

**ARTICLE VI            GENERAL PROVISIONS**

**SECTION 601                    APPLICABILITY OF REGULATIONS**

No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone by this Zoning Law and meeting requirements set forth in the appended Schedule. Nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, and all other regulations designated in the Schedule and this Zoning Law for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this Zoning Law and the Certificate of Compliance shall become void.

**SECTION 602                    PRESERVATION OF NATURAL REATURES**

In order that the natural features of the Town may be preserved, the following shall be adhered to:

- A.    No structure shall be build within fifty (50) feet of the bed of a stream carrying water on an average of six (6) months of the year, or on land subject to periodic overflow.
  
- B.    No persons, firm or corporation shall strip, excavate, or otherwise remove topsoil for sale or other use than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental thereto, or except as hereinafter specified (i.e., see provisions for Ponds and Commercial Excavations.
  
- C.    Existing natural features such as trees, brooks, drainage channels, and views shall be retained. Whenever such features interfere with the proposed use of such property, a retention of the maximum amount of such features consistent with the use of the property shall be required.

**SECTION 603                    REGULATIONS APPLICABLE TO ALL DISTRICTS**

The following regulations shall be applicable to all districts.

- A.    One Principal Building and Use Per Lot – There shall not be more than one (1) principal building and one (1) principal use on any one lot in the Low Density Residential (LDR), and the Medium Density Residential (MDR) Districts except as provided for in the following:
  - 1.    An approved multifamily dwelling project.

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2. A single-family dwelling accompanying a non-residential permitted use on a lot in Low Density Residential (LDR) and Medium Density Residential (MDR) Districts.
  3. A single family dwelling accompanying a non-residential use requiring a special use permit if approved by the Planning Board as part of the special use permit application process.
  4. A permitted accessory use, building and/or structure by itself may be allowed on a parcel either prior to, without, establishment of a primary use, provided it conforms with all applicable provisions of this Zoning Law.
- B. An accessory building attached to a primary building shall comply in all respects with the yard requirements of this Zoning Law for primary building.
  - C. Every principal building shall be built upon a lot with frontage upon a public street improved to meet the Town's requirements. No yard or other open space provided about any building for the purpose of complying with the provisions of this Zoning Law shall be considered to provide a yard or open space for any other building.
  - D. At the intersection of two (2) or more streets, no hedge, solid fence or wall (other than a single post or tree) which is higher than three (3) feet above curb level, nor any obstruction to vision, shall be permitted in the triangular area formed by the intersecting street lines and a line joining each thirty (30) feet distant from said intersection along said street line.
  - E. In the MDR and LDR Districts the first twenty-five (25) feet of a front yard shall not be used for the open storage of boats, vehicles, travel trailers or any other equipment except for vehicular parking on driveways.
  - F. Not more than one (1) registered truck/trailer combination measuring no more than 102.36 inches wide (not including safety devices and rear view mirrors) x 80 feet long (front bumper of truck to rear of trailer) may be parked on the same lot in the MDR and LDR Districts. Additionally, not more than one (1) truck (a non-cargo carrying power unit) alone nor one (1) semi trailer alone may be parked on the same lot in a LDR or MDR District. [LL No. 2 of 2007]
  - G. For the purpose of regulating the location of accessory buildings on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which front a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.

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H. The minimum habitable floor area for structures shall be as follows:

<u>Residential Uses Per Dwelling Unit</u> (other than mobile home)	<u>Square Feet</u>
One-Family	1,040
Two-Family	750
Multi-Family	600

I. Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this Zoning Law with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot created unless it complies with all the provisions of this Zoning Law.

J. The provisions of this Zoning Law shall not apply to customary local utility distribution or collection lines for water, gas, telephone or electric service. All facilities such as pumping station, repeater station, and electric substations, which require a structure above grade, shall be subject to the yard requirements of this Zoning Law.

K. Off-street parking facilities shall adhere to the following:

1. Off-street parking space shall be provided as further specified in this Zoning Law, and shall be furnished with necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which it is situated, and shall not be encroached upon or reduced in any manner. All parking areas, passageways, and driveways (except where provided in connection with one-family residences) shall be surfaced with a dustless, durable, all-weather surface marked for car spaces, and shall be adequately drained, all subject to the approval of the Town Engineer.
2. For the purpose of this Zoning Law, a parking space shall be an area ten (10) feet wide and twenty (20) feet long, exclusive of passageways and driveways appurtenant thereto and providing access thereto.
3. None of the off-street parking facilities required in the Zoning Law shall be required for any existing building or use, unless said building or use shall be enlarged.
4. The collective provision of off-street parking areas by two (2) or more buildings or used located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land

upon which the collective facilities are located is owned or leased by one (1) or more of the collective users.

5. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise.
6. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
7. Where off-street parking areas abut residential zones, a planted buffer strip at least ten (10) feet wide and six (6) feet high shall be provided between the parking area and the adjoining property. The Planning Board may waive this requirement.

L. Any fence erected in the Town shall adhere to the following:

1. Before a fence for other than agricultural purposes shall be erected, a zoning permit must be obtained from the Zoning Enforcement Officer. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all other structures and buildings, and in relation to all streets, lot property lines and yards.
2. Fences may be erected, altered or reconstructed to a height not to exceed three (3) feet above ground level when located within twenty (20) feet of the street right-of-way.
3. Fences may be erected, altered or reconstructed to a height not to exceed eight (8) feet above ground level when located more than twenty (20) feet from the street right-of-way.
4. Fences shall be erected with the "good" side facing towards neighboring properties.
5. These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.
6. These restrictions shall not be applied so as to require a zoning permit or restrict the erection, alteration, or reconstruction of fences for agricultural uses on farms. However, fences used for residential purposes must comply with these restrictions including the issuance of a zoning permit.
7. Temporary fencing shall not exceed four (4) feet in height and shall be at least fifty (50) percent open construction. The use of such fencing shall be limited to time periods not to exceed six (6) months at a time.

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- M. A prohibited use includes any use not specifically permitted in a zoning district established by this Zoning Law and is hereby specifically prohibited from the district, and it is further provided that the following uses and activities shall be specifically prohibited in any zone in the Town of Darien.
1. Any use of any building or premises in such a manner that the health, morals, safety or welfare of the community may be endangered.
  2. Any use, which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products.
  3. All bill boards, signboards, advertising signs or devices not expressly related to the business conducted on the premises or otherwise specifically permitted by this Zoning Law.
  4. Residential structures (other than the provisions for ECHO and temporary housing) without permanent foundations or without permanent connection to utilities.
  5. Privately operated dumps for the disposal of garbage, trash, junk, refuse and similar materials.
- N. In C, I and REC Districts, outside storage of equipment shall not take place within the minimum required front yard area other than as set forth in subparagraph "O" as follows.
- O. Commercial and Home Occupation uses shall not display or sell items within the required front yard unless a special use permit has been issued by the Planning Board which specifies to what extent, where and when merchandise can be displayed within the front yard.
- P. In addition to the minimum required lot frontage(s) set forth in this Zoning Law, all proposals shall also comply with New York State Town Law Section 280-a regarding access by emergency equipment (fire, police, ambulance, etc.) from the public highway to the building(s) and/or structure(s) on a lot.

### **SECTION 604**

### **PERMITTED MODIFICATIONS**

#### **A. Height Modifications**

1. The height limitations of this Zoning Law shall not apply to flagpoles, radio or television antennae, transmission towers or cables, spires or cupolas, chimneys, elevator or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers, skylights, solar panels or any similar structures, provided that such structures are located on the roof and in

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their aggregate coverage occupy no more than ten (10) percent of the roof area of the building.

2. District building height regulations shall not apply to radio or television antennas, commercial communications towers, production model wind energy conversion systems (WECS), silos, water tanks, and domes not used for human occupancy.
  3. The provisions of this Zoning Law shall not apply to prevent the erection of a parapet wall or cornice for ornament, extending above the height limitations of this Zoning Law by not more than five (5) feet. Public and quasi-public buildings, schools, churches and other similar permitted uses shall increase the front, rear and side yards by one (1) foot for each foot by which such buildings exceed the height limit herein established for such zone in which it is located.
- B. Undersized Lots - Any parcel of land with an area or width less than prescribed for a lot in the zone in which such lot is located, which parcel was under one (1) ownership at the date of the adoption of this Zoning Law, and the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the zone, provided that the minimum area requirements for such lot shall be twenty thousand (20,000) square feet of lot size and one hundred (100) feet of lot width; and further provided that all other regulations prescribed for the zone by this Zoning Law are complied with and the applicant has obtained the approval of the Genesee County Health Department.
- C. Permitted Yard Modifications
1. Front Yards – In such cases in residential zones where the frontage on the same side of the street within five hundred (500) feet is fifty (50) percent or more developed, then the required front yard for a new structure may be modified to the average for such existing development. Otherwise, the requirements of Zoning Schedule A shall apply.
  2. Side Yards – In the case of lots which comply with the provisions for modification of Section 604.B, combined total side yard requirements, as specified in Schedule A, shall be reduced by six (6) inches for each foot by which a lot is less than the minimum lot width requirement specified in Schedule A for the zone in which located. In any case, the side yard area for either side yard shall not be reduced to less than fifty (50) percent of the requirements of the Schedule.

### **SECTION 605**

### **LOCATION OF ACCESSORY BUILDINGS, STRUCTURES AND SATELLITE DISHES**

- A. Accessory Buildings

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Accessory buildings are permitted as follows:

1. Accessory buildings with a total floor area of one hundred fifty (150) square feet or less and a building height of not more than nine (9) feet shall be permitted not closer than five (5) feet of the rear and side lot lines and shall not be permitted within the required front yard area.
  2. Accessory buildings with a total floor area greater than one hundred fifty (150) square feet or a building height of greater than nine (9) feet shall be located in compliance within the required yard areas of the respective district.
- B. Accessory Structures (other than Buildings) - Accessory structures, other than buildings, are permitted as follows:
1. Accessory structures equal to or less than fifteen (1) feet in height, including satellite dishes with a diameter of greater than forty (40) inches but less than thirteen (13) feet, shall be permitted not closer than five (5) feet of the rear and side lot lines and shall not be permitted within the required front yard area. Satellite dishes with a diameter of forty (40) inches or less shall be exempt from this section.
  2. Accessory structures greater than fifteen (15) feet in height, including production model Wind Energy Conversion Systems (windmills) and satellite dishes greater than thirteen (13) feet in diameter, shall be located in compliance with the required yard area of the respective district.
  3. All swimming pools whose capacity is three thousand (3,000) gallons or more shall be located in other than front yard and shall be set back a minimum of twenty five (25) feet from any property line. Pools shall be installed, wired and enclosed in compliance with the New York State Uniform Fire Prevention and Building Code.

### **SECTION 606**

### **STABLING FARM ANIMALS**

- A. There shall be no stabling livestock or storage of manure, fertilizer, or similar odor or dust producing substance within one hundred (100) feet of a lot line of a lot containing a dwelling or other residence.
- B. Disposal of animal wastes shall be in a manner, which is acceptable to the Genesee County Soil and Water Conservation District (GCSWCD). Adherence to such acceptable animal waste disposal practices shall be a condition to the continued stabling of any farm animals.
- C. A minimum of four (4) acres of land shall be required to stable one (1) unit of livestock. Each additional unit of livestock shall require an additional two (2)

acres of land until the minimum of ten (10) acres has been met, designating the property as a farm. [LL No. 2 of 2007]