
Accessory Dwelling Units (ADU)	-	P	P	P	P	-	225-14
Home Occupations	-	P	P	P	P	P	225-35
Mobile Food Units	P	P	P	SP	-	P	
Residential Scale Solar/Wind Systems/Storage	P	P	P	P	P	P	CHAPTER 172
Hobby Farming	P	P	P	SP	P	-	225-16
Farm Stands	P	P	P	SP	P	-	225-16

§ 225-11 REPEALED AND SECTION NUMBER RESERVED

§ 225-12 Mixed Use Districts Design Standards (Unchanged: See LL #1 of 2020)

§ 225-13 Agricultural Uses

A. Lot and Building/Bulk Regulations.

Regulation	District				
	AP	RR	MFR	R2	LI
<i>Minimum Lot Area (Acres)</i>					
Public water/sewer	5	5	-	5	-
No public water/sewer	5	5	-	5	-
Minimum Lot Frontage (Ft.)	300	200	-	125	-
<i>Minimum Building/Structure Setbacks (Ft.)</i>					
Front	50	50	-	50	-
Side (each)	35	35	-	35	-
Rear	35	35	-	35	-
<i>Minimum Accessory Building/Structure Setbacks (Ft.)</i>					
Front	50	50	Not permitted in front yards		
Side (each)	35	50	-	50	-
Rear	35	50	-	50	-
Maximum Lot Coverage (%)	35	35	-	35	-
<i>Maximum Building Height (Ft.)</i>					
Principal Building	35	35	-	35	-
Accessory Buildings/Structures	35	35	-	35	-

B. District-specific supplemental use regulations. Those supplemental regulations that are applicable to all Districts are found in Article VI.

- (1) Commercial farming. Operations and accessory uses thereto shall have no stable or similar animal housing or the storage of manure or other odor- or dust-producing substance or use, except spraying and dusting to protect vegetation, within 50 feet of any lot line.
- (2) Livestock and Animal Husbandry. The keeping, breeding and raising of cattle (including dairies), sheep, goats, pigs and horses and rental of horses shall be on lots a minimum of 20 acres or more. The keeping, breeding and raising of fowl shall be on lots a minimum of five acres or more.

§ 225-14 Residential Uses

A. Lot and Building/Bulk Regulations.

Regulation	District				
	AP	RR	MFR	R2	LI
<i>Minimum Lot Area (Acres)</i>					
Public water/sewer	4	1	2	0.33	200
No public water/sewer	4	2	-	0.75	-
Minimum Lot Frontage (Ft.)	300	200	300	75 ¹ 125 ²	-
<i>Minimum Building/Structure Setbacks (Ft.)</i>					
Front	50	40	50	30	-
Side (each)	35	25	35	10	-
Rear	35	35	35	20	-
<i>Minimum Accessory Building/Structure Setbacks (Ft.)</i>					
Front	Not permitted in front yards				
Side (each)	35	35	35	10	-
Rear	35	35	35	20	-
Maximum Lot Coverage (%)	20	35	75	75	-
<i>Maximum Building Height (Ft.)</i>					
Principal Building	35	35	35	35	-
Accessory Buildings/Structures	35	35	35	35	-
Minimum Size Primary Residence	900 SF				

¹ 75' with water and sewer

² 125' without water and sewer

B. District-specific supplemental use regulations. Those supplemental regulations that are applicable to all Districts are found in Article VI.

(1) Accessory Dwelling Units. The following apply to permitting accessory dwelling units (ADU) on legally filed, compliant lots:

- a. Maximum permitted per lot. One detached ADU per lot or one attached ADU per lot.
- b. Bulk regulations. Setbacks, lot coverage, building coverage, and other bulk regulations shall be applicable to the lot, including any/all ADUs.
- c. Principal dwelling. There shall be a legally permitted, owner-occupied principal dwelling upon each lot an ADU is proposed.
- d. Design. The design of the ADU shall be complementary to the principal dwelling in size, scale, and design. The Zoning Officer shall refer the building/site plan to the Planning Board for further review and recommendations as needed. ADUs shall be located in rear or side lots if adequate space exists.
- e. ADU size. Each ADU shall have a minimum livable area of 800 square feet (SF) in size.
- f. Parking/access. A minimum of one parking spot per ADU is required whether a dedicated space or provided within the existing lot if sufficient space currently exists. An existing driveway access may be utilized for the ADU.
- g. Water/wastewater. The ADU shall be provided with public utility service(s) as they exist with a separate meter for the dwelling. For lots with private utilities (water and/or sewer and/or gas), the applicant shall be responsible for providing proof that sufficient capacity exists for wells and septic systems to handle additional loads to the satisfaction of the Zoning Officer. Proof shall certify both the adequacy of design and the effective operation of the system. Expansions or modifications to sanitary systems shall be designed and certified by a NYS licensed professional engineer.

(2) Temporary Group Housing. Dormitory-style accommodations for housing migratory agricultural workers, provided that such premises are constructed in conformance with the New York State Multiple Residence Law and are not occupied for more than eight months in any calendar year.

(3) Multiple-Dwelling Units. Multiple dwellings are classified as conventional multiple dwellings and townhouse multiple dwellings. Conventional multiple dwellings consist of a structure or group of structures containing dwelling units with common floor and ceilings (one unit above another) as well as one or more party walls. Townhouse multiple dwellings have no common floor or ceilings, with one or more party walls opposite one another. Townhouse multiple dwellings may be developed on one lot or may be developed on individual subdivided lots in accordance with Subsection 3.e herein.

- a. Multiple-dwelling developments shall be serviced by approved public sewage disposal facilities and public water supply.
- b. Multiple-dwelling structures shall be set back not less than 50 feet from any lot line; however, the Planning Board may reduce such setbacks to not less than the requirements for semi-attached dwellings for townhouse multiple dwellings where such setbacks will aid in blending the development into the neighborhood.
- c. Not less than 1,000 square feet of usable recreation area per unit will be immediately accessible to the multiple-dwelling structures.
- d. No multiple dwelling shall contain more than three bedrooms or other areas convertible to bedrooms. The total number of bedrooms in conventional multiple dwellings divided by the total number of dwellings shall not exceed 2.2. The total number of bedrooms in townhouse multiple dwellings divided by the total number of dwellings shall not exceed 3.0.
- e. Townhouse multiple dwellings may be subdivided on individual lots subject to the provisions of § 280-a of New York State Town Law on lots with a minimum lot size of four times the floor area of the dwelling. Subdivisions of townhouse multiple dwellings shall be in accordance with Chapter **184**, Subdivision of Land, and shall be conditional on approval of the site plan and issuance of the certificate of occupancy of each unit. No subdivision of townhouse multiple dwellings shall be filed prior to issuance of the certificate of occupancy of all units within a structure.
- f. Recreation fees-in-lieu, pursuant to Chapter **184**, Subdivision of Land, and the town's adopted recreation fee schedule shall be payable at the time of site plan approval for all multiple-family development projects. Such fees may be waived or reduced where recreation areas meeting the requirements for municipal recreation areas are provided by the developer.
- g. Access and egress from the proposed development shall be to a street classified as a collector or arterial as set forth on the Official Map of the Town of Eden. Such entrances and exits shall be at least 100 feet from any intersection and shall have at least 300 feet of sight distance in both directions.
- h. No building shall be located within 100 feet of any pond, reservoir, lake or watercourse which is part of a water supply system.
- i. The Town Board may allow an additional 10% of apartment units which shall be designed for and the occupancy of which is restricted to persons 60 years of age or greater. Such units shall consist of no more than one bedroom.
- j. Multiple-dwelling developments shall be buffered from surrounding conventional residence areas by landscaping and fencing areas occupying the required yards.
- k. Multiple-dwelling structure design features.
 - i. No multiple-dwelling structure shall be longer than 160 feet.

- ii. No roofline of any structure will exceed 80 feet without a vertical break of at least 5% of the building width.
- iii. No face of any multiple dwelling shall consist of less than two planes interrupted by a distance of at least 10% of the building width for each four units contained therein.
- iv. No structure shall be closer than the height of the higher building wall. Distance between buildings shall be such that the northernmost building shall receive sun at the lowest window elevation of a dwelling unit for 46 weeks each year (sun angle computation).
- v. Provision for enclosed storage of garbage shall be provided.
- vi. For each two-bedroom or larger unit provided, one child play space (seat, apparatus or play space) shall be provided conforming to the standards of the American Playground Association.
- vii. In addition to the standards for landscaping set forth in § 225-31, the grounds and vicinity of buildings shall be provided with decorative landscape materials with an equivalent value of two months' projected rental of the project.
- viii. Construction materials, in addition to conformance with the Building Code of the Town of Eden, shall be of a color and texture characteristic of the adjacent residential development.
- ix. Exterior lighting along walks and near buildings shall be provided utilizing architectural grade equipment and shall not exceed .9 footcandles measured at ground level.
- x. Dwelling units shall be so designed and arranged in buildings as to ensure a minimum of three hours of sunlight at one window of each unit per day. No units with full northern exposure shall be permitted.
- xi. Walks shall be provided throughout the development area that will ensure that drives shall not be required for pedestrian circulation.

§ 225-15 Commercial/Industrial/Institutional Uses

A. Lot and Building/Bulk Regulations.

Regulation	District			
	AP	RR	MFR	LI
<i>Minimum Lot Area (Acres)</i>				
Public water/sewer	4	2	-	0
No public water/sewer	4	2	-	0
Minimum Lot Frontage (Ft.)	300	250	-	0

Regulation	District			
	AP	RR	MFR	LI
<i>Minimum Building/Structure Setbacks (Ft.)</i>				
Front	50	30	50	0
Side (each)	35	35	35	10
Rear	35	35	35	20
<i>Minimum Accessory Building/Structure Setbacks (Ft.)</i>				
Front	Not permitted in front yards			
Side (each)	35	50	50	10
Rear	35	30	50	20
Maximum Lot Coverage (%)	35	50	80	80
<i>Maximum Building Height (Ft.)</i>				
Principal Building	35	35	35	35
Accessory Buildings/Structures	35	35	35	35

B. District-specific supplemental use regulations. Those supplemental regulations that are applicable to all Districts are found in Article VI. All uses herein are subject to performance standards in Article VI, 225-28.

(1) Sports and Recreation Uses. Recreational uses listed below, whether in private or public ownership and other than accessory to single-family residential use, shall be subject to the following regulations:

a. Swimming pools shall be classified and located as follows:

Type of Pool (class)	Maximum Area (square feet)	Minimum Setback From Any Property Line (feet)
A	Over 3,500	175
B	2,501 to 3,500	150
C	1,501 to 2,500	125
D	801 to 1,500	100
E	800 or less	Refer to § 225-35.1

b. All recreational facilities shall comply with the following minimum setback requirements:

Type of Facility	Minimum Setback From Any Property Line (feet)
Handball courts	100

Type of Facility	Minimum Setback From Any Property Line (feet)
Basketball courts	60
Baseball diamond (not outfield)	100
Volleyball courts	60
Concession stands	100
Casino buildings	100
Concentrated picnic areas (tables, barbecue pits, etc.)	100
Outfield relative to baseball or softball	50
Parking areas	25
Picnic grounds (not improved)	50
Games normally involving fewer than 10 people, such as horseshoe pits, nature trails, etc.	50
<i>Golf course fairways, disc/frisbee golf, miniature golf, or related activities</i>	50
Tennis courts	40

- c. Lighting. If outdoor lighting is provided for any of the foregoing recreational facilities, including swimming pools, which permits the use of the facilities after 10:00 p.m., the applicable setback requirements for such facility shall be doubled. All lighting shall be located so as not to be visible at the source from any adjoining property. Floodlights on poles not less than 75 feet from any property line directed toward the center of property and shielded from any nearby residential areas shall be deemed to comply with the latter regulations.
 - d. Noise. Public address systems or any other amplified noises are subject to separate permit of the Town Board.
 - e. Use of pool. The maximum number of families permitted to use any swimming pool shall be the area in square feet of the swimming pool divided by 10. Any portion of a pool designed to hold less than two feet of water in depth shall not be included in total pool area set forth in Subsection a.
 - f. Buildings. All structures shall be of a permanent nature.
- (2) Vacation camps and summer colonies.
- a. Vacation campgrounds and summer colonies are a special permit use consisting of a tract of land designed exclusively for overnight and short-duration vacation, providing facilities for tents, camp trailers, motor homes, recreation activities, administration, public health and safety. There shall be no more than one campsite

for every 15,000 square feet of lot area.

- b. In addition to uses specified above, summer cottages and bungalows may be allowed. Each such accommodation unit shall require 40,000 square feet of camp area and shall be on sites of not less than 10,000 square feet. Covenants acceptable to the Town Attorney shall be filed on such areas precluding year-round residence in such cottages and bungalows or precluding sale or occupancy of such bungalows for other than the uses set forth herein.
- c. Minimum frontage: 200 feet of frontage on state or county highway. Where a parcel of land does not have 200 feet of frontage on a state or county highway, minimum frontage of 50 feet may be permitted for use as an easement for gaining access to a larger parcel that would otherwise meet the requirements of the special permit use. The front yard of such a parcel shall begin at the point where a line running parallel with the state or county highway equals 200 feet.
- d. Minimum spacing between campsite pads: 80 feet (extremity to extremity).
- e. Water supply. The site shall be serviced by a municipal or private water system. A minimum rate of 200 gallons per day per site shall be provided at a minimum pressure of 20 pounds per square inch at peak demand. An adequate supply of potable water shall be provided within 250 feet of all campsites. One water spigot with soakage pit or other disposal facilities shall be provided for each 10 campsites without water facilities. Other water sources supplied to toilets and urinals shall not be physically connected with the drinking supply or be available for public use.
- f. Sewage disposal. The site shall be provided with a municipal or approved private sanitary sewage disposal system.
 - i. Toilets. Only flush toilets shall be provided.
 - 1. Women: one toilet per five sites.
 - 2. Men: one toilet per 10 sites.
 - 3. A minimum of two toilets for each sex shall be provided.
 - ii. Lavatories or other hand-washing facilities shall be provided at a ratio of one for each 15 sites (without water and sewage hookups) for each sex.
 - iii. Showers. One shower for each 15 campsites shall be provided. Each shower must be served with hot and cold or tempered water between 90° and 110° F. Two showers must be provided for each sex.
 - iv. Dishwater disposal. One dishwater disposal facility shall be provided for each five campsites or provided in connection with each toilet facility.
 - v. Sewage treatment facility. The design shall be based on the water supply design flow plus infiltration and approved by the Town Engineer and State Department of Health. At least one travel trailer sanitary dumping station

shall be supplied for every 100 campsites or fewer. The location of septic tanks, distribution lines and disposal fields shall be as approved by the Town Engineer and State Department of Health.

- g. Solid waste disposal. One receptacle shall be provided for each campsite.
- h. Vehicular access. Each campground area shall be provided with two means of access from county and state roads. Sight distance at the entrance and exit must be unobstructed for a distance of 300 feet in each direction. In the event that two separate means of access cannot be provided due to a lack of adequate sight distance at the point of access or egress or due to limited frontage on a state or county highway, the Planning Board may approve an alternate design that will ensure adequate safety.
- i. Streets. Each campground area shall provide a collector street with a minimum width of 18 feet for two-way traffic and 10 feet for one-way traffic. As a minimum, the street shall be constructed with a gravel base with adequate drainage and a water-bound macadam surface as approved by the Town Engineer. Radius of curvature shall be 50 feet minimum. Grades shall not exceed 12%.
- j. Parking. A level space of 14 feet by 50 feet shall be provided for each campsite within which a strip of 10 feet by 50 feet shall be constructed, as a minimum, with a gravel base and water-bound macadam surface. Pull-through trailer and motor home parking spaces of 45° shall be constructed, as a minimum, with a gravel base and a water-bound macadam surface.
- k. Sufficient exterior illumination of the site shall be required to provide convenience and safety. All such illumination shall be shielded from the view of all surrounding properties and streets.
- l. The entire site, except for areas covered by structures or service or parking areas, shall be suitably landscaped. All landscaping shall be approved by the Planning Board and properly maintained after planting.
- m. All campground sites shall be screened from the view of adjacent properties and adjoining public highways by means of an opaque screen of plant materials and/or fencing. All screening shall be approved by the Planning Board, properly maintained after placement and located within the required front, rear and side yards.
- n. All campground sites shall provide suitable recreation area or areas on the site containing not less than 10% of the campground site and may include a suitably improved, fenced and equipped children's play area.
- o. No permanent structures shall be permitted for use as living quarters, with the exception of the resident manager or property owner. The resident manager or a caretaker shall be on the premises on a regular basis, as determined by the Building and Zoning Inspector, to guard against vandalism during the off-season.

- p. Recreational facilities, such as golf courses, tennis courts, swimming pools and camp recreational facilities, shall be for campsite guests only. Requirements for setbacks for recreational uses shall be as set forth in Subsection A.
- q. Fire protection. The property owner shall ensure that adequate fire protection equipment is on the premises at all times, as recommended by the Building and Zoning Inspector and the Bureau of Fire Protection.
- r. Public phone. Each campground shall have at least one public telephone.
- s. Each permit issued for a campground shall be valid for a period of 24 months from the date of issue. Renewal application shall be filed with the Building and Zoning Inspector not more than 60 days prior to the expiration of the twenty-four-month period. Prior to the issuance of a renewal permit, the Building and Zoning Inspector shall inspect the campground premises for compliance with all applicable regulations. Thereafter, and within 30 days of the expiration of the twenty-four-month period, the Building and Zoning Inspector shall submit a report, in writing, to the Town Board. The Board shall automatically renew the permit unless it finds a substantial failure to comply with these regulations reported by the Building and Zoning Inspector. In the event that the Board finds that there has been a substantial violation of these regulations, then it shall hold a public hearing to determine the renewal of the permit.
- t. Fees. An application fee in accordance with the Standard Schedule of Fees of the Town of Eden shall be paid prior to site plan approval. The fee shall be renewable upon expiration of the campground permit.
- u. Performance bond. A performance bond, maintenance bond or both, as determined by the Town Board, shall be provided to ensure the proper installation and maintenance of public improvements.

(3) Adult uses.

- a. Definitions. The following definitions shall apply:

ADULT ARCADE - Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE

- (1) An establishment which, as one of its principal or significant purposes, offers for sale or rental for any form of consideration, or which designates a portion or section for the display or sale of any one or more of the following:

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
 - (b) Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with specified sexual activities.
- (2) An establishment may have other principal or significant business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as "adult bookstore" or "adult video store" if one of its principal or significant business purposes is the offering for sale or rental for consideration the above-specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition, "principal or significant business purpose" shall mean 25% or more of any of the following:
- (a) The number of different titles or kinds of such merchandise;
 - (b) The number of copies or pieces of such merchandise;
 - (c) The amount of floor space devoted to the sale and/or display of such merchandise; or
 - (d) The amount of advertising which is devoted to such merchandise, either in print or broadcast media.

ADULT CABARET - An establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities; or
- (3) Films, motion pictures, video cassettes, slides, or photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL - A hotel, motel or similar establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the

availability of this adult-type of photographic reproductions.

ADULT MOTION-PICTURE THEATER - An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER - A theater, concert hall, auditorium or similar establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT USE AND ENTERTAINMENT ESTABLISHMENTS (also referred to herein as ADULT-ORIENTED BUSINESSES) - An establishment, or any part thereof, which presents any of the following entertainment, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitresses or waiters, busing or similar service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion-picture theaters; adult theaters; escort agencies; nude model studios; and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age.

ESCORT - A person who, for a fee, tip or other consideration, agrees or offers to act as a date for another person; for consideration, agrees or offers to privately model lingerie for another person; for consideration, agrees or offers to privately perform a striptease for another person; or, for consideration but without a license granted by the State of New York, agrees or offers to provide a massage for another person.

ESCORT AGENCY - A person or business association who furnishes, or offers to furnish, or advertises to furnish, escorts as one of its primary business purposes for a fee, tip or other consideration.

MASSAGE PARLOR - Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments or any other treatment or manipulation of the human body occurs as part of or in connection with sexual conduct or where any person providing such treatment, manipulation or service related thereto exposes specified anatomical areas or engages in specified sexual activities.

NUDE MODEL STUDIO - Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, other than as part of a

course of instruction offered by an education institution established pursuant to the laws of the State of New York.

NUDITY or STATE OF NUDITY - The appearance of specified anatomical areas.

PERSON - An individual, proprietorship, partnership, corporation, association or other legal entity.

PORN SHOP - Any establishment engaged in the sale or promotion of sexual acts or behavior as in writing, photographs and other materials depicting sexual acts or behavior designed to stimulate erotic feelings.

SEMINUDE - A state of dress in which clothing covers no more than the specified anatomical areas, as well as portions of the body covered by supporting straps or devices.

SEXUAL CONDUCT - Includes the following.

- (1) The fondling or touching of human genitals, pubic region, buttock or female breasts;
- (2) Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy;
- (3) Masturbation; and
- (4) Excretory functions as part of or in connection with any of the activities set forth in Subsections (1) through (3).

SEXUAL ENCOUNTER CENTER - An enterprise that, as one of its primary or significant business purposes, offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is seminude.

SPECIFIED ANATOMICAL AREAS

- (1) Unless completely and opaquely covered, human genitals, pubic region, buttocks or breasts below a point immediately above the top to the areola; and
- (2) Even if completely and opaquely covered, male genitals in a discernibly turgid state.

SPECIFIED SEXUAL ACTIVITIES - Includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions.

- b. Legislative intent. It is the purpose of this section to regulate the creation, opening, commencement and/or operation of adult use and entertainment

establishments, as herein defined, in order to achieve the following:

- (1) To preserve the character and the quality of life in the Town of Eden's neighborhoods and business areas.
- (2) To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas such as decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding nonadult business; and deterioration of neighborhoods.
- (3) To restrict minors' access or exposure to adult uses.
- (4) To maintain the general welfare and safety for the Town of Eden's residents.

c. Purposes and considerations.

- (1) In the execution of this section, it is recognized that there are some uses which, by their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are increased by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.
- (2) It is further declared that the location of these uses in regard to areas where Eden's youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town of Eden.
- (3) The intent of this section is to provide adult entertainment uses without compromising the character of the neighborhood.
- (4) This will be achieved through lighting being reflected away from abutting roadways and adjoining properties, and limiting these facilities to large parcels of property in order to maintain the visual and aesthetic environment, as well as provide adequate distances to protect neighbors from noise, obnoxious traffic, lights and other deleterious impacts. It is further declared that the location of these uses in regard to areas where Eden's youth may regularly assemble and the general atmosphere encompassing their operation is of great concern.

d. Restricted uses shall be as follows:

- (1) Adult use and entertainment establishments (aka adult-oriented businesses).
- (2) Adult arcade.
- (3) Adult bookstore or adult video store.

- (4) Adult cabaret.
 - (5) Adult motel.
 - (6) Adult motion-picture theater.
 - (7) Adult theater.
 - (8) Escort agency.
 - (9) Massage parlor.
 - (10) Nude model studio.
 - (11) Porn shop.
 - (12) Sexual encounter center.
- e. Special requirements. No person shall cause or permit the use, occupancy or establishment of any land, building or structure as or for a restricted use, as enumerated in Subsection **d** above and defined herein unless such person shall have obtained therefor a special permit in accordance with Article **X** of this chapter and site plan review and approval in accordance with Article **VI** of this chapter, and subject to any special standards as may hereinafter be required.
- f. Regulation of restricted uses. Restricted uses, as enumerated in Subsection **d** above and defined herein, are to be restricted and regulated as to their location in the following manner, in addition to and subject to any other requirements of the Code of the Town of Eden. The special requirements itemized in this subsection are intended to accomplish the primary purposes of ensuring that any objectionable characteristics of these uses will not have a deleterious effect on adjacent areas and restricting their accessibility by and exposure to minors.
- (1) Location.
 - (a) A restricted use shall not be located:
 - i. Within a five-hundred-foot radius of any area zoned for residential use.
 - ii. Within a one-fourth-mile radius of another such use.
 - iii. Within a one-thousand-foot radius of any school grounds, day-care facility, library, church or other place of religious worship, park, playground, playing field or any place of business which regularly has minors on the premises.
 - iv. A restricted use shall not be located within a one-thousand-foot radius of any public pathway, walkway or walking path upon which minors are likely to travel.
 - (b) The above distances of separation shall be measured from the nearest exterior wall of the structure containing the adult use and entertainment establishment.

- i. Any proposed adult-oriented business shall meet all other development standards and requirements of the Code of the Town of Eden, including but not limited to lot and bulk regulations, facade and screening regulations. In the event of any conflict between the requirements of any other provisions of this chapter, including but not limited to bulk regulations, and the special requirements set forth herein, the special requirements of this regulation shall apply.
- ii. No adult-oriented business shall be permitted in any building where the majority of the floor area of the building is in residential use, including nonconforming residential use.
- iii. In addition to the required parking spaces, one parking space for each permitted occupancy of the space devoted to the use shall be provided.
- iv. Any lighting shall be arranged as to reflect the light away from the adjoining properties and abutting roadways.
- v. Hours of operation shall be no earlier than 7:00 a.m. and no later than 11:00 p.m.
- vi. No person under the age of 18 years old shall be permitted into the premises or onto the property of an adult-oriented business.
- vii. All yard setbacks shall be at least 200 feet.
- viii. No amplifiers or loudspeakers of any type shall be installed outside the building.
- ix. All such uses shall be subject to a special use permit and site plan approval, and the Town Board and Planning Board may impose certain terms and conditions upon the granting of site plan approval as they deem reasonable and appropriate to further the aims of this section.
- x. There shall be a fifty-foot landscaped area along the entire highway frontage, except for necessary drives and sidewalks.
- xi. No site improvements shall take place within 50 feet of any adjoining residential property (parking, lighting, etc.).
- xii. These special regulations are itemized in this subsection to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility.

- xiii. No adult-oriented business shall be operated in a manner that permits or allows the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public walkways, rights of way or similar areas.
- g. Limits on restricted uses. No more than one restricted use, as enumerated in Subsection **d** above, shall be located on any one parcel.
- h. Permitted zoning districts. All adult use and entertainment establishments as defined herein may only be created, opened, commenced or operated as delineated in the Planned Industrial (PI) Zoning District and are subject to the restrictions, regulations, permits and approvals set forth herein.
- i. Display prohibited. All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any specified anatomical area or specified sexual activity.
- j. Penalties for offenses. Any person, firm, corporation or entity found to be violating any provision(s) of this section shall be guilty of a violation and subject to the penalties for offenses under Article **VIII**, § **225-42**, of this chapter.

(4) Animal Services, Boarding, Grooming.

- a. Commercial animal kennels (not including stables). The harboring, boarding or training of animals, whether enclosed in a structure or on open land and whether or not accessory to other principal uses of the land, shall be conducted in accordance with the following general standards.
 - i. In issuing the special permit for animal kennels, the permit shall stipulate the maximum number and type of animals to be boarded, harbored or trained. That number shall not exceed 10,000 square feet per 100 pounds of animal body weight characteristic of the species so harbored. The square footage of the lot area is that area of the lot not including any required yards.
 - ii. Except as otherwise provided herein, all facilities shall be maintained in enclosed structures which shall be constructed and maintained in such a manner as to produce no noise, dust or odors at any property lot line. Exercise pens and runways shall not be maintained within 200 feet of any lot line, but shall be 300 feet from the front yard lot line when such line abuts a residential use or district. Notwithstanding the foregoing, in issuing a special use permit, the Town Board may allow reasonable variations from these requirements when appropriate for particular species or breeds of animals.

- iii. In considering the application for a special permit for the animal kennel use, the Town Board may consider the number, size, breed and temperment of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact and safety of the animals sheltered in order to ensure the health, safety and general welfare of the community.
- b. Boarding/Grooming and other non-medical animal services.
 - i. All domestic animals shall be kept either within completely enclosed structures or under direct control of the operator or staff at all times and shall be indoors between the hours of 7:00 PM and 7:00 AM.
 - ii. Any outdoor activities shall be short-term and within a secure, fenced-in area.
 - iii. Landscaping and screening shall be provided adjacent to any residential uses.
 - iv. All excrement shall be properly disposed of in receptacles.
 - v. The operation of the facility shall not allow the creation of noise by any domestic animal or animals under its care which can be heard by any person at or beyond the property line of the lot on which the facility is located repeatedly over a ten-minute period.

(5) Medical Services.

- a. Medical services, including, but not limited to, hospitals, sanitariums, urgent care facilities, and resident homes for the aged providing medical care facilities, which are available to the residents of the Town of Eden, may be permitted by the Town Board subject to conditions and safeguards as appropriate.
- b. If such medical service use is intended to care or treat cases of contagious or infectious diseases or those suffering from mental disorders, all structures which form such institution shall not be less than 250 feet from any property line.
- c. In granting a special permit for such uses, the Town Board may require as a condition of approval that adequate improvements to local streets and highways be undertaken necessary for increased traffic and in order that emergency vehicles can be properly accommodated.
- d. No special permits are authorized under this section for any institution which is totally tax exempt or not subject to appropriate fees in lieu of taxes for municipal services, including utilities, fire protection, police protection and road maintenance for means of access.

(6) Vehicle Equipment, Sales and Service.

- a. Gasoline service stations. By special permit of the Town Board, gasoline service stations are permitted, provided that no plot line of any station shall be closer than 200 feet to a school, playground, church, hospital, library or institution for the

elderly or children. No gasoline service station shall be permitted within 1,000 feet of any other gasoline service facility fronting on the same street or 1,500 feet from any plot line of such station to a plot line of another station.

- i. Ingress and egress.
 1. Ingress and egress points for gasoline service facilities shall be located a minimum of 70 feet from the intersection of right-of-way lines on a town road and shall comply with requirements with respect to state, county or town roads.
 2. Entrance and exit driveways shall have a width of not less than 25 feet and not more than 40 feet, shall be located not nearer than 10 feet to any property line and shall be so laid out as to avoid the necessity of any vehicle backing out across any public right-of-way.
 - ii. Vehicle lifts or pits, dismantled or unlicensed automobiles and all parts or supplies shall be located within a building enclosed on all sides.
 - iii. All service or repair of motor vehicles, other than such minor servicing as change of tires or sale of gasoline or oil, shall be conducted in a building enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.
 - iv. The storage of gasoline or flammable oils in bulk shall be located fully underground and not nearer than five feet to any property line other than the street line, provided that the vents are 35 feet from any property line.
 - v. No gasoline pumps shall be located nearer than 20 feet to any street line.
- b. Motor vehicle sales and service agencies. Motor vehicle sales and service agencies for the sale and servicing of new and used motor vehicles, motor vehicle accessories, recreation vehicles and farm equipment and ordinary uses incidental thereto are permitted, provided that such agency is a franchised dealer or factory-owned dealership of new motor vehicles, recreation vehicles and farm equipment and that all operations are conducted from the same site, subject to the following standards and regulations:
- i. Entrance and exit driveways shall have an unrestricted width of not less than 30 feet and shall be located not closer than 20 feet from any buffer line and not closer than 75 feet from any intersecting street line. Said driveways shall be so laid out as to avoid the necessity for any vehicle entering the site to back out across any public right-of-way or portion thereof.

- ii. A minimum of one off-street parking space shall be required for each 600 square feet of display, sales and service area. Such parking space may be permitted in the front yard area by the Planning Board at the time of site plan review but not closer than 30 feet from the street line. Such parking space shall not be utilized for the storage of motor vehicles, except that an area for the display of new motor vehicles may be permitted by the Planning Board at the time of site plan review. No parking of motor vehicles shall be permitted within public rights-of-way.
- iii. Outdoor storage of motor vehicles, recreation vehicles and farm equipment shall be permitted only in the side or rear yards.
- iv. Within any side or rear yard, except where such abuts another motor vehicle sales and service agency, a permanent landscaped buffer 20 feet in width shall be required. Such buffer areas shall either be maintained in their natural state, if adequate ground cover is present, or landscaped in accordance with the requirements of the Planning Board at the time of the site plan review. No required parking or access shall be permitted within any required buffer area.
- v. All service or repair of motor vehicles shall be conducted in a building fully enclosed on all sides.
- vi. Two gasoline pumps may be permitted incidental to the use of the premises, but the sale of gasoline to the general public shall not be permitted. Said gasoline pumps shall not be located in the front yard or in the required buffer areas.
- vii. The storage of gasoline or flammable oils in bulk shall be located fully underground in accordance with the approval of the Planning Board at the time of site plan review and shall not be located nearer than 35 feet to any property line other than the street line.

(7) Industrial Development. Planned industrial development are permitted subject to the following:

- a. Exterior walls of opposite or adjacent buildings shall be located no closer than 1.5 times the height of the higher building wall, but in no case closer than 50 feet.
- b. Building groups shall be so located and arranged that all structures have access for emergency vehicles.
- c. Restrictive covenants shall be imposed on the site based on the approved site plan, enforceable by all tenants of such development.

- d. Applicable environmental standards of §**225-28** shall be strictly adhered to. All applications under this Subsection shall describe in detail the procedures and equipment to be utilized and shall further indicate the anticipated characteristics of the industrial processes.
- e. All uses, processing and storage shall be within fully enclosed structures, and no tanks, cupolas, vents or other apparatus peculiar to the processing shall be visible outside the approved buildings. The facade of buildings and structures in planned industrial uses shall be compatible with adjacent development and shall be fully landscaped. The landscaping standards of § **225-31** shall be increased 50% for planned industrial uses.
- f. No building in planned industrial uses shall exceed 30,000 square feet of floor space.

(8) Lodging.

- a. Bed and Breakfast. No dwelling unit shall be used as a bed and breakfast unless it is compliance with this Chapter and subject to the following regulations:
 - i. The building shall be a detached, single-family or two-family residence with a certificate of occupancy for such use.
 - ii. The building shall be occupied as a principal residence by its owner during any period of time in which it is also being used and occupied as a bed-and-breakfast.
 - iii. A single-family or two-family residence providing bed-and-breakfast accommodations may be located in any zoning district and shall have a minimum of four bedrooms. No separate kitchen facilities for registered guests shall be provided. In the case where an existing two-family residence is to be used as a bed-and-breakfast, a separate kitchen may be used by the owner-occupant.
 - iv. In addition to the number of bedrooms occupied by the owner in connection with the residential use, the number of bedrooms available for registered guests shall not exceed five.
 - v. The number of registered guests occupying the premises at any one time shall not exceed 10.
 - vi. The residence must have a minimum of two parking spaces and at least one parking space for each room to be let. When four or more parking spaces are provided, the parking area shall be screened from direct view of any adjacent residential use.
 - vii. Not more than one employee shall be permitted to work on the premises at any time, and none shall be present between the hours of 11:00 p.m. and

- 6:00 a.m. Members of the owner's immediate family who are residents on the premises shall not be considered employees, whether paid or unpaid.
- viii. No guest may be registered for more than seven consecutive nights. The owner shall maintain a guest register and shall preserve registration records for a minimum of three years. The register and all records shall be made available for inspection by the Town of Eden or its designees at any time.
 - ix. No meals except for breakfast shall be served on the premises to registered guests.
 - x. The building shall be in compliance with all applicable zoning, building, fire, electrical and plumbing codes, i.e. NYS Uniform Codes.
- b. Short-Term Rental. Residential property owners may use their dwellings for short-term rentals (30 days or less) after applying for and obtaining a residential rental permit from the Zoning Office and payment of a fee as set forth by the Town Board and subject to the following:
- i. The owner of the rental property assumes responsibility for the health, safety, and welfare of the renter(s) by assuring compliance with the appropriate fire prevention and building codes, sanitary codes, and local Town of Eden Zoning Code. Each rental dwelling shall be equipped with a functioning smoke detector and CO2 monitor, in compliance with New York State Uniform Fire Prevention and Building Code.
 - ii. The owner of the rental property assumes responsibility for the conduct of the tenants so as to protect the health, safety, and welfare of the surrounding property owners and to protect the property values of the neighborhood.
 - iii. The rental premises must have adequate parking, garbage facilities, occupancy, septic capacity, and a local emergency contact, as determined by the provisions in this code, and by determination of the Zoning Officer. If the Zoning Officer determines any of these requirements are not adequately addressed, or that the residential rental is in a location that may pose adverse impacts, site plan review may be required.
 - (1) Septic systems. All on-site septic systems shall be clearly identified to prevent damage from cars parking or installation of equipment. Additionally, short-term rentals with inadequate septic systems, as determined by the Zoning Officer, will have reduced occupancy limitations set by the Zoning Officer and based on the capacity of the septic system that services the short-term rental, based on bedroom count

- (2) Occupancy limitation. A short-term rental permit requires the completion of a property maintenance inspection by Zoning Officer. Occupancy limitation is based on the number of bedrooms in the short-term rental and/or the square footage of livable space in the short-term rental, and is calculated by the Zoning Officer during their property maintenance inspection, as required by this section and by the short-term rental permit. Each residential rental shall, at a minimum, comply with New York State Property Maintenance Code Section 404.1 pertaining to minimum square footage requirements per person, and shall not exceed any occupancy limits enforced by the Town of Eden. Additionally, short-term rentals with inadequate septic systems, as determined by the Zoning Officer, will have reduced occupancy limitations set by the Zoning Officer and based on the capacity of the septic system that services the short-term rental, based on bedroom count and a maximum of two persons per bedroom. The Zoning Officer may utilize professional consultants as necessary for occupancy determinations.
 - (3) Parking. All owners of short-term rentals shall require at a minimum two parking spaces for the renters of the property. For every four allowable renters for a short-term rental, there shall be a minimum of one additional parking space (i.e., a rental property with 12 renters allowed must have three spaces). In no case shall the rental property allow for more than 10 cars to be parked at the property
 - (4) Requirements of owners of rental property. All owners of short term rental property shall maintain, at the premise to be rented, the signed residential rental permit, which contains information on emergency contact persons, relevant septic system information, trash disposal information, occupancy limitations (including duration limit for short-term rentals and minimum lengths of stay for rentals over 30 days in duration), and any other pertinent information relevant to use or restrictions of the property
- iv. Grandfathering of preexisting, nonconforming short-term residential rentals. Short-term residential rentals located in zoning districts where the use is no longer allowed but that were in existence and known (recorded) by the Town of Eden on or before the date of the adoption of this section shall be grandfathered and allowed to continue as a short-term residential rental, only if:
- (1) The owner of said residential rental follows the same process for permitting of the short-term residential rental, as described in this section.

- (2) The property is located on a major thoroughfare street or other highly traveled road that is not conducive to privacy from vehicles or noise from traffic. Those rentals in existence on or before the date of the adoption of this section that are located on dead-end residential streets or cul-de-sac streets are not to be grandfathered due to the private nature and residential character of said streets.
 - (3) Any grandfathered short-term residential rental shall only be allowed to continue under the same property ownership as of the date of this section when the residential rental was grandfathered. Any change of ownership or changes in deeds to reflect new owners shall constitute a cancellation of the grandfathered short-term residential rental status.
 - (4) If the property to be grandfathered as a short-term rental is allowed to continue based on the above standards, said rental shall not accumulate more than three legitimate complaints on the property due to said rental, legitimate meaning a complaint that garners a violation of the Town code or a follow-up response (not just a complaint) to the rental property from a police agency. Any grandfathered short-term residential rental that accumulates more than three legitimate complaints on the operation of the short-term residential rental shall have their grandfathered status withdrawn and the short-term residential rental shall cease.
- v. Violations. If any of the following situations arise at a permitted property for short-term rentals, it will constitute a violation, subject to penalties for offenses (225-42):
- (1) Overcrowding; excess number of people above and beyond what the Town of Eden has determined is allowed or excess number of vehicles which was stated and agreed upon on short-term rental permit
 - (2) Any septic violations; system failures of any kind.
 - (3) Violation of any local noise ordinances
 - (4) Any instances where the police authorities are called and show up at the permitted property, i.e., out of control parties, domestic disturbances, fighting, noise, etc.
 - (5) Any new fire code violations that arise after a permit is issued.
 - (6) Any violations of garbage/littering or what was agreed upon in the

short-term rental permit.

- (9) Hotels and Motor Lodges. These may be permitted as provided herein, subject to the following regulations:
- a. Hotel and motor lodge units shall not contain kitchen facilities of any nature and shall not be used as apartments for nontransient tenants.
 - b. Hotel and motor lodge units shall not contain more than two rooms and shall not be connected by interior doors in groups of more than two.
 - c. An accommodation unit shall not be occupied by more than three adults at any one time.
 - d. There shall be no more than one hotel or motor lodge unit for each 2,400 square feet of site area.
 - e. Each hotel or motor lodge room shall have an area of at least 240 square feet, and a hotel or motor lodge unit including bath and closet facilities shall be not less than 300 square feet. Each hotel or motor lodge unit shall have a bath facility with shower or bath, one toilet facility and sink.
 - f. The following accessory uses shall be permitted:
 - i. One house or apartment with or without kitchen facilities for the use of the hotel or motor lodge manager or caretaker and his or her family.
 - ii. One restaurant and/or coffee shop or cafeteria providing food and drink.
 - iii. Amusements and sports facilities for the exclusive use of hotel guests, including:
 - (1) Swimming pool.
 - (2) Children's playground.
 - (3) Tennis and other game courts.
 - (4) Game or recreation rooms.
 - iv. Office and lobby, provision of which shall be mandatory for each hotel or motor lodge.
 - v. Meeting and/or conference rooms.
 - g. No more than two signs shall be permitted on the site, the total area of which shall not exceed 160 square feet.

- h. The landscaping requirements of § **225-31** shall be increased by 50% for all motor lodge development.
- i. The exterior treatment, including colors, textures and materials, of all structures within a hotel or motor lodge development shall be muted and blended into the surrounding landscape or adjacent land uses. Lighting throughout the area shall not exceed 1.5 footcandles (reflective method) at ground level, except in the case of recreational facilities, which may be illuminated in excess of that standard, provided that opaque screening is utilized to entirely block the reflected glare of the area from adjacent uses.

§ 225-16 Accessory Uses

(1) Lot and Building/Bulk Regulations are provided for in each use category above.

(2) Accessory-specific supplemental use regulations.

- a. Agricultural accessory uses. Barns, silos and produce storage and packing warehouses, and other such similar incidental and supporting structures associated with agricultural operations provided that such accessory buildings shall conform to the yard requirements for principal buildings.
- b. Hobby Farming. The keeping of animals as follows: not more than four horses over six months old; not more than 10 fowl; and not more than two of any other species of animal. No animal shall be maintained within 75 feet of any plot line except dogs and cats.
- c. Farm Stands. A one-story building for display and sale of agricultural and nursery products, provided that any such building does not exceed 5,000 square feet in floor area and is set back 30 feet from any line.

§ 225-17 REPEALED AND SECTION NUMBER RESERVED

§ 225-18 REPEALED AND SECTION NUMBER RESERVED

§ 225-19 REPEALED AND SECTION NUMBER RESERVED

§ 225-20 REPEALED AND SECTION NUMBER RESERVED

§ 225-21 FPO Floodplain Overlay District.

- A. Uses permitted by right: all uses permitted in the primary district, subject to floodplain performance standards, except that residences are prohibited within floodplain areas. Refer to Chapter **114**, Flood Damage Prevention. Bulk regulations are unchanged from the primary district, except as noted herein or in the supplemental regulations applying to this district.
- B. Uses by special permit of the Town Board: all uses permitted in the primary district, subject to floodplain performance standards, except that residences are prohibited within floodplain areas. Refer to Chapter **114**, Flood Damage Prevention. Bulk regulations are unchanged from the primary district, except as noted herein or in the supplemental regulations applying

to this district.

- C. Permitted accessory uses: same as primary district.
- D. Permitted accessory signs: same as primary district.
- E. Minimum off-street parking: same as primary district.
- F. Minimum off-street loading berths: same as primary district.
- G. Additional use regulations: same as primary district.

§ 225-21.1 REPEALED AND SECTION NUMBER RESERVED

§ 225-21.2 Regulated MS4 Overlay District.

- A. Purpose. The purpose of the RMS4 Overlay District is to identify the area within the Town of Eden which has been determined by federal and state agencies to be a regulated municipal separate storm sewer system (RMS4) under the Phase II Stormwater Permit Program.
- B. Boundary description. The RMS4 Overlay District consists of lands in the Town of Eden located within the regulated MS4 area identified on the map entitled "Buffalo, N.Y. Urbanized Area: Stormwater Entities as Defined by the 2000 U.S. Census," which map has a design date of October 21, 2002, published by the New York State Department of Environmental Conservation, which is the same area shown on the Wendel-Duescherer map entitled "Town of Eden MS4 Area," dated July, 2007, and contained in the Town of Eden Stormwater Management Plan.
- C. Permitted uses. Any use which is permitted in the underlying zoning district is permissible in the RMS4 Overlay District, provided that use, construction and/or development is in conformance with such local laws or regulations as have been or will be enacted pursuant to the Phase II Stormwater Permit Program requirements, including, but not limited to, any local law providing for stormwater management and erosion management and sediment control and any local law prohibiting illicit discharges, activities and connections to separate storm sewer system.

Section 4: Article V (Bulk Regulations) is hereby repealed and the Article Number is RESERVED

Section 5: Article VI (Supplementary Regulations) is amended as follows:

Article VI
Regulations Applicable to All Districts

225-25 Yards.

A. Accessory buildings.

- (1) An accessory building may be located in any required side or rear yard, provided that:
 - (a) Such building shall not exceed 15 feet in height.
 - (b) Such building shall be set back five feet from any lot line.
 - (c) All such buildings in the aggregate shall not occupy more than 10% of the area of the required rear or side yard.
- (2) Accessory buildings constructed at the same time may be located in pairs or groups in the required rear or side yard along the common side lot line or rear lot line of contiguous lots.
- (3) An accessory building on that portion of a lot not included in any required yard shall conform to the height regulations for principal buildings.
- (4) Distance to street line; private garages.
 - (a) No accessory building shall project more than two feet nearer to the street line than the principal building on the same lot. On corner lots, the applicable street line shall refer to the street line upon which the principal building fronts. Should topographic conditions be such that practical difficulties would be caused by this requirement with respect to the location of private garages, the Planning Board may approve the erection of such private garages under the following conditions:
 - [1] Where such slope exceeds 20%, a private garage may be permitted not closer than 10 feet to the street line.
 - [2] Notwithstanding the foregoing, on lots which are a minimum of five acres and which are located in either the Agriculture Priority (AP), Parkland (PK) or Rural Residential (RR) District, an accessory building may project more than two feet nearer the street line than the principal building on the same lot, provided that applicable setback requirements and other bulk requirements of the district are not violated.
 - (b) If the natural slope is from 10% to 20% within 25 feet of the street line, the Board may permit a private garage not closer than 20 feet to the street line; and
- (5) Storage of more than one unlicensed vehicle is prohibited in any district in which dwellings are permitted except in enclosed structures complying with these regulations.

B. Corner lots.

- (1) Obstruction to vision at street intersections. At all street intersections in all districts, no obstructions to vision exceeding 30 inches in height above curb level

shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 30 feet distant from their point of intersection.

- (2) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yards shall be deemed to be a rear yard and the other or others side yards.

C. Exceptions to yard requirements.

- (1) Permitted obstructions. Cornices or cantilevered roofs may project not more than three feet into a required yard. Belt courses, windowsills and other ornamental features may project not more than six inches into a required yard. Fences or walls not over six feet in height may be erected anywhere on the lot, except as set forth in Subsection **B**. Fences or walls with a height in excess of six feet shall conform to the requirements set forth herein for buildings. Paved terraces, steps and walks (other than such as are needed for access to the buildings on the lot) shall not project within 15 feet of a street line or five feet of a property line.
- (2) Entries and porticos. A roofed-over but unenclosed projection in the nature of an entry or portico not more than eight feet wide and extending not more than six feet out from the front wall of the building shall be exempt from front yard requirements when the building otherwise complies with all other yard restrictions of this chapter.
- (3) Existing setback. No proposed one- or two-family dwelling need have a setback greater than the average setback of the existing dwellings within 200 feet of each side of said proposed dwelling.
- (4) Front yards on narrow streets. On streets with less than a fifty-foot right-of-way, the front yard setback shall be measured from the center line of the existing street, and 25 feet shall be added to the front yard setback.

D. Uniformity of design. In order to avoid monotony of architectural design, no building permit shall be issued for the erection of a home if it is substantially like any neighboring building which is existing or for which a building permit has been issued or is being concurrently considered.

- (1) A building shall be considered neighboring if it fronts on the same street as the building being considered and which is the first or second lot along the street in either direction or which faces the building site being considered from across the street.
- (2) In considering those items listed in Subsection **D(3)**, buildings shall be considered substantially alike in any dimension for which they differ by less than two feet, except 20 feet for setback differences. Buildings between which the only difference in relative location of elements is end to end or side to side reversal shall be deemed to be alike in related location of such elements.
- (3) Buildings shall be considered substantially alike unless they differ in at least four of the following respects or dimensions:
 - (a) Setback from the street.
 - (b) Relation of a garage visible from the street to the main structure.

- (c) Length of the main roof ridge.
 - (d) Height of the roof ridge above the first floor elevation.
 - (e) Width, measured perpendicular to main roof ridge, if the building has a gable extending from the main roof visible from the street.
 - (f) Relationship to each other of either windows, doors, chimneys or any porch in the front elevation.
- (4) The Planning Board may waive or vary any requirement of this Subsection **D** where the layout of the neighborhood, road pattern, topography, natural features, views and the siting of individual structures are such as to avoid monotony of appearance despite similarity of buildings.

225-26 Nonresidential buildings

- A. Height regulations. Structures such as chimneys, flues, towers and spires may exceed the height limitations of **Article IV**, provided that in the aggregate they occupy not more than 20% of the roof area and that the total height is not more than 50% higher than the average building height.
- B. Waiver of yards. No side yard or rear yard shall be required where such yard abuts an operating railroad right-of-way.
- C. Courts. The minimum dimension of an inner court shall not be less than twice the height of all surrounding walls. However, in no case shall an inner court have a dimension of less than 30 feet. (The height of walls surrounding an inner court shall be measured from finished grade at the base thereof to the top of such wall, except that, in the case of roofs with a slope exceeding five inches vertical to 12 inches horizontal, the height shall be measured to the mean point between the top of said wall and the highest point of the roof.) The minimum dimension of an outer court shall be 20 feet, and its depth shall not exceed its width.

225-27 Parking and loading

- A. Off-street parking requirements. Off-street parking spaces, open or enclosed, are permitted as accessory to any use, subject to the following provisions:
 - (1) Schedule of parking requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for any use as specified the table below. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these parking regulations. Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the categories listed shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each such use.

Use	Minimum Off-Street Spaces
Dwelling Unit	Two per unit with turnaround area/space <i>(mandatory turnarounds on Route 62 & 75, East Eden Road, Jennings Road, East & West Church Street)</i>

Use	Minimum Off-Street Spaces
Outdoor Recreation Areas	1 space/5 people (no fewer than 4/acre)
Boat docks, marinas and clubhouses	1 space/3 persons (where seating provided)
Boat ramps	1 space/member
Golf courses and clubs	10 spaces/tee
Skiing areas	1 space/10 persons of lift capacity
Annual membership clubs	1 space/100 SF floor area (principal or accessory structure, not parking) OR 1 space/15 members
Farm Stands	1 space/5 FT front wall OR 300 SF (whichever is greater)
Vacation campgrounds	1 space/unimproved campsite OR 1 space/2 improved campsites
Cemeteries	50 spaces
Summer colonies	1 space/on-site employee
Home occupation/Resident professional office	3 spaces in addition to # required for dwelling unit or as determined by Board <i>(Accommodations for all patrons except 10 highest hours each year)</i>
	1 space/member

- (2) Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or a driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space, other than on that portion of a corner lot which is subject to the provisions of § **225-25B(1)**.
- (3) Size of spaces. Parking spaces and loading areas shall be arranged, marked and maintained as shown on the site plan approved by the Planning Board so as to provide for orderly and safe parking and loading of vehicles and to provide unobstructed access to the building or structure. Entrance and exit lanes shall not be computed as parking space except for driveways for one-family and two-family residences as set forth in Subsection **A(2)**. Minimum parking stall width shall be 10 feet, and minimum length shall be 20 feet.
- (4) Access. Unobstructed access to and from a street with internal turnaround area shall be provided. Such access shall consist of at least two ten-foot lanes for parking areas with 20 spaces or more. No entrance or exit for any off-street parking area of five or more spaces shall be located within 75 feet of any street intersection.
- (5) Drainage and surfacing. All open parking spaces shall be properly drained, and all such areas shall be provided with a dustless surface, except for parking spaces accessory to a one-family or two-family residence.

- (6) Joint facilities. Required parking spaces, open or enclosed, may be provided in spaces designed to serve jointly two or more establishments, whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall be not fewer than the total required for all such establishments.
 - (7) Combined spaces. When any lot contains two or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses are not in operation, the Planning Board may reduce the total parking spaces required for that use to the least requirement.
 - (8) Location and ownership. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory or elsewhere, provided that all spaces therein are located within 200 feet of walking distance of such lot. In all cases such parking spaces shall conform to all the regulations of the district in which the parking spaces are located, and in no event shall such parking spaces be located in any residence district unless the use to which the spaces are accessory is permitted in such residence district, or upon approval by the Planning Board. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restriction, approved by the Planning Board, binding the owner and his or her heirs and assigns to maintain the required number of spaces available either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere.
 - (9) Lots divided by district boundaries. When a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces shall apply to the entire lot. Parking spaces on such lot may be located without regard to district lines, provided that no such parking spaces shall be located in any residence district unless the use to which they are accessory is permitted in such district, or upon approval by the Planning Board.
 - (10) Garage and off-street parking facilities. Where one or more motor or other vehicles recurrently park by reason of the use and occupancy of any premises, there shall be provided and satisfactorily maintained thereon adequate garage or vehicular parking space for the number and in proportion to the size of the vehicles which so park, the minimum to be not less than 200 square feet per automobile in addition to 24 feet of driveway and backing and turning out space.
- B. Off-street loading berths. Off-street loading berths, open or enclosed, are permitted as set forth in the table below, subject to the following:
- (1) Location and access. Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory, except as provided in Subsection **B(2)**. No entrance or exit for any off-street loading area shall be located within 75

feet of any street intersection. No off-street loading berth shall be located in any front yard.

- (2) Joint facilities. Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two or more adjacent establishments, provided that the number of required berths in such joint facilities shall not be fewer than the aggregate of all such requirements.
- (3) Lots divided by district boundaries. When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of loading berths shall apply to the entire lot. Loading berths on such lot may not be located in any residence district unless the use to which they are accessory is permitted in such district, or upon approval by the Planning Board.
- (4) Design. Where required by these regulations, off-street loading berths shall be provided consisting of 12 feet by 44 feet of loading space and 12 feet in height with sufficient turning and backing areas. Berths shall be provided with a dustless surface and shall be screened in a manner precluding view from any public street or residential area. (Residential areas shall mean land zoned for residential use or actually in residential use.) No berth shall occupy any required yard.
- (5) Minimum loading berths. One (1) space per 10,000 SF building/structure

C. Parking regulations in multiple-dwelling developments. Wherever space is provided for the parking of five or more vehicles in the open, such spaces shall be individually identified by means of pavement markings. No parking space shall be located in any front yard or within 10 feet of any lot line in side or rear yards. The parking of motor vehicles is prohibited within 15 feet of any wall or portion thereof of two- or more family dwellings, which wall contains windows (other than bathroom or kitchen windows) with a sill height of less than eight feet above the level of said parking space. No service of any kind shall be permitted to be extended to users of the lot, including automobile service, repair or fueling, and no gasoline, oil, grease or other supplies shall be stored or sold in any such lot. Parking areas shall be screened by a substantial wall, fence or thick hedge approved by the Planning Board. Generally such screening shall not be less than three nor more than eight feet in height.

D. Regulations for parking spaces adjacent to lots in any residence district.

- (1) Wherever a parking area of over five spaces abuts or is within 15 feet of the side or rear lot lines of a lot in any residence district, said parking lot shall be screened from such adjoining lot by a substantial wall, fence or thick hedge approved by the Planning Board. Generally such screen shall be not less than five nor more than eight feet in height.
- (2) Whenever a parking area of over five spaces is located across the street from other land in any residence district, it shall be screened from the view of such land by a thick hedge, wall or fence approved by the Planning Board located along a line drawn parallel to the street and a distance of five feet therefrom, such screening to be interrupted only at points of ingress and egress. Generally no such screening shall be less than three feet nor more than eight feet in height. The open area between such screening and the street shall be landscaped in harmony with the landscaping prevailing on neighboring

properties fronting on the same street. Two identification and directional signs located on the street side of such screening shall be permitted, however, they shall not exceed an area of three square feet each.

- E. Driveways. No driveway shall provide access to a lot located in another district, which lot is used for any use prohibited, except residential, in the district in which such driveway is located.
- F. Commercial vehicles.
 - (1) One commercial vehicle not exceeding 20 feet in length may be parked on an occupied lot in any Residence SR or HR District but not within the required front yard of such lot and in no case between the street line and the principal building.
 - (2) One commercial vehicle exceeding 20 feet in length may be parked within a private garage in any residence district.
 - (3) Commercial farm vehicles are permitted as accessory to a commercial farm use in any residence district.
- G. Trailers and boats.
 - (1) The storage or parking and use of a trailer by any person or persons is hereby prohibited in all districts except that:
 - (a) One trailer not over 35 feet in length may be stored, but not used for any purpose, on an occupied lot in any residential district, provided that such trailer is not stored within any required front yard nor between the street line and the principal building.
 - (b) Where a building permit has been issued for the construction or alteration of a building, the Building and Zoning Inspector may issue a temporary permit for one trailer for a period not to exceed six months. Said temporary permit may be extended for one additional period of six months if the Building and Zoning Inspector finds that construction has been diligently pursued and that justifiable circumstances require such an extension. Said trailer may be occupied during the term of the temporary permit and shall be situated upon the lot for which the building permit has been issued. Prior to the issuance of such a temporary permit by the Building and Zoning Inspector the location of said trailer on the lot shall be subject to Planning Board approval. Said Board may attach to its approval whatever conditions are deemed necessary to carry out the intent of this chapter.
 - (2) Boats may be stored on any occupied lot in any residence district, provided that such boats are not stored within any required front yard nor between the street line and the principal building.

225-28 Performance standards; prohibited uses.

- A. Every use subject to performance standards shall conform to the restrictions set forth in the applicable federal, state or county codes, regulations, statutes and laws.

B. Prohibited uses in all districts. The following uses are deemed undesirable, out of character with the community and incompatible and represent real hazards to the public health, welfare and safety so as to be prohibited in all districts in the Town of Eden:

(1) Manufacturing uses involving primary production of the following products from raw materials:

- (a) Asphalt, cement, charcoal and fuel briquettes.
- (b) Chemicals, analine dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, creosote, hydrogen, oxygen, industrial alcohol nitrates, potash, plastic materials and synthetic resins, pyroxylin, rayon yard and hydrochloric, nitric, phosphoric, picric and sulfuric acids.
- (c) Coal, coke and tar products, including gas manufacturing, explosives, fertilizers, gelatin, glue and size, animal.
- (d) Linoleum and oilcloth, matches, paints, varnishes and turpentine.
- (e) Rubber (natural and synthetic), soaps, including fat rendering, and starch.

(2) The following processes: nitrating of cotton or other materials; magnesium foundry; reduction, refining, smelting and alloying of metal or metal ores; refining secondary aluminum; refining petroleum products, such as gasoline, kerosene, naphtha and lubricating oil; distillation of wood or bones; and reduction and processing of wood pulp and fiber, including paper mill operations.

(3) Operations of stockyards and slaughterhouses, having an excess of 100 processed carcasses or live animals to be processed at any time, and slag piles.

(4) Storage of explosives, except under license from the State of New York and in a manner and place conforming to the laws of the State of New York and the American Table of Distances, and provided that no more than 50,000 pounds is stored in any one magazine.

(5) Bulk or wholesale storage of gasoline aboveground.

(6) Dumps and junkyards, except those established as an official town dump.

(7) Incineration of waste materials, except in a plant owned and operated by the town as a principal use.

(8) Disposal of septic or sewage wastes.

225-29 Signs. **UNCHANGED (See LL #3 of 2020)**

225-30 Site Plan Review

Except where a site plan waiver may be issued pursuant to § **225-30E**, in all cases where this chapter requires approval of site plans, as cited in Article **IV**, no building permit shall be issued by the Building and Zoning Inspector except upon authorization of and in conformity with the plans approved by the Planning Board.

- A. Objectives. In considering and acting upon site plans, the Board shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions

and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

- (1) Traffic access. All proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- (2) Circulation and parking. Adequate off-street parking and loading spaces are provided to prevent parking on public streets of vehicles of any persons connected with or visiting the use and the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
- (3) Landscaping and screening. All playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter measured three feet above the base of the trunk shall be retained to the maximum extent possible.
- (4) Preservation of significant natural features. The design and layout of the site shall take into consideration important natural features as identified in the Town of Eden's Natural Resource Inventory, Open Space Index or Comprehensive Plan. Efforts should be made to preserve these significant features to the greatest extent feasible.

B. Effect of site plan approval.

- (1) No building permit shall be issued for any structure covered by this section until an approved site plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building and Zoning Inspector.
- (2) No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site plan or approved amendment of any such plan.

C. Procedure.

- (1) Presubmission conference. Prior to the submission of a site plan, the applicant shall meet in person with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site plan elements listed in Subsection **D** shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.
- (2) Within six months following the presubmission conference, the site plan and application materials, together with the required fee from the Standard Schedule of Fees of the Town of Eden, shall be submitted to the Secretary of the Planning Board in triplicate and copies of all materials sent to the Building and Zoning Inspector and Board's consultants, if any. Materials must be submitted in proper form at least 15 days prior to the Board meeting at which the plan is to be reviewed.

- (3) The Building and Zoning Inspector and Board's consultants, if any, shall report to the Planning Board whether the plan meets the requirements of all zoning law provisions and make recommendations for modifications to the plan in order that the plan or amendment thereof shall be consistent with these regulations.
- (4) The Planning Board may, on its own motion, have alternative site plans or parking studies prepared where the proposed plan does not meet the requirements or standards of these regulations, provided that the applicant is advised in advance of the Board's decision and the attendant costs involved and agrees to reimburse the town for said costs. The Planning Board may retain the services of independent consultants or specialists to review the plans or studies. Any expenses incurred in such review of plans and studies shall be fully assignable to the applicant prior to final approval of the site plan.
- (5) Public hearing for site plan approval may be required by the Planning Board at its discretion. On receipt of such documents in proper form, the Planning Board shall fix the date for a public hearing on the proposed use. The applicant shall send notice of the public hearing stating the date, place and substance of the hearing to all owners of property abutting the proposed use and directly across any adjoining street, as the names of said owners appear on the last complete assessment roll of the town. Such notice shall be sent by mail, return receipt requested, and a list of the owners to whom notice has been sent, together with certified mail receipts, shall be filed with the Planning Board at least 10 days prior to the date of public hearing. Not less than 10 days prior to the public hearing, notice of the same shall be published at the expense of the applicant in the official newspaper.
- (6) The Board shall act to approve or disapprove any such site plan within 62 days after the public hearing or, if no hearing is held, within 62 days after the day the application is received. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. Failure of the Board to act within this time limit shall be deemed approval. Disapproval shall include written findings upon any site plan element found contrary to the provisions or intent of this chapter.
- (7) Amendments to a site plan shall be acted upon in the same manner as the approval of the original plan.
- (8) Waiver of required information. Upon findings by the Planning Board that, due to special conditions peculiar to a site, certain of the information normally required as part of the site plan is inappropriate or unnecessary or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board may vary or waive the provision of such information, provided that such variance or waiver will not have detrimental effects on the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the site plan submission, Comprehensive Plan or this chapter.
- (9) Application for building permit. Within one year of the date of site approval by the Planning Board, the applicant shall apply for a building permit or the approval of the site plan shall expire. However, the Town Board may extend the time for application for a building permit if in its opinion such action is warranted by the particular circumstances thereof for a period not to exceed one additional year.

- (10) Unless work is commenced and diligently prosecuted within one year, or such time expressly stated by the Planning Board at the date of granting approval, said approval shall become null and void.
 - (11) The Planning Board may require, as a condition of approval, that a performance bond or maintenance bond, or both, be posted with the town in a manner set forth in Chapter **184**, Subdivision of Land, for subdivisions to guarantee the installation of key site improvements and the upkeep of landscaping, screening and safety devices and to ensure the general cleanliness and proper housekeeping of the grounds and environs of the area approved pursuant to these regulations. Such performance bonds shall be for a period not to exceed two years from the date of the building permit, nor may maintenance bonds exceed a period of three years from the date of the certificate of occupancy of the completed site plan.
- D. Site plan elements. The applicant shall cause a site plan map to be prepared by a civil engineer, surveyor, landscape architect, architect or other competent person. The site plan shall include those of the elements listed herein which are appropriate to the proposed development or use as indicated by the Board in the presubmission conference:
- (1) Legal data.
 - (3) Section, plate, block and lot number of the property taken from the latest tax records.
 - (4) Name and address of the owner of record.
 - (5) Name and address of person, firm or organization preparing the map.
 - (6) Date, North point and written and graphic scale.
 - (7) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
 - (8) The locations, names and existing widths of adjacent streets and curblines.
 - (9) The locations and owners of all adjoining lands as shown on the latest tax records.
 - (10) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
 - (11) A complete outline of existing deed restrictions or covenants applying to the property.
 - (12) Existing zoning, school and special district boundaries.
 - (2) Natural Features
 - (a) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.

- (b) Approximate boundaries of any areas subject to flooding or stormwater overflows, based on any existing floodplain maps, drainage or soil studies.
 - (c) Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured three feet above the base of the trunk and other significant existing features.
 - (d) All features or resources identified as significant in the Town of Eden's Natural Resource Inventory, Open Space Index or Comprehensive Plan.
- (3) Existing structures and utilities.
- (a) Location of uses and outlines of structures drawn to scale and within 100 feet of the lot line.
 - (b) Paved areas, sidewalks and vehicular access between the site and public streets.
 - (c) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines as well as other underground and aboveground utilities within and adjacent to the property and railroad and transmission lines.
 - (d) Other existing development, including fences, landscaping and screening.
- (4) Proposed development.
- (a) The location of proposed buildings or structural improvements, including streets, utilities, etc.
 - (b) The location and design of all uses not requiring structures, such as off-street parking and loading areas.
 - (c) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
 - (d) The location and plans for any outdoor signs.
 - (e) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas, and profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of waterlines and sewer lines.
 - (f) Any proposed grading, screening and other landscaping, including types and locations of proposed street trees.
 - (g) The location of all proposed waterlines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment.
 - (h) An outline of any proposed easements, deed restrictions, covenants or dedications.
 - (i) Any contemplated public improvements on or adjoining the property.
 - (j) If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
- (5) Any other information deemed by the Board necessary to determine conformity of the site plan with the intent and regulations of this chapter.

- (6) Stormwater pollution prevention plan. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 177, Article II, shall be required for site plan approval for land development activities within the RMS4 Overlay District. The SWPPP shall meet the performance and design criteria and standards in Chapter 177, Article II, of the Town of Eden Code. The approved site plan shall be consistent with the provisions of Chapter 177, Article II, of the Town of Eden Code.

E. Site plan waiver.

- (1) A site plan waiver may be issued if a proposed project is minor in nature to the extent that a full site plan review may not be necessary. In such case, if an existing previously approved site plan is on file with the Town and the modifications are deemed minor by the Site Plan Waiver Committee, consisting of the department heads of the Building Department, Engineering Department and Planning Board Chairman, a site plan waiver may be issued upon payment of the required fee. Once the site plan waiver is approved, the applicant may apply for a building permit.
- (2) In general, a site plan waiver may be issued for a project that has met one or more following criteria (at the discretion of the Site Plan Waiver Committee):
 - (a) Additions of less than 1,000 square feet or which represent less than 10% of the existing structure, where no variances are needed for construction.
 - (b) Accessory buildings or additions that are not visible from the road or adjoining residential uses.
 - (c) A minor change in use that does not require additional parking.
 - (d) Such other minor changes as determined by the Site Plan Waiver Committee.
- (3) In all cases, an existing site plan shall be on file with the Town and the site shall be in general conformance with previously approved site plans, as applicable. Furthermore, the site plan waiver may include conditions that must be met for the issuance of the building permit.
- (4) In certain cases, the preparation of a site plan application may be deemed necessary to meet the requirements of a site plan waiver process. It may be determined that the proposed project needs formal site plan approval from the Planning Board.
- (5) Determinations and approval conditions for a site plan waiver may only be appealed by the applicant by appearing before the Planning Board under a formal site plan application. Approval of any site plan waiver shall remain in effect for a period of not more than one year, unless a successful application for a building permit has been made within that period.

225-31 Landscaping and environmental control

The use of living plant material as an adjunct to all uses subject to these regulations shall be mandatory. Landscape materials shall be utilized in a positive manner in all developments for architectural elements, space articulation, screening, privacy control, erosion control, acoustical control, atmospheric purification, traffic control, glare and reflection control, solar radiation control, wind control, precipitation control and temperature control.

- A. Land area restricted from development coverage by **Article IV**, shall be preserved in natural landscape or shall be reestablished to the following general standard: one deciduous or evergreen tree of 2 1/2 inches in caliper per 2,000 square feet of area.
- B. Developed area shall be landscaped to the following general standard: one deciduous or evergreen tree per 5,000 square feet of area and one low-planting species per 10 linear feet of parcel perimeter.
- C. Erosion and sedimentation controls shall be in accordance with the most recent edition of the *New York State Standards and Specifications or Erosion and Sediment Control* and shall be the minimum requirements.
- D. For uses requiring site plan review, the construction value of which exceeds \$15,000, a detailed landscaping plan shall be prepared by a licensed landscape architect or other professional licensed by the State of New York Education Department to prepare landscape plans.
- E. The use of plants and other vegetation native to New York and suitable for the USDA Hardiness Zone for the Town of Eden shall be required where landscaping is proposed on a site; exotic or invasive species shall not be permitted. Species shall be identified by both common and botanical names and the quality of plant materials used shall be consistent with American Standards for Nursery Stock published by the American Association of Nurserymen, Inc., Washington, D.C. Unless otherwise approved by the Planning Board or the Code Enforcement Officer, the landscaping plan shall be prepared by a NY licensed landscape architect who affixes his seal or registration number to the plan and signs it.

255-32 Excavation

Sandpits, gravel pits, removal of topsoil and landfill or excavation shall be subject to the provisions of Chapter 103, Excavations, of the Code of the Town of Eden.

225-33 Clustered open space

- A. Policy and authority. It is the policy of the Town of Eden, as guided by the Master Plan, to provide a variety of housing options, preserve open space, and harmonize new development with the traditional open, rural, wooded, agricultural, and hamlet landscapes of the Town. To that end, the Town Board of the Town of Eden, through the adoption of this Chapter, hereby adopts the provisions of §278 of the Town Law of the Consolidated Laws of New York, and hereby grants to the Planning Board the full authority set forth in that section to require or accept modifications to site plans as they apply to a specific plat, but only to the extent herein permitted, in the form of a cluster development consistent with the standards, guidelines, and criteria set forth in this section and Chapter 184 (Subdivisions). The regulations contained in this section and Chapter 184 (Subdivisions) shall constitute the rules and regulations required by §278 of the Town Law, setting forth criteria for the review and approval of a cluster subdivision.
- B. Procedures. Any residential cluster development shall be subject to site plan review under §225-30 and Chapter 184 (Subdivisions) in addition to the standards set forth in this section. An application for cluster development shall include all plans and materials as required for a conventional subdivision.
- C. Ownership required. Open space land created as part of a subdivision or multiple-dwelling development and not dedicated fee simple to the Town of Eden for recreation purposes shall be in one of the following forms of ownership:

- (1) A homes association approved by the Federal Housing Administration for mortgage insurance as a planned unit development and the Town Board;
- (2) A homes association approved by the Town Attorney and Town Board; or
- (3) Any other arrangements approved by the Town Attorney and Town Board as satisfying the intent of this chapter.

D. Homes Association. Whenever a homes association is proposed, the Town Board shall retain the right to review and approve the articles of incorporation and charter of said homes association and to require whatever conditions it shall deem necessary to ensure that the intent and purpose of this chapter are carried out. In consideration of said approval, the Town Board shall, in part, require the cluster development to meet the following conditions:

- (1) The homes association shall be established as an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner (and any succeeding owner) is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities and established as such prior to the sale of any dwelling lot and/or unit within the development or subdivision.
- (2) Title to all common open space property shall be placed in the homes association prior to the sale of any dwelling lot and/or unit within the development or subdivision. Such deeds shall be reviewed by the Town Attorney and subject to the approval of the Planning Board.
- (3) Each lot owner shall have equal voting rights in the association and shall have the right to the use and enjoyment of the common open space property, subject to the rules of the homes association. All restrictions on the ownership, inclusive of easements, use and maintenance of common open space or recreational use shall be permanent.
- (4) Once established, all responsibility for liability insurance, operation and maintenance of the common open space or recreation land and facilities shall lie with the homes association.
- (5) Dedication of common areas.
 - i. Dedication of all common areas shall be recorded directly on the subdivision plat or by reference on the plat to a dedication in a separately recorded document. Resubdivision of such areas is prohibited. The dedication shall:
 - (a) Reserve the title of the common property for the homes association free of any cloud of implied public dedication.
 - (b) Grant easements of enjoyment over the area to the lot owners, as set forth in the articles of incorporation of the homes association.
 - ii. Each dwelling unit or lot owner within the development or subdivision shall be made responsible for paying his or her proportionate share of the association's costs, and the assessment levied by the association shall become a lien on the dwelling unit or lot if not paid.
 - iii. Permitted uses in areas of open space:
 - (a) Community center.

- (b) Sports and recreation facilities (active recreation), such as, but not limited to playgrounds, ballfields, swimming pool(s), spray pads, tennis courts, or golf courses.
 - (c) Natural state (passive recreation) such as, but not limited to, conservation areas, picnic areas, crop farming, or trails.
- (6) Each deed to each dwelling unit or lot sold shall include by reference all recorded declarations, such as covenants, dedications and other restrictions (including assessments and the provision for liens for nonpayment of such).
- (7) The homes association shall be perpetual, shall purchase insurance, pay taxes, specify in its charter and bylaws an annual homeowner's fee and provision for assessments and establish that all such charges become a lien on each property in favor of said association. The homes association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens. It shall also have the right to commence action against any member for the collection of any unpaid assessment in any court of competent jurisdiction, and the homes association shall have the power to adjust assessments to meet changing needs.
- (8) Prior to site plan approval the developer shall file with the Town Board a performance bond to insure the proper installation of all recreation and park improvements shown on the site plan and a maintenance bond to insure the proper maintenance of all common lands until the homes association is established. The amount and period of said bonds and the form, sufficiency, manner of execution and surety shall be determined by the Town Board and approved by the Town Attorney.
- (9) In the event that the maintenance, preservation and/or use of the common open space or recreational use ceases to be in compliance with any of the above requirements or any other developments or subdivisions, the Town Board shall be granted the right, but shall not have the obligation, to take all necessary action to assure such compliance and to assess against the association and/or each individual dwelling unit or lot owner within the development or subdivision all costs incurred by the town for such purposes.

225-34 Transfer of development rights

A. Policy and intent.

- (1) The maximum levels of density of development allowed in the various zoning districts by this chapter are designed, among other purposes, to secure:
 - (a) A fair balance between the public interest, through such things as the most economic and efficient possible use of municipal services and utilities, and the interests of individual landowners; and
 - (b) An economically, socially and environmentally sound balance between developed and open land, both in particular zoning districts and throughout the town. In R1, R2 and MFR Districts, due regard to the balance between developed and open land throughout the town as well as the balance between developed and open land within the particular districts requires increased density limits. In PK, AP and RR Districts, due regard to the interests of individual landowners as well as the public interest requires limitation of densities. It is in the public interest, therefore, to

encourage development from PK, AP and RR Districts to R1, R2 and MFR Districts to the extent that this can be accomplished without impairing a sound balance between developed and open land in particular R1, R2 and MFR Districts and without undue impairment of the interests of individual landowners in PK, AP and RR Districts. Accordingly, it is the policy and intent of the town to permit development in R1, R2 and MFR Districts at increased levels of density when a developer can provide assurance of a corresponding reduction of the density of development in a PK, AP or RR District.

- (2) The transfer of the development rights system herein established shall have the following specific objectives:
 - (a) To preserve the natural and scenic qualities of open land and accrue to the town and region the benefits of the use of open land and agricultural pursuits.
 - (b) To allow the adequate and economic provision of streets and utilities consistent with the Comprehensive Plan of the Town of Eden.
 - (c) To provide for a creative and staged development of land and an orderly transition of land from vacant to occupied uses.
 - (d) To foster development in areas best suited to specific uses while providing economic return to owners of property restricted from further development.
- B. Transfer of development rights. Transfer of development rights provides for increased density of residential development in the R1, R2 and MFR Districts when suitable open space land in a PK, AP or RR District is permanently reserved from specified development uses. The transfer of the development rights is accomplished by execution of an open space easement, and the increased density is permitted by the issuance of an optional density permit, both as hereinafter provided.
- C. Authorization of transfer of development rights. In the manner and to the extent provided by Article **IV** and by the Table of Bulk Regulations referred to in Article **V** of this chapter, the provisions of this section and other applicable provisions of this chapter:
 - (1) Development rights in eligible land in PK, AP or RR Districts may be transferred to land in R1, R2 or MFR Districts.
 - (2) Undeveloped land in a PK, AP or RR District with the area and dimensions at least equal to the minimum required for residential development shall be eligible land from which development rights may be transferred.
 - (3) In cases where development rights have been previously transferred from land in a PK, AP or RR District, development rights may be transferred to such land from other eligible land in a PK, AP or RR District.

D. Procedure.

- (1) Development rights in land in a PK, AP or RR District may be transferred to land in an R1, R2 or MFR District pursuant to the following procedure:
 - (a) The developer proposing to develop specified land in an R1, R2 or MFR District at an optional density allowed by this chapter with a transfer of development rights shall, simultaneously with his or her application for a subdivision plat or site plan, make application to the Planning Board for an optional density permit in such form as shall be provided by said Board.
 - (b) With his or her application for an optional density permit, the developer shall tender to the Planning Board a valid instrument granting to the town an open space easement in eligible land in a PK, AP or RR District. The instrument shall be in the form and contain the terms and conditions provided by Subsection **E** of this section and shall cover an area of eligible land determined in accordance with Subsections **C(2)** and **F(2)** of this section. The developer shall furnish to the Planning Board a certificate of title by a duly licensed attorney and such other further evidence or assurance of title as may be satisfactory to the Town Attorney.
 - (c) Upon advice of the Town Attorney that the open space easement document is valid and sufficient, and if the applications cited in Subsection **D(1)(a)** above are otherwise valid and sufficient, the Planning Board, acting in behalf of the town, shall accept said document and transmit it to the Town Attorney for recording in the Erie County Clerk's office. Upon final approval of the subdivision plat or site plans, the Planning Board shall issue an optional density permit permitting development of the specified land at the optional density and shall transmit both a copy of the open space easement and the optional density permit to the Board of Assessors.
- (2) In cases where land in a PK, AP or RR District has previously been encumbered by the grant of an open space easement, equivalent rights may be transferred to such land from other land in a PK, AP or RR District pursuant to the following procedure:
 - (a) Said easement shall be terminated upon the granting to the town of a similar easement covering equivalent other land in a PK, AP or RR District pursuant to the provisions of this chapter.
 - (b) The owner proposing to receive such development rights shall tender to the Planning Board a valid instrument granting to the town an open space easement for other eligible land in a PK, AP or RR District. The instrument shall be in the form and contain the terms and conditions provided by Subsection **E** of this section and shall cover an area of eligible land determined in accordance with Subsections **C(2)** and **F(2)** of this section. The owner shall furnish to the Planning

Board a certificate of title by a duly licensed attorney and such other or further evidence or assurance of title as may be satisfactory to the Town Attorney.

- (c) Upon advice of the Town Attorney that the grant is valid and sufficient, the Planning Board shall accept the instrument, shall execute an instrument terminating the open space easement in the land from which development rights were previously transferred and shall transmit both instruments to the Town Attorney for recording in the Erie County Clerk's office, with copies to the Board of Assessors.
- E. Form and terms of grant. The grant of an open space easement pursuant to this section shall be on the terms and conditions and in the format set forth in Appendix I to this chapter.
- F. Area of land required and number of units permitted.
 - (1) The actual number of units permitted to develop at increased density limits in R1, R2 and MFR Districts shall be determined by reference to the use regulations found in Article **IV** and the bulk regulations found in Article **V** of this chapter.
 - (2) Assignment of development rights for transfer. Land in a PK, AP or RR District shall be assigned development rights for purposes of transfer as follows:
 - (a) In a C District, one development right for each three eligible acres.
 - (b) In an A District, one development right for each two eligible acres.
- G. Assessment. Land for which an open space easement has been conveyed to the town pursuant to this section shall be assessed for real property tax purposes with full regard to the restriction of the use of the land by reason of said easement. Land for which an optional density permit has been issued shall be assessed for real property tax purposes with full regard to the optional density at which it may be or has been developed.
- H. Rezoning. In the event that property for which a development easement has been conveyed pursuant to this chapter or for which an optional density permit has assigned one or more development rights pursuant to this chapter shall have its allowable density of development altered by amendment of this chapter, the following rules shall apply:
 - (1) If such amendment increases the allowable density of land in R1, R2 or MFR Districts, the owner shall be entitled to the full number of units allowed by the amendment plus the number of development rights previously granted by an optional density permit.
 - (2) If such amendment decreases the allowable density of land in R1, R2 or MFR Districts, the owner may develop at the density previously allowed by an optional

density permit.

- (3) If such amendment alters the number of transferable development rights of land in a PK, AP or RR District, such change will not affect land already subject to an open space easement.
- (4) If such amendment removes land from a PK, AP or RR District, no development shall take place on land so removed and already subject to an open space easement unless the owner acquires sufficient development rights to replace the rights conveyed from such land in accordance with the procedure set forth in Subsection **D(2)**.

225-35 Home Occupations

- (1) In the case of home occupations, only persons residing within the residence shall be engaged in such occupation and the use must be clearly incidental and subordinate to the use of the premises for residential purposes, and the area devoted to such home occupation use shall not exceed 25% of the ground floor area of the principal structure, or equivalent area in an accessory structure.
- (2) In the case of resident professional office uses, the principal resident professional shall maintain the premises as his principal place of residence, and there shall be no more than one employee, assistant or associate engaged in such use. Such use shall be restricted to within the principal structure and shall not occupy more than 25% of the ground floor area thereof.
- (3) There shall be no change in the outside appearance of the structure or premises or other evidence, visible from the outside, of the conduct of such home occupation or resident-professional office whether, in the case of a home occupation, it is conducted within the home or accessory structure.
- (4) Off-street parking shall be provided in accordance with Article **IV** and § **225-27**, except that no parking shall be permitted in any front yard or required rear or side yards. Parking areas shall be suitably screened so as to assure privacy for adjacent properties.
- (5) The keeping or boarding of any dogs by a veterinarian shall require approval of the Planning Board in accordance with § **225-32E**.

225-35.1 Private Swimming Pools

Private swimming pools shall be subject to the provisions of Chapter 188, Swimming Pools, of the Code of the Town of Eden.

225-35.2 Stand-alone Storage Structures

- (1) Existing Buildings. The building may be used for the storage of products, provided that a special permit, for a one-year period, is obtained by the property owner, that all storage is within the enclosed building, that no sales are made on the premises to dealers or to the public and that nothing is stored which would adversely affect public health or safety.

- (2) New stand-alone storage structure. A structure used for storage on lots in the R2, RR, and AP Districts with no primary structure(s) shall be subject to the following standards:
- a. No more than one (1) stand-alone storage structure is permitted on a lot.
 - b. A site plan shall be required for any structure over 1,000 square feet, subject to §225-30.
 - c. The structure shall be located on the lot in accordance with the setback and dimensional requirements of the district it is located in plus an additional 50 feet in the front yard setback to account for the construction of a future primary dwelling. Applicant shall indicate on the site plan where a primary dwelling may be located to ensure adequate spacing and placement behind or to the rear of such dwelling.
 - d. The structure shall be non-habitable (no kitchen, dining, bathroom or sleeping quarters) by humans or animals. Electrical service (one meter) is allowed.
 - e. Structure shall not be used for commercial purposes.
 - f. Storage (cargo) containers are not permitted.
 - g. All materials, equipment, etc. shall be stored inside the structure or otherwise subject to screening and setbacks

225-35.3 Ponds.

Ponds may be permitted subject to the following:

- (1) Exemptions. Retention or detention ponds specified, designed and/or approved as part of an approved site plan or subdivision development or otherwise mandated and/or owned by the Town of Eden are exempt from this article.
- (2) General.
 - a. No pond shall be constructed without a building permit issued pursuant to this article.
 - b. No pond shall be constructed on any property located within the Low-Density Residential (R1), Neighborhood Residential (R2), Mixed-Use (MU-1 or MU-2), or Light Industrial (LI) Zoning Districts nor on a lot with a total area of less than three acres. All ponds shall meet the bulk requirements for residential uses.
 - c. All ponds shall be maintained so as to assure that they do not become offensive to neighboring properties by reason of stagnation, algae, mosquito breeding and similar conditions.
 - d. No pond may adversely interfere with or impede the natural flow of water nor adversely impact any floodplain or wetland area.
 - e. All new ponds shall conform to the requirements of and be approved by the Soil Conservation Service (SCS) of the United States Department of Agriculture or its successor agency.
 - f. If the SCS is not available for assistance with the pond design (or at the option of the applicant), the pond shall be designed by a licensed professional engineer. In the event the pond is designed by a licensed professional engineer, the site plan application shall be accompanied by a pond design report meeting the following requirements:

- i. Include test pit information from site (soil types, groundwater levels, etc.).
- ii. Reference SCS standards.
- iii. Illustrate how the pond will maintain appropriate water depths.
- iv. A survey map depicting the pond and test pit locations (follow site plan requirements); illustrate any inflow or outflow piping/ditches and the location of any ditches, swales or watercourses on the site.
- v. Detail the pond components (inlet and outlet controls, side slopes, emergency spillways, etc.).
- vi. Any other information required by the Planning Board.

225-35.4 Creekside Open Space Regulations.

A. Purpose.

- (1) In accordance with the recommendations and policies of the Town of Eden Comprehensive Plan Update, these regulations are designed to preserve, to the maximum extent feasible, the important environmental features associated with major stream corridors within the Town. This will help to ensure the interconnection of open space elements in the Town, preserve rural character and scenic views, enhance flood protection, minimize non-point source pollution, preserve wildlife habitats, and protect the qualities of these corridors that contribute to both community character and property values.

B. Boundary description.

- (1) These regulations shall apply to the lands along Ryther Creek, Hampton Brook, 18-Mile Creek and the South Branch of the 18-Mile Creek, and some tributaries of these creeks. This shall encompass all parcels fronting on these waterways and areas 50 feet of a stream shoreline embankment.

C. Objectives.

- (1) Development shall be sited to minimize adverse impacts to water quality, fish or wildlife habitats, freshwater wetlands, stormwater runoff, septic systems or any other activity on the site.
- (2) To the greatest extent feasible, new structures shall be sited a minimum of 100 feet from the stream bank or outside the designated floodplain area, whichever is greater, in order to establish a buffer adjacent to the waterway to absorb floodwaters, trap sediments, protect habitats and preserve scenic qualities.

D. Subdivision Regulations. The division of lands within the boundary area, regardless of the zoning classification, shall be subject to the subdivision regulations of the Town. The following special regulations shall apply to all subdivision lands within this area:

- (1) Subdivision maps must clearly depict all environmental features.
- (2) Clear cutting of trees shall be prohibited, and construction must minimize tree disturbance. Plans must show the extent of disturbance.

Section 6: "EXHIBIT A" ZONING MAP FOLLOWS

EXHIBIT A - ZONING MAP (attach map here)

Section 7. This local law shall be effective upon filing with the New York State Secretary of State.