

Chapter 250

ZONING

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**[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 8-20-1962.
Amendments noted where applicable.]**

ARTICLE I

General Provisions

§ 250-1. Enactment and authorization.

- A. Enactment ordaining clause. Pursuant to the authority conferred by Article 7, Building Zones, of the Village Law of the State of New York, and for each and every purpose specified therein, the Village Board of the Village of Youngstown, County of Niagara, and State of New York, has ordained and does hereby enact the following chapter, regulating and restricting by districts the height of buildings and other structures, the portion of lots that may be occupied, the size of yards and other open spaces, the density of population and location and use of buildings, structures and land for trade, industry, residence or other purposes. **[Amended 9-10-1998 by L.L. No. 2-1998]**
- B. Repeal. The Zoning Ordinance of the Village of Youngstown, New York which is embodied in Chapter VI of the Ordinances of the Village of Youngstown, New York is hereby repealed as of the effective date hereof. Such repeal shall not affect or impair any act done, offense committed or vested right accrued or acquired or liability, penalty or forfeiture or punishment incurred prior to the time such repeal takes effect.

§ 250-2. Title.

This chapter shall be known and may be cited as “Zoning Ordinance of the Village of Youngstown, New York,” and the same shall constitute Chapter 250 of the Code of the Village of Youngstown, New York.

§ 250-3. Purpose. [Amended 3-11-1976 by L.L. No. 1-1976]

The comprehensive zoning plan set forth in the text and maps which constitute this chapter are adopted in order to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of the general welfare. These general goals include, among others, the following specific purposes: to provide adequate light, air and convenience of access; to prevent undue concentration of population overcrowding of land; to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements and to assure preservation, utilization and maintenance of open space and to further assure environmental protection.

§ 250-4. Establishment of zoning by districts. [Amended 5-26-1969; 3-11-1976 by L.L. No. 1-1976; 10-19-1989 by L.L. No. 3-1989; 9-10-1998 by L.L. No. 2-1998]

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

A	Agricultural District
R-40	Single-Family Residence District
R-20	Single-Family Residence District
R-15	Single-Family Residence District
RCL-3	Cluster Residence District
R-11	Single-Family Residence District
R-8	Two-Family Residence District
R-8A	General Residence District
C	General Commercial District
PF	Public Facilities District
W	Waterfront District
WC	Waterfront Commercial District [Amended 8-17-2018 by L.L. No. 1-2018]
B	Bluff Overlay District
SCH	Senior Citizens Housing District [Added 2-10-2000 by L.L. No. 1-2000]

§ 250-5. Incorporation of Zoning District Map.

The location and boundaries of the aforesaid zoning districts are shown on a map entitled “Zoning District Map of the Village of Youngstown, New York” which, with all explanatory matter thereon, is hereby incorporated into this chapter and shall be as much a part of this chapter as if fully set forth and described herein. Said map shall be certified by the Village Clerk and shall be posted and filed according to law.¹

§ 250-6. Interpretation of district boundaries.

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

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, or are indicated as approximately parallel thereto, such center lines, street lines or highway right-of-way lines or lines parallel thereto shall be construed to be boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where no distances are indicated, dimensions shall be determined by the use of the scale shown on said Zoning Map.

¹ Editor’s Note: the current Zoning Map is on file in the Village Clerk’s office. In addition, a table of Zoning Map amendments is included at the end of this chapter.

§ 250-7. Application of regulations.

A. General application. Except as hereafter provided:

1. No building, other structure or land shall hereafter be used or occupied, and no building or other structure or parts thereof shall be erected, relocated, altered, extended or enlarged, unless in conformity with the use, height and area regulations specified herein for the district in which such building, other structure or land is located and in conformity with all other regulations of this chapter.
2. No lot area shall be reduced or diminished so that the yards or other open spaces thereon shall be less than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with area requirements herein established. If, at the time of adoption of this chapter or of any subsequent amendments increasing the area or open space requirements, the lot area or required open spaces are less than the minimum required by this chapter, such area or open space shall not be further reduced.
3. No yard or open space provided on one lot for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space required on any other lot.
4. Environmental protection. **[Added 4-24-1986 by L.L. No. 1-1986]**
 - a. No building or structure shall be erected, relocated, altered, extended or enlarged; or land used or occupied; or accessory uses permitted without conformance with and adherence to the environmental protection areas wherever they exist in the Village of Youngstown hereafter identified as:
 - (1) Flood-prone areas as delineated on the adopted Flood Insurance Rate Maps.
 - (2) Wetlands and wetlands boundaries as governed by the New York State Department of Environmental Conservation.²
 - (3) Any other areas as identified and in accordance with the State Environmental Quality Review Act (6 NYCRR Part 617).
 - b. Prior to the approval of any action or issuance of building permit for uses or structures in the above areas, an environmental assessment of impacts and any mitigations required shall be prepared in accordance with the State Environmental Quality Review Act (6 NYCRR Part 617). The Village Board of Trustees shall render a written determination and finding of all such actions requiring environmental

² Editor's Note: Former Subsection D3, dealing with the Environmental Protection Zone, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch.1, General Provisions, Art.1).

assessment pursuant to State Environmental law (Article 8 of the New York Environmental Conservation Law).

- B. Certain public uses excluded. The regulations of this chapter shall not be so construed as to limit or interfere with the use of land or buildings for public schools or for governmental purposes of the United States Government, the State of New York, the County of Niagara or the Village of Youngstown or with the construction, installation, operation and maintenance for public utility purposes of water or gas pipes, electric or communication lines, sewers or with highways. These exceptions shall not be interpreted to permit yards, garages or other buildings for service or storage by said public utilities unless specifically allowed in an appropriate district.

§ 250-8. Previously approved permits and variances.

- A. Building permits. Nothing contained in this chapter shall prevent the construction of a building or other structure for which a building permit has been lawfully issued and which is made nonconforming by this chapter or subsequent amendments hereto, provided that either:
 - 1. Construction of the foundation shall have commenced prior to the nonconforming date and construction thereafter is diligently prosecuted; or
 - 2. The Board of Appeals makes a finding that substantial financial obligations have been incurred prior to such nonconforming date.
- B. Special permits and variances. Special permits or variances granted prior to the effective date hereof and which are not permitted herein as of right in the district affected shall be subject to all the conditions and limitations placed thereon when granted and to the nonconforming use regulations herein.

§ 250-9. Conflict with other regulations.

In their interpretation and application, the provisions of this chapter shall be considered to be minimum requirements to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of the general welfare. Whenever any provision of this chapter is at variance or conflict with any other provision of the chapter or any other statute, local ordinance or regulation covering any of the same subject matter, the most restrictive provision, or the one imposing the highest standard, shall govern.

ARTICLE II

Definitions

§ 250-10. Rules of construction.

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

- A. Words used in the present tense include the future tense.
- B. Words used in the singular include the plural, and words used in the plural include the singular.
- C. The word "lot" includes the work "plot" or "parcel".
- D. The word "person" includes an individual, firm or corporation.
- E. The work "shall" is always mandatory.
- F. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- G. Any reference to an "R District" shall be interpreted to mean "R-8, R-8A, R-11, R-15, R-20, R-40 or RCL-3 Districts"³
- H. A "building" or "structure" includes any part thereof.
- I. "And" indicates that all connected items, conditions, provisions or events shall apply.
- J. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- K. "Either . . . or" indicates that the connected items, conditions, provisions or events may apply singly, but not in any combination.

§ 250-11. Definitions.

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

ACCESSORY USE OR BUILDING – A use or building customarily incidental and subordinate to the principal use or building and (except as otherwise provided) located on the same lot with such principal use or building.

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

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

BLUFF – See Article III, §250-24B. **[Added 10-19-1989 by L.L. No. 3-1989]**

BOATHOUSE – A structure built partly over water for the housing or storing of a maximum of two recreational boats, with accommodations for gear or general storage. **[Added 10-19-1989 by L.L. No. 3-1989]**

BOUTIQUES – A small retail establishment specializing in fashionable clothing and accessories or gifts. **[Added 10-19-1989 by L.L. No. 3-1989]**

BUILDING – A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property, but not a trailer.

BUILDING, COMPLETELY ENCLOSED – A building separated on all sides from the adjacent open area, or from other building or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows or normal entrances or exit doors.

BUILDING HEIGHT – The vertical distance measured from the average elevation of the proposed finished grade of the buildings to the highest point of the roof for flat roofs, to the deck line of mansard (a roof with a double pitch on all sides) roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. For the purpose of determining maximum permitted height, for principal buildings, such measurement shall be made from the average finished grade at the front setback. For the purpose of side yard or rear yard determination, such measurement shall be made from the average finished grade of the wall extending along such side yard or rear yard.

CONVENIENT FOOD STORES – A small retail establishment which sells a limited supply of food and drink items, contains a maximum of two checkout areas and does not provide grocery carts for customer use. **[Added 10-19-1989 by L.L. No. 3-1989]**

DEVELOPED LAND AREA – Land which is occupied by either structures, parking lots, outdoor storage areas, landscaped improvements, recreation areas or any combination thereof. **[Added 10-19-1989 by L.L. No.3-1989]**

DWELLING – A building, but not a building of mixed occupancy, used as the living quarters for one or more families.

A. SINGLE-FAMILY DWELLING – A building containing one dwelling unit and designed or used exclusively for occupancy by one family.

B. TWO-FAMILY DWELLING – A building containing two dwelling units and designed or used exclusively for occupancy by two families living independently of each other; or two one-family dwellings having a party wall in common.

C. MULTIFAMILY DWELLING – A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.

D. DWELLING GROUP – A group of two or more dwellings for occupancy by one family for cooking, living and sleeping purposes.

DWELLING UNIT – One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes.

ENLARGEMENT – An increase in floor area of an existing building or an increase in size of an existing structure or an increase in the area of land used for an existing open use.

EXTENSION – An increase in the amount of existing floor area used, for an existing use in an existing building.

FAMILY – One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this chapter as an accessory use.

GARAGE, PRIVATE – An accessory building or portion of a main building used for the storage of self-propelled vehicles, including commercial vehicles having a rated capacity of not more than $\frac{3}{4}$ ton, used by the occupants of the premises and which may include space for not more than one passenger vehicle used by others.

A. ATTACHED GARAGE – A garage which is structurally attached to a principal building and which may have livable floor area adjoining not more than one wall of such garage.

B. INTEGRAL GARAGE – A garage which is structurally attached to a principal building and which has livable floor area above or adjoining one or more walls of such garage.

GASOLINE SERVICE STATION – Any area of land, including structures thereon, that is used primarily for the sale of gasoline or other motor vehicle fuel; accessory uses may include the sale of oil, other lubricating substances or motor vehicle accessories, or facilities for lubricating, washing or for the incidental replacement of parts, or motor service to passenger automobiles or trucks not exceeding 1 1/2 tons' rated capacity but shall not include general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, or collision service, body repair, frame straightening, painting, undercoating, vehicle steam-cleaning or upholstery.

HOME OCCUPATION – Any use customarily conducted entirely within a dwelling and carried on only by the residents thereof and which is clearly incidental and secondary to the use of the dwelling for living purposes and does not change the character thereof, provided that:

A. Only customary home appliances are used.

- B. There is no exterior evidence of such home occupation other than permitted identification sign.
- C. No article is sold or offered for sale except such as may be produced by members of the family residing on the premises.
- D. Any use first permitted in the R-8A or C Districts shall not be interpreted as being a home occupation.

HOTEL – A building containing sleeping rooms in which lodging is provided primarily for transient guests for compensation and which may include public dining facilities.

JUNK BUSINESS – the maintenance of a place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, stored, baled, packed, disassembled, handled or abandoned; but not including pawnshops, antique shops, establishments for the sale, purchase or storage of used furniture, household equipment, clothing, used motor vehicles capable of being registered, or machinery to be reused for the purpose for which originally manufactured.

KENNEL – The keeping of more than two dogs that are more than six months old.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) – The local program to implement the New York State Coastal Management Program within the village as approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981. **[Added 10-19-1989 by L.L. No. 3-1989]**

LOT – A parcel of land occupied or capable of being occupied by a principal building or use, or a group of principal buildings or uses that are united by a common interest or customary accessory buildings or uses, and including such open spaces to be used in connection with such building or uses. A lot may or may not be a lot of record.

LOT, CORNER – A lot at the junction of and fronting on two or more intersecting streets.

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

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

LOT LINE, FRONT – Where a lot abuts upon only one street, the lot line along such street shall be the front lot line. Where a lot abuts upon more than one street, the assessment roll of the village of Youngstown shall determine the front lot line.

LOT LINE, REAR – Any lot line which is opposite and more or less parallel with the front lot line. In the case of a lot which comes to a point at the rear, the rear lot line shall be an imaginary line, 10 feet in length, entirely within the lot, parallel to and most distance from the front lot line.

LOT LINE, SIDE – Any lot line which is not a front lot line or a rear lot line.

LOT LINES – the property lines bounding the lot. Where any property line parallels a street and is not coincident with the street line, the street line shall be construed as the property line for the purpose of complying with the area and setback regulations of this chapter.

LOT, THROUGH – A lot in which the front lot line and rear lot lines abut a street.

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

MOTEL – A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing accessory off-street parking facilities. The term “motel” includes buildings designated as motor lodges, auto courts and similar appellations.

NONCONFORMING USE – any lawful building or structure or any lawful use of land, premises, building or structure which does not conform to the regulations of this chapter for the district in which such building, structure or use is located, either at the effective date of this chapter or as a result of subsequent amendments thereto.

NURSING OR CONVALESCENT HOME – Any building where persons are housed or lodged and furnished with meals and nursing care for hire.

MINOR STRUCTURE – Small structures, usually accessory to a principal use, which either have no foundations or are supported by posts. Said posts shall not exceed a fourteen-inch circumference, and the distance between the lowest ground elevation and supporting structure shall not exceed three feet. Examples of minor structures include decks, cabanas and patios. **[Added to 10-19-1989 by L.L. No. 3-1989]**

MIXED OCCUPANCY – Occupancy of a building in part as a dwelling and in part for some other use not accessory thereto.

PUBLIC GARAGE OR REPAIR GARAGE – Any garage other than a private garage or gasoline service station, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

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

RESERVOIR SPACE – A temporary storage space for a vehicle waiting for service or admission.

RESTAURANT – An establishment where food and beverages are prepared, served and intended to be consumed within the principal building or outside patio and where such food and

beverages are not primarily packaged for removal by the customer. **[Added 10-19-1989 by L.L. No. 3-1989]**

RESTAURANT, FAST-FOOD – An establishment where food and/or beverages are sold in a form ready for consumption and where, by design or packaging techniques, all or a significant portion of the consumption can or does take place outside the confines of the building, often in a motor vehicle on the site. **[Added 10-19-1989 by L.L. No. 3-1989]**

SENIOR CITIZEN HOUSING – A building or premises used as a multiple residence designed primarily to provide living and dining accommodations for persons over the age of 55. At least one occupant of each dwelling unit must meet this minimum age requirement, and no occupants may be less than 19 years of age. **[Added 2-10-2000 by L.L. No. 1-2000]**

SETBACK – The least horizontal distance from any existing or proposed building or structure to the nearest point in an indicated lot line or street line.

SHIPS SUPPLY – A small retail store specializing in accessory items for use on recreational watercraft. Such items might include life preservers, compasses, maps and similar materials. Replacement equipment for engine parts and the body of the watercraft are not sold in these establishments. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN – Any structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device or representation used as, or which is in the nature of, an announcement, direction, advertisement or other attention-directing device. A sign shall not include a similar structure or device located within a building, except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant or insignia of any nation or association of nations, or of any state, city or other political unit or of any political charitable, educational, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

SIGN, ADVERTISING OR BILLBOARD – An advertising sign or billboard is a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same zoning lot.

SIGN, FLASHING – A flashing sign is a moving or animated sign or any illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity of color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign.

SIGN, GROUND – Those signs which are affixed to the ground and not attached to a building. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN, ILLUMINATED – Any sign designed to give forth any artificial light or designed to reflect light from one or more sources, natural or artificial.

SIGN, PROJECTING – Sign which is affixed to any exterior wall of the structure extending in a perpendicular direction. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN, ROOF – A sign which is erected, constructed or maintained on, partly above or as part of the roof of any building. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN, WALL – A sign which is affixed to an exterior wall of a structure. **[Added 10-19-1989 by L.L. No. 3-1989]**

STORY – that portion of a building between the surface of any finished floor and the surface of the finished floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it. The following shall not be deemed a story: **[Amended 10-19-1989 by L.L. No. 3-1989]**

- A. A basement or cellar if the finished floor level directly above is not more than six feet above the average adjoining elevation of finished grade.
- B. Any attic or similar space under a gable or roof in which the exterior roofline is not more than four feet above the floor of such space.

STREET – Any road, avenue, lane or alley or other way which is an existing public way, or which is shown on an approved plot, or any private right-of-way or easement approved by the Village Board.

STREET LINE – a line separating a lot from a street. In any case where a future street line has been established or approved by the Village Board, such future street line shall be considered as a street line for the purposes of determining lot area and setback requirements.

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

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

TRAILER OR MOBILE HOME – A vehicle used for living or sleeping purposes and standing on wheels or on rigid supports.

USE – The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

VILLAGE BOARD – The Board of Trustees of the Village of Youngstown.

VILLAGE INN – A building which retains the scale and character of existing commercial structures along Main Street and which has sleeping rooms offered for overnight guests for compensation. Other rooms typically found in residential homes, such as living rooms and kitchens, are often included within the inn for shared use by inn guests. Restaurant facilities may,

or may not be incorporated into the building. A village inn is not to be construed as a motel. The latter is described elsewhere in this chapter. [Added 10-19-1989 by L.L. No. 3-1989]

YARD – That portion of a lot extending open and unobstructed from the ground upward along a lot line.

YARD, FRONT – A yard extending the full length of the front lot line between the side lot lines. The front yard depth of a lot located on a curve shall be measured from the chord connecting the arc of the front lot line or from the tangent of said arc, whichever measurement results in the lesser depth.

YARD, FRONT EQUIVALENT – That portion of a rear yard of a through lot extending along a street line and from the street line for a depth equal to a required front yard. Any front yard equivalent shall be subject to the regulations of this chapter which apply to front yards.

YARD, REAR – On an interior lot, a yard extending for the full length of the rear lot line between the side lot lines. On a corner lot, a yard extending along a rear lot line between an interior side lot line and an exterior side yard.

YARD, REQUIRED – A yard having a depth or width set forth in the applicable district regulations. Such width or depth shall be measured perpendicular to lot lines.

YARD, SIDE – A yard extending along a side lot line from the required front yard to the required rear yard, except that, on a corner lot where the side lot line abuts a street, the side yard shall extend from the required front yard to the rear lot line.

A. **EXTERIOR SIDE YARD** – A side yard extending along a street line.

B. **INTERIOR SIDE YARD** – A side yard extending along a lot line of an adjoining lot.

ARTICLE III

Zoning District Regulations

§ 250-12 Permitted uses in all districts.

The following uses shall be permitted in all districts:

- A. The renting of rooms for lodging and serving of breakfast to casual and transient roomers shall be permitted in all zoning districts of the village, provided that the renting of these rooms is clearly incidental and secondary to the principal use of the dwelling and that the: **[Amended 4-28-1983 by L.L. No. 1-1983]**
 1. Dwelling shall be owner / agent occupied
 2. Dwelling may display a uniform sign not exceeding a size of two feet by two feet and limited to an inscription of “bed-and-breakfast” only.

§ 250-13. Permitted uses in the R-11, R-15, R-20 and R-40 districts. [Amended 3-11-1976 by L.L. No. 1-1976]

Permitted uses in the R-11, R-15, R-20 and R-40 Districts shall be as follows:

- A. Principal uses.
 1. Single-family dwelling.
 2. Church or similar place of worship, parish house, convent, rectory or parsonage.
 3. Private, nonprofit, elementary or secondary school accredited by the New York State Department of Education.
 4. Fire station, without club facilities.
 5. Cemeteries by special permit authorized by the Village Board.
 6. All principal uses permitted as provided in agricultural districts, with the exception of farming, but subject to the schedule of regulations as set forth in § 250-27 of this chapter, as amended.
- B. Accessory uses.
 1. Quarters for servants employed upon the premises.

2. An office or studio of a resident: medical or osteopathic physician, dentist, physiotherapist, chiropractist, podiatrist, chiropractor, lawyer, engineer, architect, accountant, insurance agent, real estate agent, artist, musician, teacher, optometrist or ophthalmologist, financial planner/financial analyst, provided that:
 - a. Such use shall be located within a dwelling and shall be clearly incidental to the primary residential use.
 - b. Not more than four additional persons shall be employed on said premises as assistants to the person conducting such accessory use. **[Amended 4-22-1993 by L.L. No.2-1993; 7-15-1993 by L.L. No. 4-1993]**
 - c. Such use shall not include the confinement of any person under care or treatment.
 - d. Anything in this chapter to the contrary notwithstanding, if approved by the Board of Trustees as a special exemption after a public hearing as prescribed by law, the premises may be used by any professional described in Subsection B(2) above for the conduct of his or her practice irrespective of whether said professional resides or has resided in said premises. Such special exemption shall be granted only to individual practitioners and shall specify that only one practitioner at a time shall utilize the premises, otherwise the special exemption shall become null and void. **[Amended 4-22-1993 by L.L. No. 2-1993; 7-15-1993 by L.L. No. 4-1993; 1-24-2002 by L.L. No. 2-2002]**
3. Building for private horticultural purposes, provided that no solid fuel is used and that such building shall be located at least 20 feet from any lot line and shall not exceed 15 feet in height.
4. Off-street parking, including the parking of not more than one commercial vehicle, provided that the vehicle is used by the occupant of the premises and does not exceed a two-ton rated capacity.
5. Signs shall be permitted as follows:
 - a. Identification sign. One non-illuminated sign not exceeding two square feet in area and indicating only the name and address of the occupant or a permitted occupation. Such sign may be attached to a building or may be on a separate support not more than four feet in height and shall be at least five feet from any property line or street line.
 - b. Real estate signs.
 - (1) One non-illuminated sign not exceeding six square feet in area and advertising only the prospective sale or rental of the premises on which such sign is located. Such sign shall not be placed within 10 feet of any property line.

- (2) One non-illuminated sign not exceeding 50 square feet in area in connection with the development or subdivision of real property. Such sign shall be permitted for a period of not to exceed one year and shall not be placed within 25 feet of any lot line or street line.
- c. Institutional signs. One non-illuminated bulletin board or identification sign not exceeding 16 square feet in area. Such sign shall not be placed within 10 feet of any property line or street.
- d. Public signs. Any signs placed by any governmental agency for a public purpose.
- 6. Private family swimming pool subject to the issuance of a building permit, provided that it meets the fencing and location requirements of Chapter 202, Swimming Pools, of the Code of the Village of Youngstown. **[Amended 11-18-1963; 9-10-1998 by L.L. No.2-1998]**
- 7. Home occupations as defined in article II.
- 8. Storage of utility trailers or boats owned by the occupant of the premises for his or her personal use.
- 9. Other customary accessory uses, but not including any use conducted for gain or an access drive or walk to a business premises.
- 10. Private docks in the R-15 and R-40 Districts pursuant to a special permit issued by the Board of Appeals in accordance with the provision of Article VII, § 250-41B(2) of this chapter. **[Added 4-24-1986 by L.L. No. 1-1986]**

§ 250-14. Permitted uses in RCL-3 Districts. [Added 3-11-1976 by L.L. No. 1-1976⁴]

Permitted uses in the RCL-3 Districts shall be as follows:

A. Principal uses.

- 1. Cluster housing projects consisting of single-family detached, townhouses and garden apartments, as follows: maximum of three units per gross acre in the RCL-3 District.
- 2. All principal uses permitted in and as regulated in the R-40, R-20, R-15 and R-11 Districts, with the exception of single-family dwellings.

B. Accessory uses: all accessory uses permitted and as regulated in the R-40, R-20, R-15 and R-11 Districts.

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

§ 250-15. Permitted uses in R-8 Districts.

Permitted uses in the R-8 Districts shall be as follows:

A. Principal uses.

1. Two-Family dwellings.
2. All principal uses permitted and as regulated in the R-20 Districts.

B. Accessory uses.

1. All accessory uses permitted and as regulated in the R-20 Districts.
2. Customary accessory uses, but not including any use conducted for gain or an access drive or walk to a business premises.

§ 250-16. Permitted uses in R-8A Districts. [Amended 5-26-1969]

Permitted uses in the R-8A Districts shall be as follows:

A. Principal uses.

1. Multi-family dwellings.
2. All principal uses permitted and as regulated in the R-8 Districts.

B. Accessory uses: all accessory uses permitted and as regulated in the R-8 Districts.⁵

§ 250-17. Permitted uses in R-8A Districts adjacent and contiguous to C Districts. [Added 8-3-1972]

Permitted uses in the R-8A Districts which are adjacent and contiguous to C Districts shall be as follows:

A. Principal uses.

1. Multifamily dwellings.
2. All principal uses as permitted and as regulated in R-8 and R-8A Districts.⁶

⁵ Editor's Note: Former Subsection B, dealing with customary accessory uses, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art I).

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

3. Office or studio of a medical or osteopathic physician, dentist, physiotherapist, chiropodist, podiatrist, chiropractor, lawyer, engineer, architect, accountant, insurance agent, real estate agent, artist, musician, teacher, optometrist or ophthalmologist; provided, however, that such uses shall only be permitted in existing dwellings in such district, and said dwellings shall not be materially altered or changed in appearance, and in addition no such use shall include the confinement of any person under care or treatment.

B. Accessory uses: all accessory uses permitted and as regulated in R-8 and R-8A Districts not adjacent or contiguous to C Districts.

§ 250-18. Permitted uses in the C District.

Permitted uses in the C District shall be as follows:

A. Principal uses. [Amended 5-26-1969; 5-31-1979 by L.L. No. 1-1979; 4-24-1986 by L.L. No. 1-1986]

1. Business establishments which are clearly of a community service character, such as but not limited to the following:
 - a. Stores selling groceries, meats, baked goods and other such food items.
 - b. Drugstores.
 - c. Stationery, tobacco and newspaper stores, luncheonettes and confectionery stores.
 - d. Hardware, radio and television stores.
 - e. Clothing, accessory and jewelry stores.
2. Personal service establishments which are clearly of a community character, such as but not limited to the following:
 - a. Barber and beauty shops.
 - b. Professional and craft studios.
 - c. Tailor shops.
 - d. Business, administrative and professional offices, banks, insurance, real estate and financial intuitions.
 - e. Establishments servicing goods, such as those permitted in this district.

- f. Public utility offices, telephone exchange.
- 3. Shops for custom work or making articles or products to be sold at retail on the premises (maximum 20% of gross floor area).
- 4. Boat or marine sales, service or storage.
- 5. Electrical transformer stations.
- 6. When conducted in an entirely enclosed building, the following:
 - a. Amusement enterprises.
 - b. Laundromat or dry-cleaning pickup station.
 - c. Eating or drinking establishments, provided that no sale of alcoholic beverages for consumption on the premises shall be permitted on any lot where a side lot line abuts a lot in R District.
- 7. Drive-in banks, provided that at least five reservoir spaces are provided on the lot for each teller's window. Such spaces shall be exclusive of required parking spaces.
- 8. Vehicle repair stations, provided that:⁷ **[Amended 8-17-2018 with L.L. No. 1-2018]**
 - a. All servicing or repairing of vehicles shall be conducted within a completely enclosed building, except fueling, adding motor lubricants, water or antifreeze or making minor emergency repairs.
 - b. There shall be no outdoor display of merchandise, except for a supply of motor lubricants at the pumps. All storage of merchandise and equipment except gas pumps or air lines, shall be in the principal building.
 - c. No outside storage of disabled vehicles shall be permitted for more than 36 hours.
- 9. Drive-in eating or drinking establishments, but not on a lot where a side lot line abuts a lot in an R District.
- 10. Tourist home.
- 11. Art, dance, music or photographic studio.
- 12. Optician or optometrist.
- 13. Fire station with club facilities.

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

14. Private club or lodge.
15. The following uses, provided that they are not used primarily for mental patients, drug or alcohol addicts or for penal or correction purposes:
 - a. Medical building consisting of offices or clinics for medical doctors, dentists, chiropractors, chiropodists or podiatrists.
 - b. Nonprofit institutions for charitable, religious, cultural or community social purposes.
16. Fast-food restaurant, but not on a lot where a side lot abuts a lot in a R District. **[Added 10-19-1989 by L.L. No. 3-1989]**

B. Limitations on vehicle service stations and public garages. The following regulations shall apply to vehicle service stations and public garages: **[Amended 8-17-2018 with L.L. No. 1-2018]**

1. No part of any building so used and no filling pump, lift or other service appliance shall be erected within 25 feet of a lot in an R District.
2. No gasoline or oil pump, no oiling or greasing mechanism or service appliance shall be installed within 20 feet of any street line.
3. Two reservoir spaces for each gasoline pump shall be provided on the lot for waiting vehicles. Such reservoir space shall not include space at the pump or required parking space.
4. The storage of fuels shall comply with all State and Federal guidelines and regulations. **[Amended 8-17-2018 with L.L. No. 1-2018]**
5. There shall be no use of the lot except for landscaping or screening within 20 feet of a lot in an R District.

C. Accessory uses.

1. Off-street parking; off-street loading or unloading.⁸
2. Non-flashing signs, which direct attention to a profession, business, service, entertainment or commodity conducted, offered, sold or manufactured upon the same lot, including real estate signs, subject to the following restrictions:
 - a. Location.

⁸ Editor's Note: Former Subsection A, regarding used motor vehicle sales, which immediately preceded this subsection, was deleted 4-24-1986 by L.L. No. 1-1986.

- (1) Illuminated signs, except for gasoline brand name signs, shall be attached to the building. Illuminated gasoline brand name signs shall not be located in the corner visibility area defined in § 250-30A.
 - (2) No sign shall project across a street line.
 - (3) No sign shall be located in a required interior side yard or within 10 feet of a lot in an R District.
 - (4) Signs attached to a building shall be attached to a wall.
- b. Size.
- (1) No illuminated sign attached to a wall facing an interior side yard or rear yard along a lot in an R District shall have a surface area in square feet larger than its distance in linear feet from such lot.
 - (2) No sign within 100 feet of an R District boundary shall have a surface area in square feet larger than its distance in linear feet from such boundary, unless such sign is perpendicular to such boundary or is attached to a wall pierced by a primary business entrance of the use to which such sign is accessory.
- c. Height.
- (1) Any sign attached to a building wall shall not extend above such wall.
 - (2) Any sign not attached to a building wall shall not extend more than 25 feet above the adjoining ground level.
- d. One non-flashing sign which identifies a group of stores as a shopping center or plaza shall be permitted when the location, size, height and type of illumination, if any, of such sign is approved by the Village Board.
3. Residential use if in conjunction with and incidental to any of the permitted principal uses. **[Added 4-24-186 by L.L. No.1-1986]**
 4. Shops for the manufacture or processing of articles incidental to the conduct of a retail business lawfully conducted on the premises, provided that:
 - a. All such articles manufactured or processed are sold at retail on the premises.
 - b. Not more than four persons are engaged in such manufacturing or processing at any one time and in any one establishment.
 - c. Such activity shall not produce offensive odors, noise, vibrations, heat, glare or dust.

5. All accessory uses permitted and as regulated in the R-8A Districts which are not otherwise enumerated in this Subsection C.⁹
6. Club swimming pool subject to regulations for private swimming pools. [See § 250-13B(6).] [Added 5-26-1969]

§ 250-19 Permitted uses in the A District [Removed 8-17-2018 with L.L. No. 1-2018]

§ 250-20 Permitted uses in the PF District. [Added 3-11-1976 by L.L. No. 1-1976] ¹⁰

Permitted used in the PF District shall be as follows:

A. Principal uses.

1. Parks and other facilities municipally owned or operated by the Village.

§ 250-20.1. Senior Citizens Housing District. [Added 2-10-2000 by L.L. No. 1-2000]

- A. Purpose. The purpose of a senior citizens zoning district is to provide specialized living quarters for elderly and retired citizens who wish to live independently, but who prefer the advantages to be found in living in apartments designed specifically for community living of elderly citizens who do not require specialized continuing medical care.
- B. Senior Citizens Housing (SCH) Districts. SCH Districts are zoning districts created for use by senior citizen housing units. These are unmapped districts which are created by the Village of Youngstown Board of Trustees. Each planned district is created in an area which has preexisting zoning. The newly created Senior Citizens Housing District is drawn on the Official Zoning map only after it has been created by the Village Board.
 1. Permitted uses. For land which is zoned SCH, the following uses are permitted by right:
 - a. Senior citizens dwelling apartments for the express habitation by elderly persons.
 - b. Essential services. These are services necessary for the preservation of the public health, safety and convenience, including the erection, construction, alteration or maintenance of public utility systems. This provision excludes building, substations, pole yards and other open area used for the storage of utility facilities, except that fire, ambulance and police stations are included.

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

¹⁰ Editor's Note: Section 250-19 Permitted Uses in A District was deleted 8-17-2018 as per L.L. No. 1-2018.

- c. Customary accessory uses. Accessory uses or structures which are clearly subordinate to the principal use of a building located on the same lot and which serve a purpose customarily incidental to the use of the principal building shall be permitted in each district. Such uses include swimming pools, common dining areas, storage facilities, home gardening, service quarters to be occupied only by service employees on the premises, home occupations, off-street parking and loading areas, temporary tract offices and other uses customarily appurtenant to a permitted use.
 2. Notwithstanding any other provision in this Code for land which is zoned SCH, no other uses are permitted.
 3. The process necessary to create a Senior Citizens Housing District shall be as follows:
 - a. Rezoning is required. Before any land may be used for the permitted uses in this district, it first must be rezoned to Senior Citizens Housing District (SCH).
 - b. The following information is required:
 - (1) Proof of ownership of the land proposed for rezoning
 - (2) A description of the property, including a metes and bounds description of the parcel and a map to scale showing topographical features prepared by a licensed engineer or surveyor in accordance with the design and construction standards of the Village of Youngstown.
 - (3) A letter of intent which states the land's present use and its proposed use as a Senior Citizens Housing District.
 - (4) A map sketch which shows the existing and eventual plans for the property.
 - (5) A completed long form of the environmental assessment form. (EAF).
 - (6) Two copies of a petition to rezone the land. The original petition is to be submitted to the Village Clerk and a copy given to the Village Mayor.
 - c. The procedure for rezoning to be used shall be that set forth in article 7, §7-706, of the New York State Village Law.
 4. Requirements for a Senior Citizens Housing District shall be as follows:
 - a. Lot area. In said district, no building shall be erected or altered on a lot or contiguous lots having an area of less than one acre.
 - b. Public services.
 - (1) The following public services are required.

- (a) Public sewer.
 - (b) Public water supply for consumption and fire protection.
 - (c) Storm water drainage facilities approved by the Engineer for the village.
 - (d) A fire alarm system in each unit with an alarm interconnection to the entire structure and an appropriate county public safety answering point, such as the Niagara County sheriff's Department.
 - (e) Cable television service.
 - (f) Telephone service.
- (2) All utilities must be placed underground.
- c. Design standards. Design standards shall be as follows:
- (1) Density. There shall be no more than 50 dwelling units per acres. The minimum open space required is 40% of the total land area.
 - (2) Height restrictions. No building shall be greater than 2-1/2 stories high and in no event greater than 35 feet in height.
 - (3) Exterior design and architectural design shall provide that no exterior building wall shall be more than 125 feet long without a minimum six-foot offset.
 - (4) A minimum of 20 square feet of public assembly area is required per apartment.
 - (5) Apartment sizes and amenities. These matters shall conform to all applicable federal or New York State standards for housing for the well-elderly as may be established from time to time.
 - (6) The Planning Board may modify or waive the design standards for state-or federally funded projects.
 - (7) All exterior and architectural design plans must be approved by the Planning Board.
- d. Landscaping. Landscaping shall be approved by the Planning Board. Lot areas which are not required for buildings, structures or parking shall be landscaped with grass, decorative trees or shrubs. A plan which shows the location and species of plant material shall be provided.

- e. Access drives and parking space. Setback area may be used for access drives and parking areas except for the following conditions:
 - (1) Parking or garage facilities adequate to accommodate one automobile for each apartment shall be provided on the premises; in addition, at least 10% of said parking shall be designated as guest parking.
 - (2) All parking facilities provided pursuant to the requirements of this article shall be paved or surfaced in accordance with sound engineering and construction practices, and each parking space shall be not less than nine feet in width by 20 feet in depth and shall be individually identified by pavement markings.
 - (3) No access drive or parking space shall be closer than 10 feet from any lot line. This ten –foot strip shall contain decorative fencing or trees and shrubbery adequate to visually screen parking from adjacent properties.
- f. Outdoor storage. Any outdoor storage of garbage and rubbish shall be in containers which are enclosed in such a way to be concealed from public view and inaccessible to children, dogs and vermin. Said appropriate enclosures shall include screens, fences, stockade fences, walls, etc.
- g. Buffers.
 - (1) A ten-foot-wide landscaped area shall be provided along all property lines, excluding points of ingress and egress and property lines adjacent to existing commercial uses. This landscaped area shall be densely planted with a mixture of shrubs and trees. All of this shall be no less than six feet high, to create an opaque screen.
 - (2) All landscaped areas along property lines which are crossed by access drives may be planted with low shrubs no greater than three feet high and with a branching habit no less than eight feet wide; further, no planting shall cause a hazardous condition by interfering with the normal line of sight (350 feet in either direction) needed for safe entering and exiting maneuvers by motor vehicles.
 - (3) Landscaped areas shall be designed to be easily maintained and protected by at least six-inch non-mountable concrete or granite curbing.
- h. Site plan review. Once land is rezoned, the site plan must be approved by the Planning Board and Village Board pursuant to this chapter. In addition, the Village Board shall have the right to waive or modify the above requirement for any unique site.

C. Miscellaneous regulations.

1. In any project whereby offering plans for senior citizen multiple residence housing are required to be filed with the New York State Attorney General, the same must be filed with the Village Clerk not less than 96 hours prior to the time when such offering plan shall be filed with the New York State Attorney General.
2. Lighting. For all projects within this district, all parking areas, entries, corridors, passages, utility areas and front landscaping must be provided with adequate lighting for safety purposes. Lights shall be adjusted so as not to shine onto adjacent properties. Lights must be controlled by a time clock or positive photo cell switching so as to ensure adequate lighting during all dark hours.
3. Continued compliance. For all projects within this district, any owner of a building or premises used or erected as a Senior Citizens Housing District designated primarily to provide living and dining accommodations for persons over the age of 55 shall file with the Village Court a signed, sworn affidavit, on or before the 1st of January of every year, stating that all senior citizen multiple resident housing age requirements mandated by law or by regulations of the village, county, state or federal government, or any agencies thereof, are being and will continue to be complied with.
4. Laundry facilities. In any project within this district, a designated utility area shall be provided for laundry purposes. At least one washer and one dryer for every 10 units must be provided.
5. Indoor storage. In a project within this district, the developer shall endeavor to provide appropriate indoor storage space for each unit.

§ 250-21. Waterfront District. [Added 10-19-1989 by L.L. No. 3-1989; Amended 1-24-1991 by L.L. No. 1-1991, Amended 8-17-2018 by L.L. No. 1-2018]

- A. Purpose. The Niagara River shoreline has always played an important role in shaping the image of the village and its economic as well as recreational base. This is especially true in the Water Street area where boating activities and water based recreation uses are concentrated. Due to the limited land area available for uses which are dependent on a waterfront location, it is important to designate the Waterfront District for such uses. In addition, site plan review procedures have been designed to ensure that the specific details of waterfront development are thoroughly considered; that the environmental quality of the area is preserved; and that development is consistent with the village's Local Waterfront Revitalization Program (LWRP).
- B. Permitted uses in the W District.
 1. Boat launches, lifts and bulkheads.
 2. Flood and erosion protection structures.

3. Public recreation.
 4. Fishing docks.
 5. Marine service, repair and rental facilities.
 6. Private boathouses.
 7. Yacht clubs.
 8. Marinas.
 9. Boat storage buildings.
 10. Accessory facilities to permitted uses, including but not limited to restaurants, parking areas for five or fewer cars, outdoor rest rooms, pools and snack bars.
- C. Site plan. An approved site plan as described in § 250-38 of this chapter shall be required for any new use, addition or exterior alteration to those uses listed in Subsection B of this section which meet or exceed one or more of the following thresholds:
1. The activity requires at least five parking spaces or loading docks or any combination thereof which totals five spaces or docks.
 2. The activity increases the gross floor area, developed land areas or any combination thereof by 25% or more.
 3. The activity has a monetary value that is 10% more than the full value assessment of the property being improved.
- D. Uses existing within the Waterfront District on the date of establishment of said district.
1. Uses which fall within the use categories listed in Subsection B of this section and which existed on the date of establishment of the Waterfront District do not require an approved site plan to continue.
 2. Uses existing on the date of establishment of the Waterfront District which do not fall within the use categories listed in Subsection B of this section shall be nonconforming and subject to provisions of Article V of this chapter.
- E. Design standards for Waterfront Districts.
1. The height of buildings shall not exceed three stories.
 2. Off-street parking shall be provided as required in Article IV of this chapter and as regulated in Subsection B of this section.

3. Billboards, ground signs, roof signs and projecting signs are prohibited.
4. All signs shall be integrated with the structure and its style, design and architectural elements.
5. Neon signs and any other signs displaying flashing or visible moving elements are prohibited.
6. One wall sign shall be permitted on each wall for each nonresidential use in a structure.
7. Wall signs shall not project more than twelve inches from the wall to which they are affixed.
8. Wall signs shall not extend above or beyond the wall in any direction and shall not extend above the bottom of the sill of second-story windows or 15 feet above grade level.
9. Allowable total square footage of all sign areas per structure shall not exceed 50% of the street frontage of the particular use to which said sign is affixed.
10. While recognizing the small nature of the lots in the waterfront District, new development, additions or exterior alterations to existing development shall make efforts to incorporate landscaping into any improvements. This shall include buffering, parking areas, outdoor storage sites and loading/unloading areas from public view.
11. New development is encouraged to be consistent with the maritime theme of the area, recognize the vehicle/parking limitations of the district by not overburdening Water Street with new traffic and/or creation of excessive parking areas and shall respect the scenic nature of the district by not blocking views seen from Constitution Park bluff and Waterfront Park or introduction of distracting building elements, such as garish signs or use of color schemes that are clearly out of character with the area. **[Amended 8-17-2018 by L.L. No. 1-2018]**
12. Lighting shall be restrained in design and excessive brightness avoided.
13. Newly installed utility services and service revisions necessitated by exterior alterations or additions shall be underground.
14. Construction of erosion protection structures shall incorporate the following standards:
 - a. All erosion protection structures shall be designed and constructed according to generally accepted engineering principles, which have demonstrated success or a likelihood of success in controlling long-term erosion. The protective measure must have a reasonable probability of controlling erosion on the immediate site for at least 30 years. Nonstructural methods of erosion control shall, however, be given primary consideration.

- b. All material used in such structures shall be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions.
- c. The construction, modification or restoration of erosion protection structures shall not be likely to cause any measurable increase in erosion at the development site or other locations and prevent adverse effects to natural protective features and existing erosion protection structures.

15. All other design requirements shall be determined during the site plan review process.

§ 250-22. Waterfront Commercial District. [Added 10-19-1989 by L.L. No. 3-1989; amended 1-24-1991 by L.L. No. 1-1991, Amended 8-17-2018 by L.L. No. 1-2018]

A. Purpose. The existence of a significant natural feature, such as the bluff along the Niagara River, provides tremendous opportunities for public enjoyment of the harbor vista. The economic well-being of the commercial corridor along Main Street is also linked to the protection of the vistas and bluff area. Those commercial uses which can maximize their location on the bluff by creating scenic vistas as part of the site design will increase retail activity along Main Street. This will have a spillover economic impact onto the establishments on the east side of the street as well. Due to the proximity of the Main Street corridor to the boating activity at the river and adjacent state parks, it is a natural draw for tourists, boaters, fishermen and other recreational enthusiasts. It is important that good site planning occur on Main Street to create an attractive shopping environment. This is given further importance due to the many older structures present along Main Street which lend a historic flavor to the area. Main Street also serves as a gateway to Fort Niagara State Park and therefore requires sensitive treatment to ensure that a welcome environment is conveyed to park visitors wishing to stop in the village to eat or shop. It is also important to give priority to commercial uses which can utilize a bluff location to increase sales and pedestrian traffic along Main Street.

B. Permitted uses in the WC District: **[Amended 8-17-2018 by L.L. No. 1-2018]**

- 1. Restaurants.
- 2. Ship supply.
- 3. Boutiques.
- 4. Craft / Art studios.
- 5. Professional offices; provided, however, that any professional office located on the first floor of any structure in the district must also comply with the additional requirements of Subsection G of this section. **[Amended 9-27-2001 by Ord. No. 1-2001]**

Residential use will be permitted provided that 40% of the ground floor is dedicated to commercial use and the commercial use must be adjacent to the street(s) side of the building. Permitted uses that are residential in nature are excluded from the 40% street side use of the ground floor. **[Amended 8-17-2019 by L.L. No. 1-2018]**

Note: In keeping with the intended purpose of the district to provide a “shopping environment” businesses that are residential in nature such as, but not limited to, inns, bed and breakfast or other types of lodging businesses are not to be considered as commercial for ground floor use within the district.

6. Village Inns.
 7. Parking as may be required under this chapter or any other village ordinance or local law.
 8. Park land.
 9. Antique shops.
 10. Accessory uses which are incidental to the above uses.
 11. Drugstores
 12. Convenience food stores and Grocery stores
 13. Accessory uses to drugstores and convenience food and grocery stores.
 14. Bait / tackle shops
- C. Site plan review. An approved site plan, as described in § 250-38 of this chapter, shall be required for any new development, additions or exterior alterations to those uses listed in Subsection B which exceed one or more of the thresholds listed in § 250-21C.
- D. Uses existing within the Waterfront Commercial District on the date of the local law establishing said district:¹¹
1. Uses which fall within the use categories listed in Subsection B do not require an approved site plan to continue.
 2. Uses existing on the date of the local law establishing the Waterfront Commercial District which do not fall within the categories listed in Subsection B shall be nonconforming and subject to provisions of Article V of this chapter.
- E. Design standards for Waterfront Commercial District.

¹¹ Editor’s Note: Local Law No. 3-1989, adopted 10-19-1989, established by the Waterfront Commercial 1 District. **[Amended 8-17-2018 by L.L. No. 1-2018]**

1. See design standards for Waterfront District, § 250-21E.
2. Façade improvements shall be consistent with the generally brick, wood frame, stonework and clapboard siding features characteristic of the area.
3. The gross floor area for restaurants, convenient food stores, boutiques, antique shops and professional and craft studios shall not exceed 4,000 square feet. **[Amended 1-24-1991 by L.L. No. 1-1991]**
4. The massing and bulk of any new construction should be in harmony with adjacent buildings. The relationship of width to height of new structures shall be consistent with the ratio of the adjacent structures.
5. Color choice of new construction should be influenced by the surrounding development. The color of the new structure should not make it stand out.
6. Where building sites limit planting, the placement of trees in parking lots or other paved areas is encouraged.

F. Harborfront vista incentives. **[Amended 8-17-2018 by L.L. No. 1-2018]**

1. In the Waterfront Commercial District on the west side of Main Street, the Board of Trustees may permit an additional story to the permitted building height, or the maximum gross floor area for commercial uses may be increased up to a maximum of 5,000 square feet if the site plan or existing use currently includes one or more of the following:
 - a. Construction of an outdoor eating area overlooking the harbor which is open to the general public and provides a minimum eating capacity for 15 individuals.
 - b. Interior floor plan for commercial uses or restaurants designed in a manner which maximizes the harbor vista through large, picture windows that cover a minimum of 60% of the building wall facing the harbor.
 - c. Construction of an outdoor retail area overlooking the harbor.
 - d. Construction of a small public viewing area on the lot which provides good vistas of the harbor and which is open to the general public. Such area must be a minimum of 200 square feet.

G. Anything in this chapter to the contrary notwithstanding in the WC District, upon formal submission of specific floor plans approved by the Board of Trustees after a public hearing as prescribed by law may be granted a special exemption by the Board of Trustees for use of a portion of the first floor of the premises for professional services, provided that: **[Added 9-27-2001 by L.L. No. 1-2001]**

1. The professional service is incidental to the primary use of the above-referenced districts; and
2. The activity does not preclude the use of the Main Street side of buildings between Hinman and Lockport Streets for commercial purposes; and
3. Said special exemption shall be granted to an individual practitioner only and shall specify that only one practitioner shall use the premises and shall not have more than four persons employed by him or her, otherwise the same shall become null and void.

§ 250-23 Waterfront Commercial 2 District. [Removed 8-17-2018 with L.L. No. 1-2018]

§ 250-24. Waterfront Bluff Overlay District. [Added 10-19-1989 by L.L. No. 3-1989; amended 1-24-1991 by L.L. No. 1-1991] ¹²

- A. Purpose. The most prominent natural feature within the village is the steep bluff along the Niagara River shoreline. It provides numerous scenic vistas overlooking the harbor as well as Ontario, Canada and thus has significant value to village residents residing, doing business or recreating along the bluff area. The steep slope also provides erosion protection for property located atop the bluff. Such areas are prone to erosion which can be caused by the action of currents running along the shore, waves and wind-driven water and ice, as well as runoff of rainwater, groundwater seepage and construction activities. The bluff protects shore land and waterfront development by absorbing the often destructive energy of open water. Preservation of the bluff is also important to protect the public safety and property interests along the west side of Main Street and Water Street. Construction on the bluff can cause soil slippage, thereby endangering existing structures and the health and welfare of pedestrians along the bluff's base.
- B. Map. The location and boundaries of the Waterfront Bluff Overlay District shall be delineated on an official Zoning Map on file in the Village Clerk's office. The bluff extends west of Main Street beginning at the south corporate limit with the Town of Porter and extends north to the north boundary of the R-15 Zoning District west of Main Street. This is just south of the village apartments. The water ward limit of a bluff is its intersection with a land area having a slope of 6% or less. Where no such land area exists, the water ward limit is mean high water. The landward limit of the bluff is 10 feet east of the bluff's receding edge with the exception of the portion of the bluff between the north and south intersection of Water Street and Main Street. In said district, the landward limit shall be the bluff's receding edge. Where the Waterfront Bluff Overlay District overlays any primary zoning district delineated on the Official zoning Map of the Village of Youngstown, the requirements of the overlay district shall be met in addition to any requirements specified for development in the respective primary zoning district.

¹² § 250-23. Waterfront Commercial 2 District [Deleted 8-17-2018 by L.L. No. 1-2018]

C. Allowed activities. Allowed activities in the Waterfront Bluff Overlay District are those listed within the primary zoning district which the B District overlays.

D. Design standards for activities within the Waterfront Bluff Overlay District.

1. Activities shall retain natural vegetation and trees to the maximum extent practicable in order to create the least erosion potential and handle adequately the volume and rate of velocity of surface runoff and to screen the bluff face and provide a natural appearance to the Village's shorefront.
2. Disturbed soils shall be stabilized and revegetated or seeded as practicable following construction.
3. In no case shall stormwater be diverted to another property either during site preparation or after development.
4. Trails and walking paths shall be sited and constructed so they are not a source of sediment.
5. Erosion protection structures shall be constructed to minimize downstream impacts and shall not increase off-site flooding or erosion.
6. Activities shall be sited in such a manner so as not to unreasonably block existing views off Main Street and, where possible, increase viewing opportunities for pedestrians on nearby public spaces.
7. Activities shall be designed and sited in a manner which promotes attractive views of the natural and built environment as seen from the slope base and Niagara River.
8. Activities shall be sited in an unobtrusive manner in terms of scale, height, colors and location so as to blend in with the natural landscape and maintain the existing views of the bluff as seen from the Niagara River.
9. Erosion control structures are defined in § 250-21E(14).
10. Construction shall only occur on soils which contain adequate load-bearing capacities as determined by the Village Engineer and generally accepted engineering standards.
11. With the exception of stairways, erosion protection structures and minor structures, construction shall not be permitted on land having an average slope of 40% or greater. The average shall be determined by using slope calculations taken at ten-foot intervals within the proposed developed land area.

§ 250-25. Interpretation of permitted uses.

- A. When a use is specifically listed in a district, such use shall be interpreted as being excluded from the listing in any other district. If any such use could be construed to be incorporated within a more inclusive listing, the more specific listing shall control.

In the event the zoning definition of a use is called into question and the Village code is undefined or its use, the International Building Code may be referenced for support.
[Amended 8-17-2018 by L.L. No. 1-2018]

- B. No use shall be permitted in any zoning district unless specifically stated by reference as a permitted use in said zoning district.
- C. In the case of a use not listed separately or in an inclusive use listing as a permitted use in any zoning district, no building permit or certificate of zoning compliance shall be issued for such use unless and until this chapter has been amended, including such use as a permitted use in an appropriate district.

§ 250-26. Use modifications.

- A. Temporary structures or uses. The following temporary structures shall be deemed to be permitted uses in all zoning districts:
 - 1. Temporary structures or uses incidental to construction work, including a non-illuminated sign not exceeding 12 square feet in area of any contractor, engineer or architect, shall be permitted for a period of time not to exceed one year, provided that any such structure shall be removed forthwith upon the completion or abandonment of the construction work. Any extension of said time limit shall require the approval of the Board of Appeals.
 - 2. The temporary use of a dwelling as a model home shall be permitted for a period of time not to exceed six months.
 - 3. Any temporary structure or use permitted by the Board of Appeals as authorized in Article VII.
- B. Limitations on automotive use areas. Any portion of a lot used for open off-street parking or reservoir space or for open sales, service or storage areas for motor vehicles, contractor's equipment or boats shall be deemed to be an automotive use area. New automotive use areas or enlargements of existing automotive use areas shall be subject to the following requirements:
 - 1. Surfacing. Every automotive use area and access driveway thereto shall be surfaced with a durable and dustless material and shall be so graded and drained so as to dispose of surface water accumulation.

2. Lighting. Any fixture used to illuminate any automotive use area shall be so arranged as to direct the light away from the street and away from adjoining premises in any R District.
 3. Screening. Every such area, except off-street parking areas for less than five vehicles, shall be screened from any adjoining lot in an R District, including lots situated across the street, as follows:
 - a. Along a street line, by a planting five feet wide; provided, however, that no shrub planting or tree foliage shall be placed or maintained which obstructs vision at an elevation between three feet and seven feet above the street level. Such screening may be interrupted by normal entrances and exits.
 - b. Along a rear lot line or an interior side lot line which abuts an existing or future rear yard or side yard on such adjoining lots, by a compact evergreen hedge which will reach a height of five feet within three years, or by a solid fence or an unpierced masonry wall five feet in height. Such screening shall be maintained in good condition at all times.
 4. Access. No entrance or exit to any automotive use area shall be permitted within 30 feet of any intersecting street lines and, except for off-street parking areas for uses permitted in any R District requiring less than 10 parking spaces, no entrance or exit shall be within 10 feet of a lot in an R District. Access to automotive areas, except for off-street parking areas in R Districts for less than 10 vehicles, shall be approved by the Code Enforcement Officer and shall be so arranged that vehicles shall not back into a street.
 5. Restriction on use. No automotive use area shall be used for auto wrecking or for the storage of motor vehicles which do not qualify for New York State motor vehicle inspection and registration.
- C. Lots divided by district boundaries. Where a lot is divided by any zoning district boundary so as to be in more than one zoning district and where such lot was an existing lot when such district boundary was established, a conforming use, occupying 50% or more of the area of said lot and having a street frontage in the district where permitted, may be extended on such lot not more than 25 feet (measured perpendicular to the district boundary) into any district where such use is not permitted, subject however to the open space regulations pertaining to such use.
- D. Lot frontage on street for dwellings. No dwelling shall be erected on any lot which does not have immediate frontage on a street as defined in this chapter.
- E. Special permits. For special use permits, see § 250-41B.
- F. Lot for every dwelling. Every building used as a dwelling shall be located on a lot; except for permitted accessory dwellings or dwelling groups, there shall be not more than one such building on a lot.

§ 250-27. Schedule of regulations. [Amended 10-19-1989 by L.L. No. 3-1989; 1-29-1991 by L.L. No. 1-1991¹³]

The schedule of regulations following¹⁴, which defines the height of buildings, the yards and other open spaces, the area of lots and the width of the same and all other matters contained therein, as indicated for the various districts, is hereby adopted and declared to be a part of this section of this chapter, subject, however, to open space and area modifications herein. Unless otherwise indicated, such requirements shall be deemed to be minimum requirements. Regulations pertinent to the W, WC, and B Districts are contained in § § 250-21 through 250-24.

§ 250-28. Lot size and open space modifications.

- A. Lot size exception for existing small lots. The lot width or area requirements of this chapter may be automatically waived by the Board of Appeals to permit the erection of a single-family dwelling or the restoration, enlargement (but not including additional dwelling units), moving, repair or alteration of an existing, single family dwelling on any lot of record which was owned separately and individually from all other tracts of land on the effective date hereof or on the effective date of any subsequent amendment increasing the lot size requirements.
- B. Front yard modification. Where there are existing principal buildings on adjoining lots on each side of a parcel of land less than 100 feet in width having a front yard setback or exterior side yard setback less than the required front yard depth for the zoning district in which said parcel is located, the required front yard depth of said parcel shall equal the average setback from the street line of such existing buildings on said adjoining lots.
- C. Side yard modification for corner lots. On a corner lot where the rear lot line coincides with a side lot line of the adjoining lot for a distance from the street line, the required width of the exterior side yard shall equal 30% of the lot width and shall be not less than 15 feet but need not exceed 30 feet.
- D. Rear yard modification for through lots. On a through lot, where the rear lot line coincides with a street line, a front yard equivalent shall be provided. The rear yard depth requirements in the district regulations shall not apply on that portion of a through lot where a front yard equivalent is required.
- E. District in which abutting lot lies. For the purpose of determining side and rear yard requirements, when an abutting lot is divided so that substantial segments thereof are located in two or more districts, the Board of Appeals shall determine in which district such abutting lot is located.

¹³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

¹⁴ Editor's Note: Said schedule is included at the end of this chapter.

§ 250-29. Height modifications. [Amended 10-19-1989 by L.L. No. 3-1989]

For all districts with the exception of the Waterfront District and Waterfront Commercial Districts, the height limitations of this chapter shall not apply to:

- A. Chimneys, flues, spires or befires.
- B. Elevator of stair bulkheads, roof water tanks or cooling towers (including enclosures), provided that such structures, in the aggregate, do not occupy more than 10% of the roof area.
- C. Flagpoles, radio or television antennae, masts or aerials, located on a building and extending not more than 20 feet above the roof of such building.

§ 250-30. Miscellaneous open space regulations.

- A. Visibility at intersections. No sign, fence, wall, hedge, shrub, planting or tree foliage which obstructs vision at elevations between three feet and seven feet above the street level shall be placed or maintained within the triangular area formed by two intersecting, street lines and a line connecting points on such street lines 30 feet distant from their point of intersection. This regulation shall not apply to any necessary retaining wall or to buildings existing on the effective date of this chapter.
- B. Permitted obstructions in required open space. Except for the purposes of Subsection A of this section, none of the following uses, structures or parts of structures shall be considered as obstructions when located as specified:
 - 1. In any required open space:
 - a. Access drives or walks
 - b. A fence, wall hedge or shrub planting shall be set back two feet from the front lot line and shall not exceed 3-1/2 feet in height across the front property line and from the starting point to the front line of the building. Such fence, wall, hedge or shrub planting may be a maximum of six feet in height to the rear property line and across the rear property line. Such construction/planting shall not be constructed within two feet of private property line abutting a public right-of-way. All fences so erected will have posts facing in toward the building, and all pickets, slats, mesh, planks or any finish shall face outward from the property. **[Amended 3-10-1977 by L.L. No. 2-1977; 9-24-1992 by L.L.No. 5-1992]**
 - c. Flagpoles not exceeding 20 feet in height.

- d. Retaining walls of any necessary height.
 - e. Permitted signs.
 - f. Unenclosed steps or terraces not extending more than one foot above the adjoining finished grade.
 - g. Projections from a principal building as follows, provided that no projection is nearer than five feet to a side lot line:
 - (1) Awnings or canopies.
 - (2) Chimneys or roofs projecting not more than two feet into a required open space.
 - (3) Window sills and architectural features projecting not more than four inches into a required open space.
 - (4) Unenclosed steps not extending above the first floor level.
 - h. In any C District, gasoline pumps or open accessory off-street parking spaces.
2. In any required interior side yard:
- a. A one-story garage, not more than 12 feet in height, attached to a dwelling and projecting not more than three feet into a required interior side yard, provided that such garage shall not be nearer any side lot line than a distance of five feet.
 - b. An open fire escape projecting not more than four feet into a required interior side yard, but not nearer to any side lot line than five feet.
3. In any rear yard, not a front yard equivalent, or in any part on an interior side yard which exceeds a required side yard:
- a. A fence or wall not to exceed six feet in height or eight feet in height when approved by the Board of Appeals (except as required for screening).
 - b. Any accessory use or structure permitted in the district regulations subject to Subsection C of this section, Limitations on obstruction in open spaces.
 - c. Projections. Balconies, bay windows, non-weatherproofed porches or breezeways, or attached garages, not exceeding 12 feet in height, may extend into a required rear yard for a distance not to exceed 1/3 the required depth of such yard.
 - d. Flagpole or accessory radio or television antennae of any height, provided that such structure shall be set back from any property line a distance equal to its height.

C. Limitations on obstructions in required open space.

1. No storage or processing of any kind shall be permitted in any required yard in any C District. This provision shall not apply to uses accessory to a permitted dwelling, but such accessory uses shall be subject to the following limitations on obstructions in required open spaces in R Districts.
2. In any R District accessory buildings and roofed projections shall not occupy more than 30% of a required rear yard of an interior lot or more than 40% of a required rear yard of a corner lot.
3. In any R District no part of an accessory building shall be nearer than three feet to a rear or side lot line, except that where such lot line abuts a side yard of an adjoining lot in any R District, the setback shall not be less than a distance equal to $\frac{1}{2}$ the height of the accessory building or five feet, whichever is greater.
4. In any R District, detached accessory buildings shall be at least 10 feet from any dwelling and five feet from any other building.

ARTICLE IV

Off-Street Parking

§ 250-31. Required off-street parking spaces.

- A. After the effective date of this chapter, off-street parking spaces shall be provided as herein after specified at the time a building or structure is erected, or at the time a new use of open land is established. In the case of an enlargement of any existing building, structure or use after the effective date of this chapter, off-street parking spaces shall be provided as hereafter specified for the enlarged portion of such building, structure or use.
- B. No existing off-street parking area shall be reduced in capacity so as to be less than required by this chapter, or, if such parking capacity is already less than herein required, such parking area shall not be further reduced; provided, however, that a reduction in such existing parking area shall be allowed if equivalent parking space is provided for the use involved.
- C. In the case of a change of use which would result in a requirement for a greater parking area than is provided, the Board of Appeals shall determine the number of additional spaces to be required.
- D. Notwithstanding anything to the contrary hereinabove or elsewhere contained in this chapter or amendments thereto, the off-street parking spaces heretofore required by this section shall remain intact and not removed from use, without approval of the Board of Appeals, but said off-street parking space requirements shall not apply to or be required of any of the present or future permitted uses within the areas designated and zoned as follows: **[Added 1-23-1992 No. L.L. No. 1-1992]**
 1. Waterfront District consisting of Tax Map Parcel Numbers 45.18-1-26, 45.18-1-34, 45.18-1-35, 45.18-1-39, 45.18-1-40, 45.18-1-41, 59.06-1-31, 59.06-1-32, 59.06-1-33 and 59.06-1-79 to the point where they fall into the Bluff Overlay District.
 2. Waterfront Commercial District (west side of Main Street) consisting of Tax Map Parcel Numbers 45.18-1-26, 45.18-1-27, 45.18-1-29, 45.18-1-30, 45.18-1-31, 45.18-1-32.1, 45.18-1-33, 45.18-1-36, 45.18-1-37, 45.18-1-38, 45.18-1-39, 45.18-1-40, 45.18-1-42, and 45.18-1-43 Commercial).
 3. Waterfront Commercial District (east side of Main Street) consisting of Tax Map Parcel Numbers 45.18-3-31, 45.18-3-32, 45.18-3-33, 45.18-3-34, 45.18-3-35, 45.18-3-37, 45.18-3-38, 45.18-3-39, 45.18-3-40, 45.18-3-41, 45.18-3-42 and 45.18-3-43.
 4. Commercial District (Lockport Street) consisting of Tax Map Parcel Numbers 45.18-3-15, 45.18-3-16, 45.18-3-17, 45.18-3-24, 45.18-3-25, 45.18-3-26, 45.18-3-27, 45.18-3-28, 45.18-3-29, 45.18-3-36, 45.18-3-51, 45.18-3-52, 45.18-3-53, 45.18-3-55, 45.18-3-56 and 45.18-3-57.

E. Schedule of required spaces.

Dwellings

Parking Spaces

Single-family or two-family dwelling	1 space for each dwelling unit
Multifamily dwelling	2 spaces for each dwelling unit
Tourist home hotel, motel, rooming or lodging house, village inn	
[Amended 10-19-1989 by L.L. No. 3-1989]	1 space for each unit accommodation

Additional spaces for accessory uses:

Office for treatment of humans	5 spaces for each office
Other offices	2 spaces for each office

Institutional Uses:

Hospital	1-1/2 spaces for each bed
Sanitarium, convalescent home	1 space for each 5 beds
Home for the aged or orphanage	1 space for each 5 persons in residence

Places of Assembly:

School	1 space for each classroom, plus 1 space for each 5 seats in the auditorium or stadium, whichever is greater.
Churches; principal or accessory auditorium, theater, stadium or sports arena	1 space for each 5 seats
Library, museum or art gallery	1 space for each 300 square feet of gross floor area
Bowling alley	10 spaces per alley
Dance hall or studio, skating rink or other places of public amusement not otherwise specified	1 space for each 100 square feet of gross floor area

Eating or drinking establishments, principal or accessory:

Drive-in type	3 spaces for each 25 sq. feet of gross floor Area
Other types	2 spaces for each 5 seats
Club or lodge	1 space for each 100 square feet of floor area used for club or lodge purposes, plus 1 space for each sleeping room
Mortuary or funeral parlor	10 spaces for each parlor
Swimming pools, principal or accessory, other than private pools	1 space for each 25 square feet of pool area

Business or Industrial Uses:

Furniture, floor covering or appliance stores; custom shops; wholesale business	1 space for each 700 square feet of gross floor area
New or used car sales	1 space for each 700 square feet of sales Area within a building, but not less than 5 spaces for Customer parking and 1 space for each 2 employees; such spaces shall be clearly marked and shall not be used for the parking of unregistered motor vehicles
Gasoline station, public garage or repair garage, principal or accessory	3 spaces for each service bay
Food store, shopping center or group of stores over 20,000 square feet of gross floor area	1 space for each 100 square feet of gross floor area
Individual retail stores	1 space for each 175 sq. feet of gross floor area
Doctor, dentist or real estate office	5 spaces for each office
Other business or professional offices or banks	1 space for each 175 sq. feet of gross floor area

General:

All other principal uses not above enumerated or 1 space for each 350 square feet of gross
excepted floor area

F. Mixed uses. Except as otherwise provided in § 250-33, where any building or lot is occupied by two or more uses having different parking requirements, the parking requirement for each use shall be computed separately to determine the total off-street parking requirement.

§ 250-32. Units of measurement.

- A. Size of parking space. For the purpose of computing gross parking area for required off-street parking, 350 square feet of unobstructed net standing, maneuvering or access area shall be considered one parking space. However, a lesser area may be considered as one space if the Code Enforcement Officer certifies that the layout and design of the parking area are adequate to permit convenient access and maneuvering. In any event, the size of a parking space shall be at least 20 feet long and nine feet wide, exclusive of access or maneuvering area.
- B. Gross floor area. Gross floor area shall include all areas of a building used or occupied by any traffic generator mentioned in § 250-31; provided, however, that basement or cellar floor area not used for processing, servicing or sales of goods or merchandise shall not be counted as gross floor area.
- C. Seats. In places of assembly where bench-type seats are provided or where standing patrons are served at a counter or bar, each 20 linear inches or such seating or standing space shall be considered as one seat for the purpose of determining off-street parking requirements.
- D. Employees. In any case where there is more than one work shift, the total number of employees used to compute off-street parking requirements shall include the maximum number of employees on two shifts.
- E. Fractional units. When application of the units of measurement to determine required off-street parking spaces results in a fractional parking space of $\frac{1}{2}$ or more, one parking space shall be required.

§ 250-33. Modification of required parking.

- A. Accessory uses.

1. No off-street parking shall be required for uses accessory to any institutional use specified in the schedule in § 250-31E, or for an accessory restaurant used primarily for students, patients, tenants or employees occupying a principal building.
2. In case of accessory retail sales, restaurants or swimming pools, the parking requirement for either the accessory use or the principal use, whichever requirement is less, shall be reduced by 50%.

B. Joint facilities.

1. In the case of a church and school on the same lot, the lesser parking requirement shall be waived.
2. Where places of assembly specified in the schedule in § 250-31E are located on the same lot with other uses, the Board of Appeals may permit a reduction in the number of required off-street parking spaces for such places of assembly.
3. Where public off-street parking facilities are available, other than off-street parking provided for a public building, the Board of Appeals may permit a reduction in the number of required off-street parking spaces for uses located on any lot within 600 feet of such public parking facility.

§ 250-34. Site requirements.

A. Location of required parking spaces.

1. General provision. All required off-street parking spaces shall be provided on the same lot with the building or use they serve, except as provided in Subsection A(2) of this section, Group facilities.
2. Group facilities. In any C, W or WC District, required off-street parking spaces may be provided in group parking facilities designed to serve two or more buildings or uses on different lots, provided that: **[Amended 10-19-1989 by L.L. No. 3-1989]**
 - a. The total parking spaces in such group facility shall not be less than the sum of the requirements for the various uses computed separately.
 - b. All required parking spaces shall be not more than 600 feet from the boundary of the lot on which such buildings or uses are located.

B. Setback for all off-street parking spaces.

1. In any R District:

- a. Enclosed off-street parking spaces shall be subject to the regulations for accessory buildings. (See § 250-30C.)
 - b. No open off-street parking space shall be permitted in a required front yard or exterior side yard.
 - c. No open off-street parking area for five or more motor vehicles shall be located within five feet of any side or rear lot line of an adjoining lot in any R District.
2. In any C District: No open or enclosed off-street parking space shall be permitted within 10 feet of any street line or within 10 feet of any R District boundary.
- C. Encroachment of required parking spaces prohibited. All areas counted as required off-street parking area shall be unobstructed and free of other uses, except off-street loading or unloading.
 - D. Guaranty for off-site parking spaces. In any case where required off-street parking spaces are not provided on the same lot with the building or use they serve, such off-street parking spaces shall be subject to deed, lease or contract restrictions acceptable to the Village Attorney of the Village of Youngstown binding the owner, his heirs or assigns to maintain the required number of spaces available throughout the life of such use.
 - E. Additional requirements for all open off-street parking spaces. All open off-street parking spaces shall be considered as automotive use areas and shall be subject to the requirements of § 250-26B in addition to the provisions of this section.

ARTICLE V

Nonconforming Use Regulations

§ 250-35. Nonconforming uses.

- A. Continuation of use. Any use which is made nonconforming by any use regulations of this chapter or by any subsequent amendments thereto may be continued except as hereinafter provided.
- B. Change in use. Such nonconforming use may be changed to a permitted use in the same district as contains the listing for the non-conforming use. Once a nonconforming use is changed to a conforming use or to a more restricted use, such use thereafter shall not revert to a less restricted use. Uses shall be considered “more restrictive” to “less restrictive” in accordance with the districts in which they are first permitted in the order that such districts are listed in § 250-4.
- C. Enlargement or extension. A nonconforming use shall not be enlarged or extended, but nothing herein shall be deemed to prevent normal maintenance of a building or other structure containing a nonconforming use, including nonstructural repairs and incidental alterations not extending the nonconforming uses, but structural alterations may be made: when required by law; to restore to a safe condition any building or structure declared unsafe by the Code Enforcement Officer; or to accomplish a change to a use first listed in a more restricted district.
- D. Restoration. A nonconforming building or other structure which has been damaged or destroyed by any means to the extent of 50% or more of its equalized assessed value, as determined by the Village Assessor, shall not be rebuilt or repaired except in conformance with the regulations of this chapter. If such damage is less than 50% of such value, neither the floor area nor the cubical content shall be increased from the original nonconforming building or other structure; provided, however, that unless a building permit is obtained within six months and restoration commenced within one year of said damage, such right of restoration shall expire.
- E. Discontinuance. The discontinuance of a nonconforming use of land, building or other structure for a period of six months or more shall be considered to be an abandonment of such use, and such nonconforming use shall not thereafter be established, and all future use shall be in conformity with the provisions of this chapter.¹⁵

¹⁵ Editor’s Note: Former Section 4-06, Cessation, as amended 11-18-1963, which immediately followed this section, was deleted at time of adoption of Code (see Ch.1, General Provisions, Art. I).

§ 250-36. Nonconforming structures.

- A. Continuation. Any building, other structure or use of land which is made nonconforming by any lot size, open space or height of building regulations of this chapter, or by any subsequent amendments thereto, may be continued, except as hereinafter provided.
- B. Enlargement or extension. Such nonconforming building, other structure or use of land may be enlarged or extended only in compliance with the regulations of this chapter.
- C. Repair of alteration. Such nonconforming building or other structure may be repaired or structurally altered, provided that alterations creating enlargements or extensions shall conform to the regulations hereof.
- D. Restoration. Such nonconforming building or other structure which has been damaged or destroyed by any means to the extent of 75% or more of its equalized assessed value as determined by the Village Assessor shall not be rebuilt or repaired except in conformance with the regulations hereof. If such damage is less than 75% and restoration is undertaken, the degree of nonconformance of the original building or other structure shall not be increased; provided, however, that unless a building permit is obtained within six months and restoration commenced within one year of said damage, such right of restoration shall expire.

ARTICLE VI

Administration, Enforcement and Violations

§ 250-37. Administration and enforcement.

- A. Administrative and enforcement officer. Unless otherwise provided, the provisions of this chapter shall be administered and enforced by the Code Enforcement Officer of the Village of Youngstown. The Code Enforcement Officer shall keep a complete file of all applications, permits, orders, certificates, requirements and decisions affecting each and every application filed pursuant to this chapter and § 7-712 of the Village law.¹⁶

- B. Building permit required. The provisions of Chapter 83, Building Construction, of the Code of the Village of Youngstown and other applicable regulations of the Village of Youngstown shall control the issuance of building permits. In addition to such provisions, every application for a building permit shall be accompanied by a plat, in duplicate, drawn to scale, and showing the dimensions of the plot to be built upon, the size and location of the building or other structure on the plot and such other information as may be necessary to provide for the enforcement of the regulations contained in this chapter. No building permit shall be issued unless the provisions of this chapter are complied with.

- C. Certificate of zoning compliance required.
 - 1. No permit for excavation for, or the erection or alteration of, or repairs to any building or other structure shall be issued until an application has been made for a certificate of zoning compliance.

 - 2. No land shall be occupied or used and no building or other structure, hereafter erected, altered, extended, enlarged or restored, shall be used or changed in use until a certificate of zoning compliance shall have been issued by the Code Enforcement Officer stating that the building, other structure or proposed use thereof complies with the provisions of this chapter.

 - 3. All applications for a certificate of zoning compliance shall be in writing, signed by the property owner or his duly authorized agent, on forms furnished by the Code Enforcement Officer, and shall contain the following information:
 - a. Nature and definite purpose of the building, other structure or use.

 - b. Description of the property and buildings or other structure thereon and to be placed thereon.

 - c. Statement of any restrictions by deed or other instrument of record.

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

- d. An agreement to comply with this chapter and all other laws, ordinances and regulations that may be applicable.
4. Certificates of zoning compliance.
- a. Upon written request and application for a certificate of zoning compliance by the property owner or his duly authorized agent, the Code Enforcement Officer shall inspect any building, other structure or tract of land existing on the effective date of this chapter and shall issue a certificate of zoning compliance therefor, certifying:
 - (1) The use of the building, other structure or tract of land.
 - (2) Whether such use conforms to all the provisions of this chapter.
 - b. However, no certificate of zoning compliance shall be issued if there are any pending violations of law or orders of the Code Enforcement Officer, the Board of Appeals or the Village Board.
5. A certificate of zoning compliance shall be issued within 10 days after the erection, alteration, or repairs shall have been approved as complying with the provisions of this chapter and shall void any previous certificate of zoning compliance for the same premises.
- D. Inspection. The Code Enforcement Officer is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this chapter. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to comply with such order.

§ 250-38. Site plan review. [Added 10-19-1989 by L.L. No. 3-1989; amended 1-24-1991 by L.L. No. 1-1991]

- A. Site plan submittal. A site plan must be submitted for all:
- 1. Residential developments which contain three or more dwelling units. However, any residential development which requires the subdivision of land or which is proposed for construction within a previously approved subdivision pursuant to Chapter 197, Subdivision of Land, of the Code of the Village of Youngstown does not require a site plan.
 - 2. New business or commercial development or exterior alterations to existing business, commercial or industrial establishments which meet or exceed one or more of the following thresholds:

- a. The gross floor area, developed land area or any combination thereof increases by 25% or more.
 - b. Five or more parking spaces or loading docks or any combination thereof which totals five spaces or docks.
 - c. The value of the land and building improvements meets or exceeds \$10,000.
3. New development, additions to any existing use or exterior alterations in the Waterfront Commercial District or Waterfront District which exceed one or more of the thresholds listed in Subsection A(2).¹⁷
 4. New development or additions to any existing use within the Bluff Overlay District, except for minor structures, walkways, stairways and small sheds to store boating supplies not to exceed 75 square feet in gross floor area.
- B. Required information. The content of the site plan shall be approved by the Code Enforcement Officer prior to filing. The approved submission shall be filed with the Village Clerk who, upon payment of the required fees, shall transmit it to the Code Enforcement Officer for distribution to officials and agencies as he or she may deem appropriate for their review, report and recommendation. Unless otherwise noted, the site plan shall include the following information prepared by its licensed engineer, architect, landscape architect, surveyor or attorney, as appropriate. The number of copies shall be determined by the Code Enforcement Officer.
1. Title of drawing, including name of development, name and address of applicant and person who prepared the drawing.
 2. North point, scale and date.
 3. A survey plotted to scale of the proposed development, including its acreage and a legal description thereof.
 4. The location and names of existing and proposed streets and sidewalks immediately adjoining and within the proposed site.
 5. Layout, number and dimension of lots.
 6. Location, proposed use, height and floor plan of all nonresidential and all residential structures containing three or more dwelling units, location of all parking, loading and stacking areas with access drives.
 7. Location and proposed development of all open spaces, including parks, playgrounds and open reservations.

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

8. Existing and proposed watercourses and direction of flow.
9. Topographic map and drainage plan showing existing and finished grades, engineering calculations and the impact on the surrounding area. Slope calculations at ten-foot intervals for existing grades shall be provided for proposed development within the Bluff Overlay District.
10. Water supply plan, including location of fire hydrants.
11. Paving, including typical cross sections and profiles of proposed streets, pedestrian walkways, bikeways and parking lots.
12. Sewerage disposal plans.
13. A landscape plan indicating location, type and size of existing trees and vegetation, identifying those to be preserved and location, type and size of trees, vegetation and other amenities to be provided.
14. Location and design of lighting facilities, fences, walls and signs.
15. Location and dimension of all signs.
16. Proposed easements, restrictions, covenants and provisions for homeowners' association and common ownership, if required.
17. Land and building improvement cost.
18. Upon the request of the Board of Trustees, the applicant shall prepare and submit, to the satisfaction of the Board, a market feasibility study for the proposed use. Said study shall be prepared by a professional market consultant with experience in development economics.
19. Upon the request of the Board of Trustees, the applicant shall prepare and submit, to the satisfaction of the Board, soil boring information especially for those activities proposed within the Bluff Overlay District.

C. Site plan review and fees required.

1. The Code Enforcement Officer shall review the site plan to ensure that it is in conformance with this chapter and all other applicable laws. Thereafter he or she shall forward the plan to the Board of Trustees for referral within 15 days to the Planning Board, Village Engineer and other agencies for review as appropriate.
2. Upon acceptance of the site plan as complete by the Code Enforcement Officer, the applicant shall submit a fee within two days to the village Clerk equal to .25% of the total building and land improvement cost, up to a maximum of \$2,000.

3. Within 30 days of its receipt of the application for site plan approval from the Board of Trustees, the agencies shall review it and notify the Board of Trustees in writing of its comments or recommendations.
4. Within 60 days of its receipt of the application for site plan approval, the Board of Trustees shall act on it and notify the Planning Board, Code Enforcement Officer, Village Clerk and applicant of its action. This time period may be extended by the Board of Trustees or by written request of the applicant. In determining its action, the Board of Trustees may conduct a public hearing if deemed appropriate. The Board of Trustees' action shall be in the form of a written report of approval or disapproval of the site plan. In approving the site plan, the Board of Trustees may impose conditions limiting the use and the occupancy of the land or proposed buildings consistent with the intent and purposes of this chapter. If the Board of Trustees disapprove, it shall state its reasons.
5. Except for subdivisions that have been duly filed in the office of the County Clerk, if construction of the approved development has not commenced within two years from the time of site plan approval, that approval shall be deemed revoked. Extensions of this period may be granted by the Board of Trustees.
6. The Board of Trustees' review of the site plan shall include but not be limited to the following general considerations:
 - a. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - b. Adequacy and arrangement of vehicular traffic, access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - c. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - d. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - e. Adequacy of stormwater and drainage facilities.
 - f. Adequacy of water supply and sewage disposal facilities.
 - g. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the development parcel and adjoining lands, including the maximum retention of existing vegetation.
 - h. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

- i. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- j. Use of proper and adequate screening devices between parking and service areas as such are viewed from public roads or public parklands.
- k. Consistency between the site plan and the village's adopted Local Waterfront Revitalization Program (LWRP)¹⁸
- l. Quality and adequacy of views from those scenic vistas described in Policy 25A of the village's adopted Local Waterfront Revitalization Program (LWRP).
- m. Attractiveness of the proposed use or structure(s) as viewed from the Niagara River.
- n. Adequacy of design and function of waterfront improvements, such as bulkheads, docking facilities, launch ramps and seawalls.
- o. For development within the Waterfront District, Waterfront Commercial District, compliance with the design standards listed in § 250-21E, 250-22E and 250-23E, respectively¹⁹
- p. For development within the Waterfront Bluff Overlay District, compliance with the provisions of § 250-24.

§ 250-39. Penalties for offenses. [Amended 10-19-1989 by L.L. No.3-1989; 1-24-1991 by L.L. No. 1-1991]

A. Penalties for offenses.²⁰

- 1. A violation of this chapter is hereby declared to be an offense, punishable as follows:
 - a. First offense: by a fine not exceeding \$350 or imprisonment for a period not to exceed six months or both.
 - b. Second offense within a period of five years; by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months or both.

¹⁸ Editor's Note: See Ch. 245, Waterfront.

¹⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

²⁰ Editor's Note: Amended at time of adoption of Code (See Ch. 1, General Provisions, Art. 1)

- c. Third or subsequent offense, all of which were committed within a period of five years: by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months or both.
 - 2. A person shall be subject to the penalties imposed by this section in any case where an order to remove any violation of any of the provisions of this chapter has been served by the Code Enforcement Officer upon the owner, general agent, lessee or tenant of the building, other structure or tract of land, or any part thereof, and where such person shall fail to comply with such order within 10 days after the service thereof. Each week's continued violation shall constitute a separate additional violation and shall be punishable hereunder.
- B. Other remedies. In addition to the foregoing remedies, the Village of Youngstown may institute any appropriate action or proceeding to prevent, correct or restrain any violation of this chapter.

ARTICLE VII

Board of Appeals

§ 250-40. Creation and organization.²¹

The Board of Appeals, as constituted and empowered under § 7-712 of the Village Law on the effective date of this chapter, shall be continued. Vacancies occurring in such Board shall be filled in accordance with Village law. The Board of Appeals shall have all the powers and perform all the duties prescribed by statute and by this chapter.

§ 250-41. Powers and duties.

A. Appellate jurisdiction.

1. Appeals for interpretation. The Board of Appeals shall hear and decide appeals where it is alleged that there is an error or misinterpretation in any order, requirement, decision or determination by any administrative official of the Village of Youngstown charged with the enforcement of the provisions of this chapter. The Board of Appeals may reverse, modify or affirm, in whole or in part, any such appealed order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made in strictly applying and interpreting the provisions of this chapter and for such purposes shall have all the powers of the officer from whom the appeal is taken.
2. Appeals for variance.
 - a. On an appeal from an order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter, where it is alleged by the appellant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict application of any provision of this chapter, the Board of Appeals may grant a variance in the strict application of such provisions, provided that all of the following findings are made:
 - (1) That there are unique circumstances or conditions peculiar to the particular property and that the practical difficulties or unnecessary hardships are not due to circumstances or conditions generally created by the provisions of this chapter in the zoning district in which the property is located.
 - (2) That such circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the

²¹ Editor's Note: Amended at time of adoption of Code (See Ch. 1, General Provisions, Art. 1)

property, and that the granting of the variance is therefore necessary to realize a reasonable use of the property.

- (3) That the variance, if granted, will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare.
 - (4) That such practical difficulties or unnecessary hardships are not self-created by any person having an interest in the property through disregard for or ignorance of the provisions of this chapter, or the previous zoning ordinance; provided, however, that, where all other required findings are made, the purchase of property subject to a variance grant shall not itself constitute a self-created hardship.
 - (5) That within the intent and purposes of this chapter, the variance, if granted, is the minimum variance necessary to afford relief.
- b. The following types of cases shall be construed as eligible for consideration cases within the meaning of this chapter:
- (1) Unusual size or shape of lot. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, at the time of the effective date of this chapter, or by reason of exceptional topographic condition or other exceptional physical difficulties in the development of such piece of property, the liberal enforcement of the requirements of this chapter pertaining to yards or other space relationships would result in peculiar practical difficulties or exceptional undue hardship upon the owner of such property. No use variance shall be granted in such case.
 - (2) Adjacent nonconforming uses. Where an adjoining lot on both sides, in the case of an interior lot, or where on both the side and rear of the lot or on all other corners of an intersection, in the case of a corner lot, there are buildings or uses which do not conform to regulations prescribed in this chapter for the district in which said lot is located. In considering such appeal, the Board of Appeals shall give due regard to the nature and conditions of all adjacent uses and structures; and in granting any such appeal, the Board of Appeals may impose special requirements and conditions for the protection of conforming uses and the ultimate removal of nonconforming uses and structures. In any case, the variance as to the use or uses permitted on any lot, whether principal or accessory, shall not allow a use or combination of uses more intensive or less restricted than any use which is legally existing on premises adjoining on either side of said interior lot, or of premises adjoining on the side or rear of the lot on any other corner of the intersection in the case of said corner lot.

(3) Nonconforming building. Where, because the principal building on any premises was originally lawfully erected and intended for a principal use which would now be a nonconforming use in the district in which located and the right to continue or reestablish such nonconforming use in such building is denied by the provisions of Article V of this chapter, the literal enforcement of such provisions would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property. In considering such appeal, the Board of Appeals shall give due regard to the age and condition of such building and its adaptability for or convertibility to a conforming use. In approving any such appeal, the Board of Appeals shall specify the time limit during which such grant of a variance shall be effective, which time limit shall in no case exceed the estimated useful life of such building. In case the building has been officially condemned and ordered to be demolished, the Board of Appeals shall not grant any such appeal.

(4) Any other case involving unnecessary hardship in the way of carrying out any provision of this chapter pursuant to and in accord with the intent and purpose of § 7-712 of the Village Law.²²

c. In granting a variance, the Board of Appeals may vary or modify the provisions of this chapter so that the spirit of the law shall be observed, public safety secured and substantial justice done. Toward this end, the Board of Appeals may prescribe such conditions or restrictions as it may deem necessary. Such conditions or restrictions shall be incorporated in the building permit and the certificate of zoning compliance.

B. Original jurisdiction.

1. General provisions.

a. The Board of Appeals shall hear and decide, in accordance with the provisions of this article, all applications for special permits or for modifications of provisions of this chapter in all such cases upon which the Board of Appeals is specifically authorized to pass or shall make any other determination required by this chapter.

b. In authorizing any specified special permit, or specified modification or in making any required determination, all required findings shall be made, and, in the case of special permits or modifications, the Board of Appeals may prescribe appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience or general welfare.

c. No special permit or modification of the provisions of this chapter shall be authorized by the Board of Appeals unless, in addition to other findings specified in this chapter, it finds that such special permit or modification:

²² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

- (1) Will be in harmony with the general purposes and intent of this chapter.
- (2) Will not tend to depreciate the value of adjacent property.
- (3) Will not create a hazard to health, safety or the general welfare.
- (4) Will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.
- (5) Will not otherwise be detrimental to the public convenience and welfare.

2. Special permits.

- a. Temporary structures or uses. The Board of Appeals may authorize a temporary and revocable permit for not more than two years for a use or structure that does not conform with the regulations of this chapter for the district in which it is located, provided that the following findings are made:
 - (1) Such use is of a temporary nature and does not involve the erection or enlargement of any permanent structure.
 - (2) In case of a renewal of such permit, that all conditions and safeguards previously required have been complied with.
- b. Permitted temporary structures or uses, extension of time limit. The Board of Appeals may authorize the continuation of temporary structures or uses incidental to construction work, provided that the following findings are made:
 - (1) That the nature and scale of the construction is such as to require a longer period of time for completion.
 - (2) That such construction has been diligently prosecuted or that any delays have been unavoidable.
- c. Modification of regulations.
 - (1) Reduction of parking spaces for places of assembly. The Board of Appeals may authorize a reduction of not more than 50% in the number of required off-street parking spaces for places of assembly when located on the same lot with other uses, provided that the following findings are made: that in accordance with times of operation and times of peak demand, there will be no conflict in the joint use of such off-street parking spaces.
 - (2) Reduction of parking spaces where public off-street parking facilities are available. Where public off-street parking facilities are available, other than parking provided for a public building, the Board of Appeals may reduce on a pro

rata basis the parking requirements for all uses within 600 feet of any boundary of such public parking facility.

- (3) Exception from exterior side yard requirement. The Board of Appeals may modify the exterior side yard requirements for principal buildings on deep corner lots, provided that the following findings are made:
 - (a) That the rear yard is at least 50 feet in depth.
 - (b) That such modification will not adversely affect the adjoining property.
- (4) Exception from fence height limitations. The Board of Appeals may permit a fence up to eight feet in height in any rear yard not a front yard equivalent, or in any part of a side yard, not a minimum required side yard, provided that such fence is at least 10 feet from any property line and that the following findings are made:
 - (a) That such fence shall not unduly shut out light or air to adjoining properties.
 - (b) That such a fence shall not create a fire hazard by reason of its construction or location.
- (5) In accordance with § 250-28A, the Board of Appeals may waive the lot width or lot area requirements for single-family dwellings on any lot of record which was owned separately and individually from all other tracts of land on the effective date hereof or on the effective date of any subsequent amendment increasing the lot size requirements of such lot, provided that the following findings are made:
 - (a) Such lot was not created in violation of any ordinance then in effect.
 - (b) All other requirements of this chapter are complied with.
 - (c) Dwellings are a permitted principal use in the district where such lot is located.

§ 250-42. Procedure.

- A. General provisions. The Board of Appeals, consistent with law and ordinance, may adopt rules of conduct and procedure.
- B. Filing appeals. An appeal to the Board of Appeals from any ruling of any administrative officer charged with the enforcement of this chapter may be taken by any person aggrieved or by any officer, department, board or bureau of the village. Such appeal shall be taken, within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the ground thereof. The officer from whom the appeal is taken shall

forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

- C. Filing applications. An application for any matter upon which the Board of Appeals is required to pass may be made to the Village Clerk by the owner or tenant of the property (or a duly authorized agent) for which such appeal or application is sought. Such appeal or application shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.²³ [**Amended 1-6-1966**²⁴]
- D. Meetings, witnesses and records.
1. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. All meetings shall be open to the public. The chairman of the Board of Appeals, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.
 2. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action. Every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall immediately be filed in the office of the Village Clerk and shall be a public record.
- E. Stay of proceedings. Any appeal to the Board of Appeals shall stay all proceedings in furtherance of the action appealed from, except as otherwise provided in § 7-712 of the Village Law.²⁵
- F. Public hearing. The Board of Appeals shall fix a reasonable time for a hearing of an appeal, applications for special permits or modifications of regulations, or other matters referred to it, and shall give public notice thereof by publication in the official paper at least five days prior to the date of such hearing and shall, at least five days before such hearing, mail notices thereof to the parties thereto.
- G. Decisions of the Board of Appeals. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision or determination appealed from, or to decide in favor of the applicant any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter. Every decision of the Board of Appeals shall be by resolution. Decisions shall be rendered by the Board within 62 days after the date of public hearing on the appeal, in accordance with Subdivision 8 of § 7-712-a of the Village Law. Where findings are required, the decision shall set forth each required finding, supported by substantial evidence or other data considered by the

²³ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

²⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

²⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).

Board of Appeals, in each specific case, or, in the case of denial, the decision shall include the findings which are not satisfied.²⁶

- H. Lapse of authorization. Any variance, special permit or modification of regulations authorized by the Board of Appeals shall be automatically revoked unless a building permit conforming to all the conditions and requirements established by the Board of Appeals is obtained within six months of the date of approval by the Board of Appeals and construction commenced within one year of such date of approval.
- I. Violation of conditions or restrictions. Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance or application for a special permit or a modification of regulations shall constitute a violation. Such violation may constitute the basis for revocation of a variance, special permit or modification or for imposing penalties and other applicable remedies.

²⁶ Editor's Note: Amended at time of adoption of Code (see Ch.1, General Provisions, Art I).

ARTICLE VIII

Amendments

§ 250-43. Authorization.

The Village Board may from time to time on its own motion, or on petition after proper public notice and public hearing, amend, supplement or repeal the regulations, provisions or boundaries of this chapter as provided by the Village Law.

§ 250-44. Provisional amendments.

In the case of a proposed amendment which involves the reclassification or transfer of any area from any R District or C District, the Village Board may require the petitioner to submit a development plan showing the extent, location and character of proposed structures and uses. The Village Board may require that such plan be modified to meet the objections raised at any public hearing thereon, or subsequent thereto, and may qualify its approval of any such amendment by attaching a special endorsement thereto. Within a period of six months from the approval of such a provisional amendment, no building permit or certificate of zoning compliance shall be issued for any property within the area described by said amendment except in accordance with the approved development plan and with all conditions and limitations placed thereon by the Village Board, or in accordance with the zoning regulations applicable prior to said reclassification action. Unless application for a building permit for such special development is made within six months from the Village Board's approval and unless development of the area included in such development plan is commenced within a period of one year after the Village Board's approval, said approval shall be void, and the zoning classification shall be as it was when the petition for amendment was filed.

§ 250-45. Procedure.

- A. Filing of petition. A petition to amend, change or supplement the text of this chapter, or any zoning district as designated on the Zoning Map²⁷ established herein, shall be filed with the Village Clerk on forms obtained from his office and shall be transmitted by him to the Village Board.
- B. Rehearing on petition. The disposition of a petition for amendment by the Village Board shall be final, and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Village Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one year from the date of such

²⁷ Editor's Note: Said Zoning Map is on file in the office of the Village Clerk. In addition, a Table of Zoning Map Amendments is included at the end of this chapter.

previous denial, unless the Village Board shall find that there have been substantial changes in the situation which would merit a rehearing.