

PLANNING AND ZONING
ORDINANCE OF THE
CITY OF MECHANICVILLE

2017

PREFACE

The purpose of the Planning and Zoning Ordinance, as set forth in Chapter 200 of the Mechanicville City Code, is to ensure that any proposed development and use of land within the City of Mechanicville will have a harmonious relationship with the existing or permitted use of contiguous land and of adjacent neighborhoods and to ensure that the health, safety, welfare, comfort, and convenience of the public is fully considered in the development of the City of Mechanicville.

In 2014 the City Code was extensively revised in respect to zoning and site plan approval. Pursuant to New York State City Law and City Ordinance, the Zoning Board of Appeals (ZBA) and Planning Board were consolidated into one Board, the ZBA/Planning Commission. The seven member Board has jurisdiction of all issues relating to site plan approval and zoning issues previously within the jurisdiction and purview of the Zoning Board of Appeals and Planning Board. Henceforth, revisions/amendments to the Planning and Zoning Ordinance will be posted online and be available at the City's website. (www.mechanicvilleny.gov)

MECHANICVILLE CITY COUNCIL

Mayor, DENNIS M. BAKER

Acting Commissioner of Accounts, EMILIA FOARD

Commissioner of Finance, JODIE A. GILHEANY

Commissioner of Public Works, DAVID HIGGINS

Commissioner of Public Safety, TIMOTHY HIPWELL

Chapter 200

Zoning

[Adopted 11-1968]

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**ARTICLE I
General Provisions**

§ 200-1. Purpose.

For the purposes enumerated in the General City Law, the City Council of the City of Mechanicville in the County of Saratoga, under the authority of said General City Law, hereby ordains, enacts and publishes this chapter.

§ 200-2. Title.

This chapter shall be known and may be cited as the "City of Mechanicville Zoning Ordinance."

§ 200-3. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the highest standards, shall govern.

§ 200-4. Repealer.

The ordinance entitled "An ordinance regulating and limiting the height and bulk of building hereafter erected, and regulating and determining the area of yards, courts, and open spaces, and regulating the density of population, and regulating and restricting the location of trades, and industries and the location of buildings designed for specific uses, and establishing the boundaries of zones for the said purposes, and providing penalties for the violation of its provisions," adopted in 1944, and all amendments and changes thereto, is hereby repealed and declared to be of no effect as of the effective date of this chapter.

§ 200-5. Word usage.

For the purpose of this chapter, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural; words used in the present tense include the future tense; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot" or "parcel"; the word "shall" is always mandatory; and the word "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."

§ 200-6. Definitions.

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

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

ALTERATION, STRUCTURAL – Any change in the supporting members of a building, such as bearing walls, footing foundations, columns, beams, girders, floor joists, or roof rafters.

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

AREA, NET SITE – The total area within the property lines, excluding external streets.

BASEMENT – A story partly underground but having at least one half (½) of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

BOARDINGHOUSE – Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire, with or without meals. A rooming house or a furnished rooming house shall be deemed a boardinghouse.

BUILDING – Any structure having a roof for the shelter, housing or enclosure of persons, animals, chattels, or property of any kind.

BUILDING, ACCESSORY – A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

BUILDING HEIGHT – The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING, PRINCIPAL – A building in which is conducted the main or principal use of the lot on which said building is situated.

CELLAR – An enclosed space within the foundation walls of a building and having more than one half (½) of its height below the average level of the adjoining ground. In no event shall a cellar be considered a dwelling.

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

COURT, INNER – A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

COURT, OUTER – A court extending to a street line or opening upon any front, side, or rear yard.

COVERAGE – That percentage of the plot or lot area covered by the footprint of the building area.

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

DWELLING – A building designed or used as the living quarters for one (1) or more families. The term "dwelling," "one (1)-family dwelling," "two (2)-family dwelling" or, "dwelling group" shall not be deemed to include an automobile court or rooming or tourist home.

DWELLING, MULTIPLE – A building used or designed as a residence for three (3) or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, flats, and group houses.

DWELLING, ONE-FAMILY – A detached building containing one (1) dwelling unit only.

DWELLING, TWO-FAMILY – A detached building containing two (2) dwelling units.

DWELLING UNIT – A dwelling or portion thereof providing complete living facilities for one (1) family.

FAMILY – One (1) or more persons related by blood, adoption, or marriage living and cooking together as a single housekeeping unit or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage.

FENCE – A barrier, stockade, or other device constructed of wood, brick, wire, or other material excluding concrete, not exceeding eight (8) inches in width, intended for use as a boundary or means of protection or confinement. [Amended 10-2013]

FLOOR AREA OF A BUILDING – The sum of the gross horizontal area of all of the floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

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

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

GASOLINE STATION – Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means.

GRADE, FINISHED – The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

HOME OCCUPATION –

A. An occupation or a profession which:

- (1) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
- (2) Is carried on by a member of the family residing in the dwelling unit;
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
- (4) Which conforms to the following additional conditions:
 - (a) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto;
 - (b) Not more than one person outside the family shall be employed in the home occupation;
 - (c) There shall be no exterior display, no exterior sign (except as permitted under Article VIII), no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building; and
 - (d) No offensive noise, vibration, smoke, dust, odors, heat,, or glare shall be produced.

B. In particular, a home occupation includes but is not limited to the following:

- (1) Art studio;
- (2) Dressmaking;
- (3) Professional office of a physician, dentist, lawyer, engineer, architect, or accountant within a dwelling occupied by the same; and/or
- (4) Teaching with musical instruction limited to a single pupil at a time.

HOSPITAL – Unless otherwise specified, the term "hospital" shall be deemed to include a sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any other place for the diagnosis, treatment, or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL – A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building. Any hotel providing vehicular access within twenty (20) feet of the entrance of more than one half (½) the guest rooms shall be deemed to be a motel.

JUNKYARD – A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

LOT – A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessories and open spaces belonging to the same.

LOT, CORNER – A lot which has an interior angle of less than one hundred thirty-five degrees (135°) at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than one hundred thirty-five degrees (135°).

LOT, DEPTH OF – A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

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

LOT, THROUGH – An interior lot having frontage on two (2) parallel or approximately parallel streets.

LOT, WIDTH OF – The mean width measured at right angles to its depth.

MOBILE HOME – Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle and which is used, designed to be used and capable of being used as a detached single-family dwelling. [Adopted 06-1969]

MOBILE HOME LOT – A portion or parcel of land considered as a unit which is used or occupied by a mobile home and the customary accessories and open spaces belonging to the same. A mobile home lot shall have the same requirements as any residential building lot. [Adopted 06-1969]

MOBILE HOME PARK – Any parcel of land or a combination of adjacent parcels of land which is planned and improved for the placement of two (2) or more mobile homes. [Adopted 06-1969]

MOTEL – A building or group of buildings used, rented, or hired out to be occupied for sleeping purposes by guests, generally on a transient basis, with a provision for close vehicular access to the guest rooms by the guest room user.

NONCONFORMING USE – A building, structure or use of land which lawfully existed prior to the time of adoption or amendment of this chapter but which does not conform to the regulations of the district or zone in which it is situated by reason of said adoption or amendment.

NURSERY SCHOOL – A school designed to provide daytime care or instruction for two (2) or more children from two (2) to five (5) years of age, inclusive, and operated on a regular basis.

NURSING OR CONVALESCENT HOME – Any dwelling with fewer than fifteen (15) sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

OPEN SPACE – An unoccupied space open to the sky on the same lot with the building. Where such space is required, it shall be not less than two hundred fifty (250) square feet for each dwelling unit, may be located in a required yard and shall be located and designed to be usable for play space for small children, laundry drying, or other open use. Driveway or parking areas shall not be included in such space.

PARKING LOT- An area divided into individual spaces intended for parking motor vehicles. [Adopted 10-2013]

PARKING SPACE – An off street space available for the parking of one (1) motor vehicle and having the dimensions of not less than nine feet (9)' by eighteen feet (18') exclusive of passage ways and driveway appurtenant thereto and giving access thereto and having direct access to a street or alley or private roadway. [Amended 04-2009]

PEDESTRIAN-ORIENTED HARDSCAPE – Paved pedestrian paths or gathering areas clearly defined, marked, signed, and in contrasting color from surrounding non-pedestrian paved areas. [Adopted 04-2009]

PORTABLE BUILDING- Any prefabricated structure assembled off site and delivered to the site as a complete unit or a building purchased in kit form and assembled onsite, which can be moved without disassembly to another location. [Adopted 10-2013]

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

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

STREET GRADE – The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

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

YARD – An unoccupied space open to the sky on the same lot with a building or structure.

YARD, FRONT – An open, unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

YARD, REAR – An open, unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

YARD, SIDE – An open, unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ARTICLE III Establishment of Districts

§ 200-7. Types of districts.

A. The City of Mechanicville is hereby divided into the following types of districts:

- (1) Residential Districts:
- (2) Multifamily/Townhouse Residential District; [Adopted 07-1990]
- (3) General Commercial Districts;
- (4) Restricted Commercial Districts;
- (5) Light Industrial Districts;;
- (6) Heavy Industrial Districts;
- (7) Waterfront Mixed Use Districts; [Adopted 04-2009] and
- (8) Planned Development District; [Adopted 04-2012]

§ 200-8. Zoning map. [Amended 04-2009]

- A. The zoning map of the City of Mechanicville dated April 9, 1962, is hereby amended to reflect a change in that designation of real property located on North Main Street in the City described as Tax Map Parcel #262.38-1-3 on the 2008 tax roll from a Heavy Industrial District to a Waterfront Mixed Use District.
- B. The zoning map of the City of Mechanicville dated April 9, 1962, is hereby amended to reflect the changes and amendment reflected in a certain zoning map dated July 1, 2013. [Amended 10-2013]
- C. The zoning map of the City of Mechanicville dated April 9, 1962, as amended is hereby amended to reflect the changes and amendment reflected in a certain zoning map dated October 12, 2016. [Amended 11-2016]

§200-8(BB) Planned Development District. [Amended 04-2012]

That the zoning map of the City of Mechanicville dated April 9, 1962, as amended, be amended to change a portion of that real property known as the Mechanicville Industrial Park to a Planned Development District.

§ 200-9. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundary of any district as shown on the Zoning 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, such center lines, street lines or highway right-of-way lines shall be construed to be such 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 district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such a distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said Zoning Map;
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line; and
- E. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the city unless otherwise indicated.

**ARTICLE IV
District Regulations**

§ 200-10. General provisions.

- A. Except as herein specified, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. Except as herein specified, no building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller front yards, rear yards, side yards, or inner or outer courts than is specified herein for the district involved.
- C. Except as herein specified, no part of a yard or other space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.
- D. The regulations for each district, unless otherwise indicated or provided for in this chapter, shall be deemed to be the minimum requirements in every instance. The listing of any use either as being permitted in or as being excluded from any particular district shall be deemed to be an exclusion of such use from any more restrictive district, unless the text specifically indicates the contrary.

§ 200-11. Residential District.

- A. Permitted principal uses shall be as follows: one-family dwelling; two-family dwelling; public school, park or recreation facility; municipally operated utility; church or place of worship; rectory, convent or similar religious building or use; private school authorized by the State Department of Education; private nonprofit recreation facility; and agricultural or gardening use, but no sale of products on the premises.
- B. Permitted accessory uses shall be as follows: private garage or parking space; garden house, greenhouse or similar accessory use to a dwelling, including private swimming pool; customary home occupation; and signs, in conformity with the provisions of Article VIII.
- C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: farm produce sales stand; utility substation; membership club; nursery school; hospital; real estate office; real estate development sign; cemetery; multiple dwelling; nursing home; museum; art gallery; public library not operated for profit; funeral home; and mobile home. [Amended 06-1969]
- D. Minimum lot area shall be four thousand (4,000) square feet, except for new dwelling construction on lots not previously of record, where five thousand (5,000) square feet shall be required. For any additional dwelling units in excess of the first, a lot area of twenty-five hundred (2,500) square feet for each dwelling unit and a usable open space of two hundred fifty (250) square feet for each dwelling unit shall be required.
- E. Minimum lot dimensions shall be as follows:
 - (1) Width: 45 feet; and
 - (2) Depth: 100 feet.

F. Maximum building height shall be as follows:

- (1) In stories: three; and
- (2) In feet: 40.

G. Minimum yards shall be as follows:

- (1) Front: 25 feet;
- (2) Rear: 20 feet; and
- (3) Side: not less than five (5) feet, but the sum of two (2) side yards shall be not less than fourteen (14) feet.

H. Maximum coverage by principal and accessory buildings shall be forty percent (40%).

I. Minimum off-street parking space shall be in accordance with § 200-30.

§ 200-12. Multifamily/Townhouse Residential District [Adopted 07-1990].

A. Permitted principal uses shall be as follows: single-family home on a single lot; condominium, townhouse and multifamily residential structure containing two (2) or more dwelling units in which the dwelling units are for sale individually or for rent; public school, park or recreational facility; and church or place of worship. More than one (1) structure containing permitted principal uses is permitted on one lot of record.

B. Permitted accessory uses shall be as follows: private garage or parking space, garden house, or tool shed.

C. Density requirement. No residential structure(s) containing two (2) or more dwelling units shall be erected, altered or used which does not provide a lot area of at least twenty five hundred (2,500) square feet for each family or dwelling unit.

D. Minimum lot area. The minimum lot area for a single-family home shall be four thousand (4,000) square feet. The minimum lot area for all other residential structures is five thousand (5,000) square feet.

E. Minimum yards shall be as follows:

- (1) Front: 20 feet;
- (2) Rear: 15 feet; and
- (3) Side: not less than five (5) feet, but the sum of two (2) side yards of any principal building shall be not less than fourteen (14) feet.

F. Minimum off-street parking space shall be in accordance with § 200-30.

§ 200-13. General Commercial District.

A. Permitted principal uses shall be as follows: one (1)-family dwelling; public school, park or recreation facility; municipally operated utility; church or place of worship; rectory,

convent or similar religious building or use; private school authorized by the State Department of Education; private nonprofit recreation facility; agricultural or gardening use, but no sale of products on the premises; retail store; office for professional, banking or business purpose; eating and drinking establishment; personal service establishment, but not including any dry-cleaning or laundry plant, except by special use permit, self-service laundry or dry-cleaning store; public utility substation; veterinary hospital; public or private parking lot; gasoline station; automotive sales or service establishment; business school; funeral home; commercial recreation facility; membership club; and motel or hotel.

- B. Permitted accessory uses shall be as follows: all uses customarily incidental and accessory to a permitted principal use, but not including any open storage or manufacture for off-premises sale, provided that signs shall be as provided in Article VIII.
- C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: two-family dwelling; multiple dwelling; hospital; nursing home; nursery school; cemetery; open storage area; and fuel storage area.
- D. Minimum lot area shall be as follows: none, except that where any dwelling use is provided there shall be twenty five hundred (2,500) square feet of lot area for each dwelling unit and two hundred fifty (250) square feet of usable open space for each dwelling unit.
- E. Minimum lot dimensions shall be as follows: none.
- F. Maximum building height shall be as follows:
 - (1) In stories: three; and
 - (2) In feet: 45.
- G. Minimum yards shall be as follows:
 - (1) Front: none;
 - (2) Rear: 15 feet; and
 - (3) Side: it shall be at least five (5) feet, and where the lot abuts any land in a residence district, the abutting side yard shall be ten (10) feet.
- H. Maximum coverage by principal and accessory buildings shall be eighty-five percent (85%).
- I. Minimum off-street parking space shall be in accordance with § 200-30.

§ 200-14. Restricted Commercial District.

- A. Permitted principal uses. The following uses are permitted, provided that no new dwelling use shall be permitted except as hereinafter expressly provided: parking lot or garage; automobile sales, service or repair establishment; gasoline station; sign in accordance with Article VIII; warehouse or storage building; commercial recreation

facility; hotel or motel; boardinghouse or rooming house; nursing home; hospital; business and professional office; and restaurant or lunch room.

- B. Permitted accessory uses shall be as follows: all uses customarily accessory to a permitted principal use.
- C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: multiple dwelling and dry cleaning or laundry plant.
- D. Minimum lot area shall be as follows: none, except that where any dwelling use is provided, there shall be twenty five hundred (2,500) square feet of lot area for each dwelling unit and two hundred fifty (250) square feet of usable open space for each dwelling unit.
- E. Minimum lot dimensions shall be as follows: none.
- F. Maximum building height shall be as follows:
 - (1) In stories: 3; and
 - (2) In feet: 45.
- G. Minimum yards shall be as follows:
 - (1) Front: there shall be a minimum setback requirement of ten (10) feet to provide for access drives and off-street parking;
 - (2) Rear: none, except that where the yard abuts a residence district, the abutting yard shall be at least ten (10) feet; and
 - (3) Side: it shall be at least five (5) feet, and where the yard abuts a residence district the abutting yard shall be ten (10) feet.
- H. Maximum coverage by principal and accessory buildings shall be as follows:
 - (1) For nonresident use: sixty percent (60%); and
 - (2) For lot with any dwelling use: fifty percent (50%).
- I. Minimum off-street parking space shall be in accordance with § 200-30.

§ 200-15. Light Industrial District.

- A. Permitted principal uses shall be as follows:
 - (1) Industrial and manufacturing uses, including construction, assembly, packaging, and warehousing operations, provided that:

- (a) No use shall be of a type that will create any objectionable effluent, odor, smoke, dust, fumes, light, noise, radiation, or other effect in any residence district area;
 - (b) No use listed as a prohibited use in § 200-32 shall be permitted; and
 - (c) No new dwelling use shall be permitted.
- (2) Uses permitted in a Commercial District other than any dwelling use.
- (3) All railroad uses.
- (4) Truck terminal.
- (5) Warehousing.
- B. Permitted accessory uses shall be as follows: all uses customarily incidental and accessory to a permitted principal use, provided that they meet the requirements of such uses as shown above; parking area or garage for visitor, employee or business vehicles; signs in accordance with Article VIII; and storage related to a permitted use.
- C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: junkyard.
- D. Minimum lot area shall be five thousand (5,000) square feet.
- E. Minimum lot dimensions shall be as follows:
 - (1) Width: 50 feet;
 - (2) Depth: 100 feet.
- F. Maximum building height shall be as follows:
 - (1) In stories: 3;
 - (2) In feet: 45.
- G. Minimum yards shall be as follows: same as Commercial District.
- H. Maximum coverage by principal and accessory buildings shall be fifty percent (50%).
- I. Minimum off-street parking space shall be in accordance with § 200-30.

§ 200-16. Heavy Industrial District. [Amended 08-2014]

- A. Permitted uses shall be as follows:
 - (1) All uses not otherwise prohibited by law (except any residential use); and/or

- (2) Junkyards or automobile wrecking yards and scrap iron, scrap paper or rag storage, sorting or baling, provided that they are conducted within a building or where entirely enclosed within a fence or by other means approved by the ZBA/Planning Commission.
- B. Permitted accessory uses shall be as follows: all uses customarily incidental and accessory to a permitted principal use, provided that they meet the requirements of such uses as shown above; parking area or garage for visitor, employee or business vehicles; sign in accordance with Article VIII; and storage related to a permitted use.
- C. Uses requiring a special use permit. The following uses may be permitted if approved by the ZBA/Planning Commission and shall be subject to the securing of a permit therefor and to such conditions, restrictions and safeguards as may be deemed necessary by said ZBA/Planning Commission for the purpose of protecting the health, safety, morals, or the general welfare of the community: all uses of land, buildings and structures, or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, or similar substances or conditions.

200-16(AA) Waterfront Mixed Use District. [Adopted 04-2009]

- A. The following uses shall be permitted in any area of the City of Mechanicville designated as a Mixed Used District:
- (1) Dwelling, one-family;
 - (2) Dwelling, multi-family, or apartment or condominium;
 - (3) Municipal building;
 - (4) Professional and General Office;
 - (5) Residential home business;
 - (6) Retail and Commercial Uses, including but not limited to, retail stores, Restaurants, Fast Food Establishments, Hotel, Theater, Conference Center, Drive Through Service of retail facility, Banks, Grocery store, Drugstore, Personal service shop, Health Club, Fitness or Recreation center, Day-care or Pre-school center, Retail Bakery, club or lodge, Dry Cleaner (pick up only) or Automatic Laundry or Laundromat, Farmers Market, Outdoor Retail or Recreational Events, or similar activity and any related Accessory including but not limited to pools, pavilions, storage structures, and maintenance structures.
 - (7) Planned Unit Development;
 - (8) Signs. Signs relating to the above-permitted uses under this Article public utility structures and facilities, such as electric lines, poles, gas mains, telephone and telegraph lines and poles necessary to service the district (excluding major utility substations, major transmission lines, pipes, poles, or mains.)

B. Dimensional Requirements:

- (1) Lot Area: Minimum 22,000 square feet;
- (2) Maximum Building Height: 75 Feet;
- (3) Front Yard Setback: 0’;
- (4) Side Yard Setback: 0’;
- (5) Rear Yard Setback: 15’ minimum;
- (6) Maximum Lot Coverage by principal and accessory buildings shall be ninety (90%);
- (7) Multiple principal uses shall be permitted on any Lot.

C. Parking Requirements:

- (1) Parking shall be established in accordance with § 200-30 provided, however, that uses within a contiguous area of any downtown District designated area, may be permitted to aggregate the parking on the respective sites as long as there exists between the respective uses a cross easement agreement for parking which has been filed with the Clerk upon issuance of any building permits on the effected sites/parcels.
- (2) The ZBA/Planning Commission may consider shared use of parking spaces, where appropriate, to allow an appropriate reduction in the total number of parking spaces that would otherwise be required. [Amended 08-2014]

§200-16(BB) Planned Development District. [Adopted 04-2012] [Amended 08-2014]

- A. **Purpose.** In order to meet the objectives of this chapter and to encourage and promote the most attractive and economic development of land which under appropriate conditions may include a mixture of land use types not otherwise permitted, to encourage job-supporting and tax-producing new development planned in accordance with modern planning standards, to protect the quality and property values of existing development, to create a pattern of development which preserves unique natural features such as but not limited to outstanding natural topography and geologic features and prevents soil erosion, to increase the range of services and facilities available to serve the City's present and future population, and to otherwise promote and enhance the public health, safety, and general welfare, the following provisions with regard to Planned Development Districts are adopted:
- B. **Establishment.** A zoning district to be delineated as a Planned Development District is hereby established.

C. **Application; review; public hearing; action.** The review process, considerations, and actions of the ZBA/Planning Commission with respect to the development within a Planned Development District shall be governed by Chapter 200, Article VII of the City Code, except as modified by this article.

D. **Procedures and Escrows:**

(1) The owner of the land or agent thereof shall submit an application for site plan approval to the ZBA/Planning Commission in conformity with the Site Plan Review process as set forth in Chapter 200 Article VII of the City Code.

(a) An escrow amount shall be established by the applicant to pay for consultant's fees, including engineering and legal fees, incurred in the evaluation of the site plans. An estimate of anticipated fees shall be provided to the applicant.

E. **District Regulations**

(1) **Permitted uses.**

(a) Stores and shops for the conduct of retail business, banks, post office, and establishments for the performance of various personal services, provided that such uses are part of a planned shopping complex of at least three (3) acres.

(b) Theater, disco, bowling alley, skating rink, commercial recreation facility, membership club, or other place of amusement, provided that all principal activities are conducted in a fully enclosed building.

(c) Institutional health care facilities, including hospitals, veterinary hospitals, and long-term care facilities where the occupants reside for extended periods within the facility.

(d) Office use.

(e) Hotel or Motel.

(f) Public or private parking lot or garage; automotive sales or service establishment; automobile sales, service or repair establishment.

(g) Park or recreation facility; church or place of worship; business school.

(h) Solar power generating facilities.

(i) Municipally operated utility, public utility substation.

(j) Light industrial uses, including construction, assembly, packaging and warehousing operations, and storage building provided that:

- (2) No use shall be of a type that will create any objectionable effluent, odor, smoke, dust, fumes, light, noise, radiation, or other effect in any residence district area and is in compliance with the rest of this chapter and supplemental PDD regulations.
- (3) Permitted accessory uses shall be as follows:
 - (a) Office of a physician, lawyer, surgeon or dentist, and similar professional offices; garages, and other areas for parking of motor vehicles. In areas of open or outdoor parking only one tenth (1/10) of the area may be for commercial vehicles of one (1) ton or less; Parish house, rectory or church schoolrooms;
 - (b) All uses customarily incidental and accessory to a permitted principal use; parking area or garage for visitor, employee or business vehicles; and storage related to a permitted use;
- (4) Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: Open storage area, fuel storage area.
- (5) Minimum lot area shall be at least one (1) acre for commercial and light industrial uses.
- (6) Minimum lot dimensions shall be as follows:
 - (a) Width: no minimum
 - (b) Depth: no minimum
- (7) Maximum building height shall be as follows:
 - (a) In stories: 5
 - (b) In feet: 75
 - (c) Minimum yards shall be as follows:
 - (d) Front: no minimum
 - (e) Rear: no minimum
 - (f) Side: no minimum
- (8) There shall be no maximum coverage by principal and accessory buildings restriction.
- (9) Minimum off-street parking space shall be in accordance with § 200-30.

F. **Compliance with standards.** All Planned Development Districts and all buildings and uses within such districts shall be required to comply with the following specified development standards and requirements, except that the ZBA/Planning Commission is hereby authorized to modify or waive the standards with respect to individual buildings and lots within a planned unit development, as the ZBA/Planning Commission deems appropriate.

- G. **Location.** Location of the Planned Development shall be in conformance with the City's Comprehensive Plan.
- H. **Minimum site area.** The site plan for a PDD shall not be less than one acre for a commercial for a light industrial development; provided, however, that where an applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article, projects with less acreage will be considered by the ZBA/Planning Commission. The calculation of such land area shall not include existing streets, easements, and parks or otherwise dedicated land or water areas in excess of five percent (5%) of the minimum gross acreage, lands officially designated on the official map of the City. Sites proposed for development for two (2) or more classifications shall consist of the aggregate gross land area required for each use. The proposed development shall conform to the City of Mechanicville Comprehensive Plan.
- I. **Additional Requirements** Once a site plan is approved, no further changes can be made to the structures or amenities of the site, nor shall any changes be made to the uses allowed in the approved plan, unless those changes are resubmitted to the ZBA/Planning Commission for review and approval.
- J. **Setbacks and building coverage.** All normal dimensional standards and requirements related to buildings and lots within a Planned Development District shall be subject to ZBA/Planning Commission review and determination as a part of the site development plan and/or subdivision plat approval procedure, as appropriate.
- K. **Streets and storm drainage.** All areas covered by buildings and all paved portions of the site shall be provided with suitable storm drainage. Where the expansion, reconstruction or other alteration of off-site drainage facilities and structure is required as a result of the additional burdens imposed by a proposed development, such development shall not be approved until the necessary off-site improvements have been made or provisions have been made for such improvements.
- L. **Off-street parking.** Off-street parking facilities shall be provided in number and design subject to the following special standards for Planned Development Districts:
- (1) All maintenance vehicles or equipment shall be stored in enclosed structures only, which structures shall conform in architectural theme to the principal buildings of the planned development.
 - (2) The ZBA/Planning Commission may waive up to thirty percent (30%) of the total required residential parking facilities as part of its site plan approval when it is determined by the ZBA/Planning Commission that, due to the relationship of the land uses, the total required facilities may not be necessary to meet the intent of these regulations. In all cases, it shall be expressly demonstrated on the site development plan that sufficient space remains for the provision of the total amount of parking required, and the site development plan shall bear such designation. All such undeveloped parking space shall be used and maintained as additional landscaped grounds until required for parking. Written guaranties, satisfactory to the City Attorney, shall be submitted by the applicant for the eventual improvement of any such spaces, which may have been waived, within six (6) months of the date of written notice to the property owner by the

ZBA/Planning Commission that such spaces have been determined as necessary and must be constructed.

- (3) Parking shall be situated so that it is adequately screened from the city streets and, to the maximum extent possible, from all other vantage points around the parcel, either by dense, year-round landscaping or topographically concealed. Parking shall be to the side or rear of buildings.

M. Street trees and landscaping. In addition to the normal requirements for buffer landscaping to screen and protect adjoining residential properties, and for on-site landscaping necessary to assure an attractive development, provide shade and prevent soil erosion, it shall be required that street trees be planted within parking areas at the rate determined by the ZBA/Planning Commission.

N. Recreation area and open space.

- **Open space.** All portions of any planned development which are not used for one (1) or more of the purposes permitted by this chapter shall be designed and maintained as permanent open space and shall be landscaped or preserved in accordance with plans approved by the ZBA/Planning Commission.
- **Walkways.** Planned developments shall be provided with safe and convenient pedestrian walkways as determined necessary by the ZBA/Planning Commission to connect buildings, parking facilities, public and commercial facilities, school bus stops and recreation and open space areas. Walkways should be paved, level surfaces to allow walkers of all abilities to easily move about.

O. Utilities and services.

- (1) All utilities shall be placed underground and shall be situated to the extent possible between the paved roadway and designated street line, or in commonly owned areas, to simplify location and repair of such lines. Wherever possible, utilities should be routed around structures, paved areas and separately owned private lands.
- (2) Refuse collection, storage and disposal. Plans for the collection, storage and disposal of refuse within any planned unit development shall be subject to ZBA/Planning Commission approval as part of its review of site development plans. The outside storage of refuse, if permitted, shall be in rodent proof containers conveniently located and enclosed or otherwise screened from view.
- (3) Fire protection. Planned developments shall be provided with proper access for fire-fighting equipment and personnel. Hydrants shall be provided in such number and location and with such water supply and pressure as may be determined adequate by the ZBA/Planning Commission, based upon the recommendation of the Fire Chief.

- (4) Exterior lighting shall be provided in accordance with a lighting plan approved by the ZBA/Planning Commission. Under no circumstances shall lighting be designed in such a way to allow unshielded light to project beyond the boundaries of the parcel. The design is encouraged to have some lights turn off when not required, except those lights that serve security and safety concerns. Further, consideration should be given to avoid, as much as possible, up-lighting which could create sky-shine at night.
- P. **Ownership; maintenance responsibilities.** At the time of submission of a detailed site development plan to the ZBA/Planning Commission for approval, the applicant shall be required to prepare and submit a written program for the maintenance of any commonly owned area, including open space and recreation areas, walkways, driveways, parking areas and other common utilities and facilities. This program shall fix the responsibility for the maintenance program on either the landlord or a home association, or a combination thereof, and shall demonstrate, to the satisfaction of the ZBA/Planning Commission and the City Attorney, how such responsibility will be legally bound and enforceable. If authorized and approved by the City Council, community areas may be dedicated to the City by the applicant.
- Q. **Expiration of site development plan approval.** If no construction is begun within one (1) year of ZBA/Planning Commission approval of the site plan, the site plan approval shall be deemed expired.
- R. **No construction until requirements are met.** No building permits shall be issued for construction within a Planned Development District until improvements are constructed or financial security is posted. Construction may also not occur until such other requirements and conditions as established by the ZBA/Planning Commission have been met.
- S. **Signs.** The following section supersedes any other sign ordinances in the City of Mechanicville Zoning Ordinance.
- (1) **Purpose.** The purpose of this section is to:
- (a) Maintain character of the community and enhance physical appearance of planned developments.
 - (b) Ensure compatibility of design of signs relating to the commercial or other land use portions of a planned development.
 - (c) Prevent visual and physical congestion created by signs designed to compete for the visual attention of motorists.
 - (d) Protect the visual character of the City by encouraging signs that are visually compatible with development.
- (2) **General standards.** The following standards and specifications shall be included in plans presented to the ZBA/Planning Commission during site plan review of

the commercial portion of any proposed planned unit development or during sign permit review of proposed signs for existing planned unit developments:

(a) **Illumination and non-stationary signs.**

- i.* Signs shall not be designed to include neon tubing such that the tubing is part of the visible exterior of the sign. Signs shall not be illuminated by or contain flashing, blinking, rotating or sequential, or other moving lights.
- ii.* Signs shall not be constructed to be or to include moving, rotating or fluttering parts or banners or to have any part that projects or moves beyond the allowed surface area.
- iii.* Interiorly lit signs are prohibited.

(b) **Design and aesthetics.**

- i.* **General.** The purpose of these design standards is to promote construction of signs that are compatible with the design and composition of the planned unit development and are legible, yet do not create visual distraction or confusion for passing motorists. The design should complement existing adjacent land uses and the visual character of the City.
- ii.* **Materials, finish and coloring.** Durable materials, such as wood, metal, or plastic, shall be used to construct the commercial plaza sign and individual business signs. The material chosen shall be approved by the ZBA/Planning Commission and should be consistent with the materials used to construct residential and commercial portions of the planned unit development that are visible from the roadway and neighboring properties. Finish and coloring shall also complement the composition of the entire planned unit development project and surrounding community.
- iii.* **Colors.** Sign colors shall be chosen to minimize or reduce significant or distracting contrast, to eliminate visible competition between the colors of the freestanding sign, its constituent identity signs and individual signs on storefronts, except for the recognized logo of stores with retail space exceeding seventy five hundred (7,500) square feet.
- iv.* **Lettering, layout and composition.** The composition of all signs for the complex, including the freestanding plaza sign, identity signs on the plaza sign and individual business signs, should be reasonably consistent in lettering and layout, such that:

1. A limited variety of lettering styles can be chosen that are visually compatible and readable for motorists and customers in the complex.
2. A form of message layout should be chosen and presented in plan details to provide a certain proportion of lettering size and quantity to overall sign space.
3. Temporary or portable signs shall be permitted, but only with a permit from the Zoning Inspector. Such permits shall not be renewable and shall not exceed fifteen (15) days in duration.

(3) **Commercial plaza sign.** One freestanding sign may be proposed for a road front location which may indicate the name of the commercial plaza and the name of the tenants.

(a) **Dimensions.**

- i.* **Height.** The height of a freestanding sign for identifying the commercial plaza shall be established at the discretion of the ZBA/Planning Commission; however, in no case should the lighted portion of the sign exceed twenty-five (25) feet as measured from the finished grade of the road surface fronting the plaza. In no case may the total height of the sign structure exceed thirty (30) feet from the finished grade of such road surface.
- ii.* **Sign area.** There shall be a maximum of two (2) faces for the freestanding commercial plaza sign. Each face shall be no greater than one hundred fifty (150) square feet. The area of the freestanding sign faces may be increased, up to a maximum of three hundred (300) square feet each, at the discretion of the ZBA/Planning Commission. The ZBA/Planning Commission shall include the following criteria in its determination,
 - iii.* A landscaped area at the base of the sign.
 - iv.* Increased setback of the sign from the road frontage.
 - v.* Lighting and design of the sign.
 - vi.* Overall visual quality of the freestanding sign.

(b) **Location, orientation and setback.**

- i.* **Location.** The freestanding commercial plaza sign shall be located along the longest property border of the commercial portion of the planned unit development which faces a major roadway. Where the commercial portion of the planned unit development has significant lengths of frontage along more than one major roadway,

an additional sign may be placed to identify an alternate entry to the plaza, not to exceed ten (10) square feet. However, only one (1) of the road-facing signs may bear the identity signs for the individual tenants of a commercial plaza.

ii. **Orientation.** A freestanding sign may have two (2) faces and may be oriented so that the width of the face is perpendicular to the roadway so that each face can be read by motorists. No sign shall have more than two (2) faces.

iii. **Setback.** The required setback of the sign shall be at the discretion of the ZBA/Planning Commission. The ZBA/Planning Commission shall consider the total distance to the traveled roadway along with the other factors in its determination regarding appropriate setback requirements. The ZBA/Planning Commission shall establish a setback which furthers the purpose of the sign ordinance and which will minimize visual and visible congestion of the highway and will promote safe flow of traffic.

iv. **Landscaping.** Suitable landscaping shall be provided around the sign.

(4) Individual business signs.

(a) One (1) individual identity sign may be constructed for each tenant store located between the anchor stores. Such sign may be attached to the store's front facing a roadway or interior of a mall complex or may project perpendicularly from the front wall of the store. No other signs are permitted. Individual identity signs for tenant stores of less than seventy-five hundred (7,500) square feet may not extend above or below the fascia. For signs on the fascia, the length of said sign shall not exceed the store's frontage in linear feet minus eight (8) feet. If the sign extends perpendicular from the store front, it may not be larger than eight (8) square feet and shall be a minimum of seven point five (7.5) feet in height from the pavement.

(b) Anchor stores of seventy-five hundred (7,500) square feet or greater of retail space may have an individual business sign to be attached to the storefront. Such sign shall not exceed an area equal to the store's frontage in linear feet times one point five (1.5) feet (for example, twenty-five (25) linear feet of frontage by one point five (1.5) feet equals thirty-seven point five (37.5) square feet). Each sign shall be attached to the storefront or the fascia and shall not project above the top of the vertical portion of the front roofline. In no case shall a roof-mounted sign be permitted. A vertical sign attached to a sloping roofline shall not be permitted.

(5) Administration.

(a) Plans and details for proposed signs for commercial portions of planned unit developments shall be presented for review and approval by the

ZBA/Planning Commission during the site plan review of the planned unit development.

- (b) No additional permanent or temporary signs or other advertising device shall be erected, constructed, displayed, moved, reconstructed, extended, enlarged, or altered without a thorough review and approval by the ZBA/Planning Commission.
- (c) Upon approval of said plans, the application shall be filed with the Building Inspector for a sign construction permit. Compliance with approved sign plans shall be enforced by the Building Inspector.

T. Severability.

- (a) **Validity.** If any part or provision of this Ordinance or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Ordinance or the application thereof to other persons or circumstances, and the City Council of the City of Mechanicville hereby declares that it would have passed this Ordinance or the remainder thereof had such invalid application or invalid provision been apparent.
- (b) **Repeal.** All ordinances, local laws and parts thereof inconsistent with this Ordinance are hereby repealed.
- (c) **Effective Date.** This Ordinance shall become effective upon filing pursuant to the City Code. This decision shall not affect the validity of the remaining portions of this regulation.

ARTICLE V Special Permit Uses

§ 200-17. General provisions.

The special permit uses specified in §§ 200-11C, 200-13C, 200-14C, 200-15C, and 200-16C shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this chapter and § 27-b of the General City Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

§ 200-18. Plan required.

A plan for the proposed development of a lot for a special permit use shall be submitted with an application for a special permit, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other information necessary to determine if the proposed special permit use meets the requirements of this chapter.

§ 200-19. Standards applicable to all special permit uses.

The location and size of the use, the nature and intensity of the operations involved and the size of the site in relation to it shall be such that it will be in harmony with the orderly development of the district, and the location, nature, and height of buildings and structures will not discourage the appropriate use of adjacent land and buildings or impair the value thereof. The operation of the use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights than would be the operation of any permitted principal or accessory use.

§ 200-20. Special permit uses in Residential Districts. [Amended 08-2014]

- A. The use shall be located on a lot large enough to accommodate the building or buildings involved and necessary off-street parking or garaging space and meet all yard requirements of the district.
- B. The height of buildings shall not exceed that required in the district, provided that a height in excess of this requirement shall be permitted up to fifty percent (50%) over the requirement if all yards are increased to equal the height of the tallest building.
- C. In case of a nursery school, the exterior area to be used by children shall be completely fenced.
- D. The ZBA/Planning Commission, in acting on any application, may impose such additional requirements as it may deem necessary to meet the needs of a particular case.
- A. In the case of a mobile home, a masonry foundation in accordance with the city's Building and Housing Codes must be provided on the mobile home lot to provide a stable and durable support for the entire base perimeter of the mobile home. The mobile home lot must be landscaped in a manner not to detract from neighboring dwelling lots.

§ 200-21. Special permit uses in commercial and industrial districts. [Amended 08-2014]

- A. The use shall be located on a lot large enough to accommodate the building or buildings involved, necessary off-street parking or garaging space and off-street loading space and be situated so as to minimize the hazards of traffic access and egress.
- B. The particular use involved shall not be such as to create any observable nuisance or effect beyond the boundary of the lot that is more intense than that of a permitted principal use in the district.

- C. In a commercial district, the height of buildings shall not exceed that required in the district, provided that a height in excess of this requirement shall be permitted up to 50% over the requirement if all yards are increased to equal the height of the tallest building.
- D. In the case of a junkyard, the area used for such purpose shall be completely fenced in a manner that prevents a view of the operation from the lot line to a minimum height of eight feet above lot line grades.
- E. The ZBA/Planning Commission, in acting on any application, may impose such additional requirements as it may deem necessary to meet the needs of a particular case.

ARTICLE VI Supplemental Regulations

§ 200-22. Purpose.

The provisions of this chapter shall be subject to such exceptions, additions, or modifications as herein provided by the following supplementary regulations.

§ 200-23. Location of accessory buildings on a lot.

- A. In any residence district, a permitted accessory use housed in a building may not be placed in any required front yard, side yard, or rear yard, provided that a garage, tool or storage shed, swimming pool, may extend into a required side yard or rear yard if it is to the rear of the back of the dwelling it is to serve and is set back at least five (5) feet from any lot line. In any commercial or industrial district, an accessory building shall not be located in any required yard. [Amended 10-2013]
- B. Except as allowed in Subsection A, all accessory uses, including all swimming pools, shall meet the applicable setback requirements.

§ 200-24. Existing lots of record.

In any district, where a lot has existed as a lot of record prior to the effective date of this section and such lot has been owned separately from any adjoining lot or lots and such lot fails to meet the minimum area, width, or depth requirements of the district in which located, a building permit for a permitted use shall be issued, provided that the following requirements are met:

- A. The owner of such lot is required to add to such lot any adjoining land in his ownership in order to permit a lot to be created that can meet requirements as far as possible.
- B. The yard requirements for the district are met.
- C. The size of the lot is such that there is three thousand (3,000) square feet of area for each permitted dwelling unit.

D. The lot has access to an improved street and has no less than twenty-five (25) feet of frontage on such street.

§ 200-25. Minimum frontage.

In any residence district, every lot shall have a frontage at the street property line not less than seventy-five (75%) of the required minimum lot width.

§ 200-26. Access to improved street.

In any district, the use proposed shall be so located on the lot that the lot is accessible from a street improved to permit the passage of emergency vehicles.

§ 200-27. Average front yard.

In a case where a lot is adjoined on each side by lots having building setbacks, in the front yards, less than that required by this chapter, the lot in question may provide a front yard equal to the average depth of the adjoining front yards, provided that in no case shall the front yard be less than one half ($\frac{1}{2}$) that required.

§ 200-28. Height exceptions.

The maximum height requirement of this chapter shall not be interpreted to prevent the erection of necessary mechanical equipment, steeples, ornamental cornices or spires, and similar architectural features above the maximum height, provided that such exceptions shall be the minimum required for the purpose they are designed to serve.

§ 200-29. Courts.

A building court entirely surrounded by walls shall not be less in horizontal cross-section area than two hundred (200) square feet for each story of wall height nor have a minimum side dimension of less than ten (10) feet. Any other court shall not have a depth more than one and one half ($1 \frac{1}{2}$) times its width.

§ 200-30. Required off-street parking space. [Amended 08-2014]

All parking spaces provided pursuant to this section shall be on the same lot with the building or an adjoining lot, except that the ZBA/Planning Commission may permit the use of a lot within four hundred (400) feet of the building lot if it determines that it is impractical to provide parking on the same lot with the building. The parking space requirements shall be required and each parking area shall be satisfactorily developed and maintained to permit its continued use for that purpose.

- A. **For each dwelling unit in a one- or two-dwelling-unit building:** one (1) parking space for each such unit.
- B. **For each dwelling unit in a multiple-dwelling structure:** for existing construction, one parking space for each dwelling unit; for new construction, one and one half (1 ½) parking spaces for each dwelling unit.
- C. **For a retail store, service establishment or similar business use:** one (1) parking space for each establishment, plus one (1) additional space for each two hundred (200) square feet of sales space in excess of five hundred (500) square feet.
- D. **For an office or professional establishment:** one (1) parking space for each establishment, plus one (1) additional space for each two hundred (200) square feet in excess of five hundred (500) square feet.
- E. **For an industrial, manufacturing or storage use:** one (1) parking space for each two (2) employees.
- F. **For a theater, bowling alley or commercial recreation establishment:** one (1) parking space for each five (5) seats or each five customer spaces.
- G. **For a restaurant or place serving beverages:** one (1) parking space for each three (3) customer seats.
- H. **For a club or similar use:** one (1) parking space for each five (5) seats in any dining or meeting hall.
- I. **For a hotel:** one (1) parking space for every three (3) guest rooms; for a motel: one (1) parking space for each guest unit, plus one (1) space for each employee.
- J. **For a rectory, parsonage or church office:** two (2) parking spaces, with one (1) additional space for each employee.
- K. **For a public school:** in accordance with the New York State Education Department.
- L. **For a nursery school:** in accordance with the New York State Department of Social Services.
- M. **For a hospital or nursing home:** one (1) parking space for each two (2) members of the medical or nursing staff, plus one (1) space for each two (2) service employees, plus one (1) space for each three (3) beds.
- N. **For a funeral home:** ten (10) parking spaces for every viewing area.

§ 200-31. Required off-street loading space.

A loading space shall be an open area or space within a building accessible to the street by commercial vehicles on the same lot as the building, with the following minimum dimensions: length: thirty (30) feet; width: ten (10) feet; height: ten (10) feet. The following loading space requirements shall be required:

- A. For each non-dwelling use in any residence district: one (1) loading space for each such use, provided that any requirements listed below do not apply;
- B. For any retail store building, office or service building or comparable structure: one loading space for the first ten thousand (10,000) square feet of floor area, with one (1) additional space for each twenty thousand (20,000) square feet of floor area in excess of the first ten thousand (10,000) square feet;
- C. For any manufacturing, industrial or storage use: one loading space for each building so used, plus one additional loading space for each twenty thousand (20,000) square feet of floor area.

§ 200-32. Prohibited uses.

- A. In all districts, uses not specifically permitted shall be prohibited.
- B. A mobile home park shall not be permitted in any district. No mobile home shall be permitted on a lot adjacent to a lot on which an existing mobile home unit is situated. A lot of sufficient size for use of a residential building, in accordance with this chapter, shall be required under all circumstances between lots upon which mobile homes are erected or proposed to be erected. No mobile home will be permitted in a General Commercial, Restricted Commercial, Light Industrial or Heavy Industrial Zone. [Adopted 06-1969]

§ 200-33. Removal of topsoil.

In any district, no topsoil shall be removed from a lot except in conjunction with the construction or alteration of a building on the lot or in conjunction with an incidental improvement in grading.

§ 200-34. Sand and gravel mining. [Amended 08-2014]

No sand and gravel shall be mined in any district, except by special use permit. No excavation for such use shall be permitted within one hundred (100) feet of any residence structure, and no washing or other apparatus shall be used except in an industrial district. In addition to any other conditions that may be imposed by the ZBA/Planning Commission, said ZBA/Planning Commission may require the posting of a bond by the applicant to cover the estimated cost of restoring the excavation to a reasonable grade and condition.

§ 200-35. Lots in two districts.

Where a district boundary line divides a lot in one (1) ownership at the effective date of this section, the regulations for the less restricted portion of the lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

§ 200-36. Business access through residence district.

All commercial or industrial district uses, when located in such districts, shall have access to a street with frontage in such districts and not across land in any residence district.

§ 200-37. Yard exceptions.

The following building features may project into any required yard, provided that such projection shall not be closer to any side lot line than four (4) feet nor to any front or rear yard line than fifteen (15) feet: open unenclosed porches, unroofed terraces, bay windows, open fire escapes, cornices, eaves, and other architectural features.

§ 200-38. Areas below fifty-five-foot contour line.

In any area located below the fifty-five (55)-foot contour line, as evidenced by the United States Geological Survey Map, the plans for any building proposed to be erected therein shall first be reviewed by the City Engineer, who shall report on their feasibility and suggest any special precautions or construction techniques to minimize high-water damage.

§ 200-39. Nonconforming uses.

The lawful use of any land or building existing prior to or at the time of the effective date of this chapter or any amendments thereto may be continued although such use does not conform to the provisions of this chapter or any amendment thereto, except as hereinafter provided.

§ 200-40. Unsafe structures.

Any structure or portion thereof declared unsafe by proper authority may be restored to a safe condition.

§ 200-41. Alteration of nonconforming building.

A nonconforming building may be repaired or structurally altered, provided that it does not extend the area or volume of space occupied by the nonconforming use and provided that it complies with the latest requirement of the New York State Uniform Fire Prevention and Building Code.

§ 200-42. Extension of nonconforming use.

A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this chapter or any amendment thereto shall not be deemed the extension of such nonconforming use.

§ 200-43. Effect on existing building permits.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and the ground-story framework of which, including the second (2nd) tier of beams, shall have been completed within six (6) months (or one [1] year) of the date of the permit and which entire building shall be completed according to such plans as filed within one year (or two [2] years) from the date of this chapter.

§ 200-44. Restoration of damaged buildings.

No building damaged by fire or other casualty or act of God to the extent of more than fifty percent (50%) of the existing floor area or volume shall be repaired or rebuilt except in conformity with the regulations of this chapter and the current New York State Uniform Fire Prevention and Building Code.

§ 200-45. Discontinuance of nonconforming use.

Whenever a nonconforming use has been discontinued for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter.

§ 200-46. Change of use.

Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification.

§ 200-47. Displacement of conforming use.

No nonconforming use shall be extended to displace a conforming use.

§ 200-48. District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one (1) district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§ 200-49. Creation of ZBA/Planning Commission: Statutory authority; purpose.

- A. The ZBA/Planning Commission is hereby authorized, pursuant to City Law § 27-A, to review and approve site development plans as set forth in more detail hereinafter. However, the ZBA/Planning Commission shall not entertain any application for site development plan approval for a project that involves any property which has a written violation until that violation is brought into compliance.

- B. The purpose of this article is to ensure that any proposed development and use of land within the City of Mechanicville will have a harmonious relationship with the existing or permitted use of contiguous land and of adjacent neighborhoods and to ensure that the health, safety, welfare, comfort, and convenience of the public is fully considered in the development of the City of Mechanicville.

- C. The site review process has three (3) steps:
 - (1) Concept review/sketch plan conference (optional);
 - (2) Preliminary site plan review and action; and
 - (3) Final site plan review and action.

§ 200-50. ZBA/Planning Commission rules and regulations. [Amended 08-2014]

The ZBA/Planning Commission is hereby authorized to promulgate such rules, regulations, and procedures as it deems reasonably necessary to administer the duties and responsibilities delegated to it by this article and any amendments thereto.

§ 200-51. Projects requiring site plan review; exceptions [Amended 10-2009, 10-2013, 08-2014, 11-2017]

- A. No building permit shall be issued and no use shall be established or continued without first obtaining a site plan approval from the ZBA/Planning Commission as required in this article, except as specified in Subsection B.

- B. The following uses are not subject to site plan review:
 - (1) Additions to existing commercial or industrial facilities that are less than one hundred (100) square feet or five percent (5%) of existing structures, whichever is greater, but not exceeding three thousand (3,000) square feet.

 - (2) Accessory uses:
 - (a) Uses and structures that are clearly accessory to an existing principal use/structure, such as:
 - i.* Aboveground deck;

- ii.* Gazebo;
- iii.* Freestanding air-conditioning machinery;
- iv.* Fence;
- v.* Flagpole;
- vi.* Garden shed not exceeding one hundred forty-four (144) square feet of floor space in area and ten (10) feet in elevation; [Amended 10-2013]
- vii.* Tool shed; not exceeding one hundred forty-four (144) square feet of floor space in area and ten (10) feet in elevation; [Amended 10-2013]
- viii.* Storage shed; not exceeding one hundred forty-four (144) square feet of floor space in area and ten (10) feet in elevation; [Amended 10-2013]
- ix.* Noncommercial greenhouse; and/or
- x.* Swimming pools.

(b) These accessory uses must be utilized in conjunction with the principal uses and meet all the requirements of existing zoning and planning ordinances.

i. General farming or plant nursery use permitted by right.

(3) An allowable change in use of a structure or portion thereof of less than fifteen hundred (1,500) square feet, which structure is located in a General or Restricted Commercial District and which proposed change of use complies with the requirements of that district, including parking and signage, irrespective of a change of ownership or period of vacancy.

C. Except as exempted by § 200-51B, the following require ZBA/Planning Commission review and approval.

(1) Any erection or alteration of any building or use for the purpose of commercial, industrial or multifamily activity, including:

- (a) Commercial building;
- (b) Industrial building;
- (c) Single, Two Family/Multifamily dwelling; [Amended 10-2013]
- (d) Condominium (commercial and residential);
- (e) Boardinghouse;
- (f) Private club;
- (g) Planned unit development (PUD);
- (h) All public facilities, such as schools, churches and firehouses, not previously exempted by local, state or federal law;

- (i) Antennas and satellite dishes with square footage exceeding four (4) square feet;
- (j) Ground mounted, free standing solar energy systems whose solar panels exceed twenty (20) square feet of surface area;
- (k) Windmills exceeding height of six (6) feet;
- (l) outside wood burning furnaces;
- (m) Any other facility or structure not otherwise enumerated herein, except as noted in Subsection B of this section including: [Amended 10- 2013]
 - i. Garden shed exceeding one hundred forty-four (144) square feet in area and ten (10) feet in elevation;
 - ii. Tool shed exceeding hundred forty-four (144) square feet in area and ten (10) feet in elevation;
 - iii. Storage shed exceeding hundred forty-four (144) square feet in area and ten (10) feet in elevation;
 - iv. Portable buildings exceeding hundred forty-four (144) square feet in area and ten (10) feet in elevation;
- (n) All additions, deletions and structural or site changes to facilities noted in Subsection (c)(1) above.
- (o) Outdoor sales including:
 - i. All outside/outdoor retail business conducted by an established retail business on its usual retail site;
 - ii. Transient business and/or sales to which a special use permit had not been granted for more than two (2) years;

(2) Vacant tenancy/change of ownership.

- (a) All changes of tenancy or ownership in an existing facility covered in this section, other than noted exceptions in Subsection B, when any of the following exist or are proposed:
- (b) Site or facility has been unused and/or vacant for the preceding twelve (12) months. A site or facility shall not be deemed used or occupied if the use during the twelve (12)-month period is of a nonpermanent nature, which may be less than eight (8) days per calendar month during the twelve(12)-month period.
- (c) A new tenant/owner requires any site amenities of a different quantity or nature than has already been approved and developed on the site.

- (d) With respect to existing sites where a change of tenant/owner is being proposed, the ZBA/Planning Commission, as part of its site plan review and approval process, shall have the discretion to waive or reduce any of the requirements of this article in such instances where the applicant demonstrates that the reduction or waiver of said requirement would not adversely impact the abutting properties or neighborhood.

§ 200-52. Prior approvals.

Prior to submission of an application for site plan review, the applicant must have received any required approval from the Code Enforcement Officer/Building Inspector.

§ 200-53. Concept review/sketch plan conference. [Amended 08-2014]

1. Any applicant to whom this article applies, prior to submission of an application for site plan review, may submit to the Code Enforcement Officer/Building Inspector a conceptual sketch plan for review by the ZBA/Planning Commission. Such submission shall then be provided to the ZBA/Planning Commission for review with a flexible design that may be changed as deemed necessary prior to the work required for a detailed site plan. The aforementioned materials shall be submitted to the ZBA/Planning Commission a minimum of seven days in advance of scheduled presentation.
2. Such submission shall include the following as minimum requirements:
 - a. At least ten (10) copies of a sketch plan, eight and one half (8½) inches by eleven (11) inches in size, outlining the proposed design concept, locating the general massing of buildings (height and bulk), delineating existing and proposed structures and showing the location of parking, signage, circulation routes (roads and walks), features of historic concern, landscaping elements, watercourses, drainage ditches, wetlands or other natural features. The sketch may be hand-generated; and
 - b. Ten (10) copies of the tax map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries thereof.
 - c. During the sketch plan conference, the applicant will be advised of any requirements that will be waived. The ZBA/Planning Commission reserves the right to reinstate a requirement should there be a change of circumstances.

§ 200-54. Preliminary site plan. [Amended 08-2014]

- A. **An application** for site plan review is complete when a request for site plan review has been made, in writing, on forms provided to the applicant by the Code Enforcement Officer/Building Inspector and filed with said Code Enforcement Officer/Building Inspector, along with a filing fee, proof of notification, and ten (10) sets of folded site

plans, and when the requirements as set forth in this article have been met, except as waived by the ZBA/Planning Commission. Submission must be made at least seven (7) days prior to presentation of material at a ZBA/Planning Commission meeting.

B. **Filing fee.** An application form for site plan review shall be accompanied by, and not be accepted without, the payment of a fee as set from time to time by resolution of the City Council (see fee schedule on file in the city offices). No further fee shall be required for site plan approval. However, in the event that the applicant is seeking retroactive approval, in that the intended use and/or construction of proposed buildings or structures is found by the Code Enforcement Officer/Building Inspector to have already been commenced, then an additional filing fee in the amount as set from time to time by resolution of the City Council shall be required.

C. **State Environmental Quality Review Act (SEQR).**

- (1) The proposed development in question may be subject to the provisions of the State Environmental Quality Review Act (SEQR). First, the ZBA/Planning Commission should identify the type of action the proposed development is according to SEQR. Depending on the size, location and other factors, it may be a Type I or an unlisted action. To make a decision, the ZBA/Planning Commission should consult 6 NYCRR 617 or Article 8 of the Environmental Conservation Law. The ZBA/Planning Commission should also review the environmental assessment form (EAF) submitted as part of the application. The action type and related procedure will dictate the next steps, if any, to be taken to comply with SEQR regulations.
- (2) If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement is filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed. When the draft environmental impact statement is completed, the time frame for ZBA/Planning Commission review begins sixty-two (62) days. If another agency has determined that the proposal in question may have a significant effect on the environment, the ZBA/Planning Commission shall not issue a decision until a final environmental impact statement has been filed.
- (3) When compliance with SEQR is complete, the ZBA/Planning Commission shall act on the application within sixty-two (62) days. The ZBA/Planning Commission's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications.
- d. The ZBA/Planning Commission's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the ZBA/Planning Commission's statement will contain the reasons for such findings. In such a case, the ZBA/Planning Commission may recommend further study of the site plan and resubmission after it has been revised or redesigned.

D. Notification of property owners.

- (1) The following persons shall be notified of the submission of a site plan: all owners of property which is contiguous, abutting, adjacent, or is situated across an established road from the actual or proposed boundary lines of the property which is the subject of the site plan review and to such other property owners as the ZBA/Planning Commission may direct. The applicant shall be required to determine the names and addresses of such owners, and the applicant shall thereupon notify such persons of the site plan review request by certified or registered mail, such mailings to be posted at least ten (10) days prior to the hearing date, with the cost of such mailings to be paid by the applicant.
- (2) The applicant shall file the proof of certified or registered mail receipts and a copy of the notification with the ZBA/Planning Commission Secretary at least three (3) business days prior to the hearing date. Failure to do so will cause the hearing to be adjourned and application to be denied pending proper notice. Notification must state what the project content will be.
 - (a) Specific site plan requirements for preliminary site plan may be as follows:
 - i.* Site plan drawn to an acceptable scale, i.e., one inch equals fifty (50) feet or less. Site plan must be a commercially reproduced print before final approval will be granted;
 - (b) The site plan shall indicate existing zoning and special districts and shall include:
 - i.* Floor elevations of buildings so as to assure positive surface drainage and proper elevation relationship to adjacent developments;
 - ii.* A small-scale location map and a North arrow, title block and date;
 - iii.* Existing and finished grade contours and erosion-control measures so as to assure the adequate disposal of on-site water, if required by the ZBA/Planning Commission;
 - iv.* The location of all existing and proposed utilities; and
 - v.* The location of required test borings. Groundwater elevation and soil profiles may be required.
- (3) A lighting plan shall delineate the type of lighting fixtures to be used and the proposed lighting pattern;
- (4) A landscape plan shall delineate the arrangement, species and dimensions of all existing and proposed landscaping materials. Consideration must include the preservation and supplementation of existing vegetation and the screening of

parking and service areas from public view. At least thirty percent (30%) of the area shall be landscaped. Where the applicant can demonstrate that the landscape plan of the development will meet with the objectives of this subsection, the ZBA/Planning Commission may consider and approve projects with less landscaped area. In order to demonstrate that a proposed landscape plan will meet the objectives of this subsection as above provided, the applicant must establish that the proposed landscape plan is necessary in order to avoid undue hardship or that the nature of the land and its location in relation to other properties and areas of the city is such as not to cause substantial damage to the general character of the neighborhood. Within the first year, if any elements of a landscape plan do not survive, either through neglect or conditions unknown, such elements shall be removed and replaced;

- (a) Traffic flows shall be shown so as to provide for the safety and the ease of vehicular movement, including denotation of fire lanes where applicable. A traffic engineering report may be required upon request of the ZBA/Planning Commission;
- (b) A parking plan shall delineate the number of parking spaces and the parking arrangements, with the size of each space to be in accordance with that specified in the latest edition of the Transportation and Traffic Engineering Handbook and this chapter. No on-street parking is permitted. The parking standards as provided in §200-30 of this chapter shall be met. The parking standards in §200-30 represent minimum requirements and may be increased as part of the approval of a site development plan;
- (c) If requested by the ZBA/Planning Commission, the site plan shall have affixed thereto the stamp and signature of either a land surveyor, professional engineer, architect, or landscape architect (licensed to practice in New York State);
- (d) An interior design plan (seating plan) shall be required, and the capacity of the building shall be noted;
- (e) Pedestrian walkways, entrances and exits, and parking designed for use by the handicapped shall be provided in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code, the New York State Vehicle and Traffic Law and the Americans with Disabilities Act. Where the provisions of those three statutes conflict, the more stringent provisions shall be met;
- (f) A written engineering report may be required describing the watershed area, projected runoff and velocities through proposed storm sewer systems, including any downstream impacts. A quantitative projection of sanitary sewage flow and, where other nondomestic discharge is anticipated, a qualitative projection shall also be required. If the site is not serviced by the municipal sanitary sewer system, an engineering report on the existing septic system servicing the site shall be required, or, if no septic system presently exists on the site, an engineering plan of the proposed septic system shall be required in accordance with the latest

addition of New York State Department of Health Individual Residential Wastewater Treatment Systems Design Handbook;

- (g) Service, storage and utility areas shall be designed to the side or rear yard of the building and shall be appropriately screened by walls, earth berms, fencing, and/or vegetation, subject to approval by the ZBA/Planning Commission;
 - (h) Paving, parking, or storage shall not be permitted within seven (7) feet of any side or rear line of the site plan presented, and no parking or paving except for entrances will be permitted within ten (10) feet of the front line of said site plan. These areas shall be maintained as a landscaped area. Where such a requirement restricts the effective development of a site, the ZBA/Planning Commission may take any appropriate action it deems necessary to modify these requirements while maintaining the intent of this provision;
 - (i) A scaled elevation drawing of the exterior of all buildings on the site shall be required, which shall include any and all signs to be displayed on the site, whether affixed to a structure or freestanding, with all sizes, materials, design, and lighting denoted;
 - (j) The dimensions of outdoor display areas will be clearly designated on the plans and shall not infringe upon green areas. The plans shall also indicate the items to be displayed;
- (5) A statement indicating whether or not proposed signs conform to Article VIII, Signs, of this chapter and whether or not variances will be sought for those aspects of the sign which are in conflict with said Article VIII;
 - (6) The site plan shall show all fences, outbuildings, and/or any other features new or existing on the site;
 - (7) A map of site topography at no more than five (5)-foot contour intervals. If general site grades exceed five percent (5%) or portions of the site have susceptibility to erosion, flooding, or ponding, a solid overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided; and/or
 - (8) The site plan may be required to show any other elements which the ZBA/Planning Commission determines are integral to the proposed development.
 - (9) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 162 of this Code.

§ 200-55. Review and action by ZBA/Planning Commission. [Amended 08-2014]

A. **General considerations.** The ZBA/Planning Commission's review of a site plan may include, as appropriate, but is not limited to the following:

- (1) Adequacy and arrangement of vehicular traffic, access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls;
- (2) Adequacy and arrangement of pedestrian traffic, access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience including handicap accessibility;
- (3) Location, arrangement, appearance, and sufficiency of off-street parking, and loading including handicap parking and accessibility;
- (4) Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs;
- (5) Adequacy of storm water, retention basins, and drainage facilities;
- (6) Adequacy of water supply and sewage disposal facilities;
- (7) Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's land and adjoining lands, including the maximum retention of existing vegetation;
- (8) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation;
- (9) Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features by use of fencing, walls, etc.;
- (10) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants;
- (11) Adequacy of waste storage and disposal;
- (12) Snow clearance and removal. The means employed to address snow and ice removal from sidewalks, parking lots, and driveways must be sufficient to safely and adequately handle the type and volume of snow and ice which can reasonably be anticipated to be deposited by nature on the site without subjecting green space areas to damage and while maintaining the minimum required parking spaces;
- (13) Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding, and/or erosion;
- (14) Consideration of the location and preservation of historical sites or landmarks; and/or
- (15) Compatibility of site plan with City Comprehensive Plan.

- B. **Consultant review.** The ZBA/Planning Commission may consult with the City Code Enforcement Officer/Building Inspector, fire officials, other local and county officials, and its designated private consultants in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.
- C. **Public hearing.** The ZBA/Planning Commission may conduct a public hearing on the proposed site plan. If a public hearing is considered desirable by the majority of the members of the ZBA/Planning Commission, such public hearing may be conducted any time before granting site plan approval and shall be advertised in a newspaper of general circulation in the city at least seven (7) days before the public hearing. Cost of such notice shall be borne by the applicant.
- D. **ZBA/Planning Commission action on site plan approval.** The ZBA/Planning Commission shall maintain a record of all waived requirements, available for inspection by the applicant. Within sixty-two (62) days of the receipt of a completed application, as defined in this article, except as waived by the ZBA/Planning Commission, the ZBA/Planning Commission shall act on it. If a public hearing is held, the ZBA/Planning Commission shall take action on the application within sixty-two (62) days of the hearing. In either event, the time within which the ZBA/Planning Commission must render its decision may be extended by mutual consent of the applicant and the ZBA/Planning Commission. The ZBA/Planning Commission's minutes shall record its official action, stating whether or not the site plan is approved, disapproved or approved with modification.
- E. **Modifications or disapproval.** The ZBA/Planning Commission's resolutions and minutes may include recommendations of desirable modifications to be incorporated in the site plan, and conformance with the modifications shall be considered a condition of approval. If the site plan is disapproved, the ZBA/Planning Commission's minutes will contain the reasons for such findings. In such a case, the ZBA/Planning Commission may recommend further study of the site plan and new submission to the ZBA/Planning Commission after it has been revised or redesigned.
- F. **ZBA/Planning Commission's written statement to applicant.** The ZBA/Planning Commission's action shall be in the form of a written statement to the applicant stating whether or not the final site plan is approved, disapproved or approved with modifications. The statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the ZBA/Planning Commission's statement will contain the reasons for such findings. In such case, the ZBA/Planning Commission may recommend further study of the site plan and resubmission to the ZBA/Planning Commission after it has been revised or redesigned.

§ 200-56. Documentation required prior to approval. [Amended 08-2014]

- A. **Required referral.** Prior to giving approval on the site development plan, the ZBA/Planning Commission shall refer the plan to the appropriate county agency for advisory review and a report in accordance with § 239-M of the General Municipal Law.

- B. **Record of application for and approval status.** All necessary permits from city, state, and county officials shall be provided, including the New York State Department of Transportation, New York State Department of Health, New York State Department of Environmental Conservation, and the Saratoga County Planning Department, and a Traffic Commission report shall be provided.
- C. **Material specifications.** Detail sizing and final material specification of all required public improvements shall be provided.
- D. **Construction schedule.** An estimated project construction schedule shall be provided.

§ 200-57. Action upon approval or disapproval; appeals. [Amended 08-2014]

- A. **ZBA/Planning Commission shall endorse its approval.** Upon approval of the site plan and payment by the applicant of all reimbursable costs due to the city, the ZBA/Planning Commission shall endorse its approval on four (4) commercially reproduced copies of the site plan and shall forward one (1) copy to the Code Enforcement Officer/Building Inspector with these considerations:
 - (1) Costs incurred by the ZBA/Planning Commission for consultation, engineering, and legal fees, if any, or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, as may be deemed appropriate with regard to the size, complexity and proposed value of the site;
 - (2) No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty determined by the ZBA/Planning Commission in consult with the Code Enforcement Officer/Building Inspector has been posted for improvements not yet completed;
 - (3) The Code Enforcement Officer/Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with city, county or other officials, and state agencies, as appropriate;
 - (4) Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this chapter, the ZBA/Planning Commission shall integrate, as appropriate, site plan review as required by this article with the procedural and submission requirements for such other compliance.
- B. **Disapproval of site plan.** Upon disapproval of a site plan, the ZBA/Planning Commission shall so inform the Code Enforcement Officer/Building Inspector, and such officer shall deny a building permit to the applicant. The ZBA/Planning Commission shall also notify the applicant, in writing, of its decision and its reasons for disapproval.
- C. **Appeals.** The ZBA/Planning Commission shall bear sole and final authority in its decisions pursuant to this article. Decisions of the ZBA/Planning Commission shall be subject only to judicial review in the manner prescribed by law in Article 78 of the Civil Practice Law and Rules (CPLR).

D. **Site plan approval with modifications or conditions.** Where the ZBA/Planning Commission has approved a site plan with modifications or conditions, the site plan will not be endorsed until those modifications have been made or conditions met. A detailed site plan (four [4] copies) showing modifications and changes will be provided to the ZBA/Planning Commission by the submitter.

E. **Duration of site plan approval.**

(1) After receiving approval, with or without modifications, from the ZBA/Planning Commission on a preliminary site plan, the applicant shall submit a final detailed site plan to the ZBA/Planning Commission for approval. If more than six (6) months have elapsed since the ZBA/Planning Commission's action on the preliminary site plan and if the ZBA/Planning Commission finds that conditions have changed significantly in the interim, the ZBA/Planning Commission may require a resubmission of the preliminary site plan for review.

(2) Length of approval of site plan. If construction is not commenced and diligently pursued within six (6) months of the date of final approval of site plan by the ZBA/Planning Commission, such approval shall be null and void, unless extended by majority vote of the ZBA/Planning Commission.

§ 200-58. Penalties for offenses.

Notwithstanding any contrary provisions contained in this chapter heretofore enacted by the City of Mechanicville:

A. **Violations of article.** Any persons who commit or permit any act or acts in violation of any of the provisions of this article shall be deemed to have committed an offense and shall be liable for any such violation or the penalty therefor. Every week such violation shall continue or shall be permitted to exist shall constitute a separate additional violation of this article. Any physical deviation from an approved site plan or breach of conditions imposed in the resolution of approval shall be deemed a violation of this article.

B. **Penalty.** Any person violating any of the provisions of this article, upon conviction therefor, shall be punished by a fine not exceeding two hundred fifty dollars (\$250.00) in amount or by imprisonment for a period not to exceed fifteen (15) days, or by both such fine and imprisonment.

C. **Additional action or proceeding.** In addition to the above-described penalties and punishment, the City Council may also maintain an action or proceeding in the name of the City of Mechanicville in a court of competent jurisdiction to compel compliance with, or to restrain by injunction, the violation of this article.

ARTICLE VIII
Signs [Amended 04-1997]

§ 200-59. Title.

This article may be known and cited as the "Sign Ordinance of the City of Mechanicville."

§ 200-60. Purpose.

The purpose of this article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, to create a more attractive economic and business climate, to enhance and protect the physical appearance of the community, to preserve the scenic and natural beauty of designated areas, and to provide a more enjoyable and pleasing community.

§ 200-61. Definitions.

For the purpose of this article, the terms used herein are defined as follows:

AREA OF SIGN – That area determined by circumscribing the exterior limits of the mass of each display erected on one (1) sign structure. The structure supporting the sign is not included in determining the area of the sign unless the structure is designed in a way to form an integral background for the display. Only one (1) face of a double-facing sign is included as area of such sign.

FACADE OF BUILDING – The front or face of a building or the outer surface of a building which faces a private or public street or highway. The facade shall not be interpreted to extend above the roofline of the building.

SIGN – Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any letter, work, model, banner, flag, pennant, insignia, device, or representation used as or which is in the nature of an announcement, direction, or advertisement. "Sign" includes any billboard but does not include the flag, pennant, or insignia of any nation or group of nations or of any state, city or other political unit or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. However, "sign," as defined herein, shall not include a similar structure or device located within a building.

- A. **ADVERTISING SIGN** – Any sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.
- B. **BUSINESS SIGN** – A sign which directs attention to a business or profession conducted or to products sold upon the same lot. A "For Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed a "business sign."
- C. **FLASHING SIGN** – Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- D. **ILLUMINATED SIGN** – Any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

§ 200-62. Restrictions on size, type, and location. [Amended 08-2014]

The size, type and location of any sign or advertising device shall be allowed only in accordance with the following regulations, and wherever districts are set forth in these regulations the same shall refer to the districts set forth in §§ 200-11 through 200-16 of this chapter.

A. Signs in commercial and industrial districts.

- (1) The signs permitted in residential districts shall be allowed.
- (2) Business signs relating to the use conducted in the building or on the immediate premises thereof shall be allowed, provided that such signs shall not exceed a combined total of forty (40) square feet in area. In the event that the facade of the building or buildings on said premises shall exceed eight hundred (800) square feet in area, a square footage for signs equal to five percent (5%) of the area of the facade of the building or buildings on said premises in which said business is conducted shall be allowed, but in no event shall the total area of any such sign or signs exceed one hundred (100) square feet unless a special permit therefor is secured from the ZBA/Planning Commission. Such signs shall be at least three (3) feet clear of the ground and shall be less than ten (10) feet from above ground level. No sources of illumination which may be focused or spotted, as opposed to general neon or bulb illumination, shall be directed toward any adjacent property or public street.
- (3) A business sign in existence on the date of the enactment of this article which does not conform to the specifications of this section may continue to be used but may not be extended, except that all intermittent or flashing illumination shall be converted to a constant light source.
- (4) Temporary signs advertising the sale or rental or construction or improvement of the premises on which they are located shall be allowed, provided that such signs shall not exceed a combined total of ten (10) square feet in area and shall be promptly removed by the agent or owner when the circumstances leading to their erection no longer apply.
- (5) Advertising signs shall not be permitted in any commercial or industrial district.
- (6) In any commercial or light industrial district, a freestanding sign shall be allowed by. It shall not exceed sixteen (16) feet in height and shall not contain more than thirty-six (36) square feet of signage; either single or multiple, the total shall not exceed thirty-six (36) square feet.
- (7) A sign shall not be located in such a manner as to obstruct the line of sight of moving vehicles.

§ 200-63. Permit required.

After the effective date of this article and except as otherwise herein provided, no person shall erect any signs allowed herein without first obtaining a permit therefor from the Code Enforcement Officer/Building Inspector.

§ 200-64. Application for permit.

Application for the permit shall be made, in writing, in duplicate, upon forms prescribed and provided by the Code Enforcement Officer/Building Inspector and shall contain the following information:

- A. The name, address, and telephone number of the applicant;
- B. The location of the building, structure, or land to which or upon which the sign is to be erected;
- C. A detailed drawing or blueprint showing a description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign; the position of lighting or other extraneous devices; and a location plan showing the position of the sign on any building or land and its position in relation to nearby buildings or structures and to any private or public street or highway;
- D. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected, in the event that the applicant is not the owner thereof;
- E. Certification of an electrical inspection for any sign having electrical connections.

§ 200-65. Fee.

A fee as set by resolution of the City Council and on file in the city offices shall be paid to the Code Enforcement Officer/Building Inspector for each sign permit issued. Where work for which a permit is required by this article is started or proceeded with prior to obtaining a permit therefor, the fee specified above will be doubled, but the payment of such double fee shall not relieve any person or persons from fully complying with the requirements of this article in the execution of the work nor from the penalties prescribed in this article.

§ 200-66. Issuance of permit.

It shall be the duty of the Code Enforcement Officer/Building Inspector, upon the filing of an application for a permit to erect a sign, to examine such plans, specifications and other data submitted to him/her with the application and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all the requirements of this article and other laws and ordinances of the City of Mechanicville and that the necessary fee has been paid, the Code Enforcement Officer/Building Inspector shall, within seven (7) days, issue a permit for the erection of the proposed sign. If the sign authorized under any such permit has not been completed within six

(6) months from the date of the issuance of such permit, the permit shall become null and void but may be renewed within thirty (30) days from the expiration thereof, for good cause shown, upon payment of an additional fee set by resolution of the City Council and on file in the city offices.

§ 200-67. Maintenance required; revocation of permit.

No sign, whether new or existing, shall hereafter be erected or altered except in conformity with the provisions of this article. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and the sign must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.

- A. In the event of a violation of any of the foregoing provisions, the Code Enforcement Officer/Building Inspector shall give written or personal notice specifying the violation to the named owner of the sign and the named owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of such sign and the owner of the land within thirty (30) days from the date of such notice.
- B. In the event that such sign shall not be so conformed within thirty (30) days, the Code Enforcement Officer/Building Inspector shall thereupon revoke the permit, and such sign shall be removed by the named owner of the sign and/or the named owner of the land. Upon failure of said persons to remove such sign within thirty (30) days from the expiration of said thirty (30)-day period, the Code Enforcement Officer/Building Inspector is hereby authorized to remove or cause removal of such sign and shall assess all costs and expenses incurred in said removal against the land or building on which such sign is located.

§ 200-68. Removal of certain signs.

- A. Any business sign existing on or after the effective date of this article which no longer advertises any existing business conducted or product sold on the premises shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein. The Code Enforcement Officer/Building Inspector, upon determining that any such sign exists, shall notify the owner of the premises, in writing, to remove said sign within thirty (30) days from the date of such notice. Upon failure of the owner to comply with such notice within the prescribed time, the Code Enforcement Officer/Building Inspector is hereby authorized to remove or cause removal of such sign and shall assess all costs and expenses incurred in said removal against the land or building on which the sign is located.
- B. If the Code Enforcement Officer/Building Inspector shall find that any sign regulated by this article is unsafe or insecure or is a menace to the public, he shall give written notice to the named owner of the sign and the named owner of the land upon which the sign is erected, who shall remove or repair said sign seven (7) days from the date of said notice. If said sign is not removed or repaired, the Code Enforcement Officer/Building Inspector shall revoke the permit issued for such sign, as herein provided, and may remove or

repair said sign and shall assess all costs and expenses incurred in said removal or repair against the land or building on which such sign was located. The Code Enforcement Officer/Building Inspector may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.

§ 200-69. Nonconforming advertising signs.

- A. A nonconforming advertising sign is an advertising sign which was installed under laws or ordinances in effect prior to the effective date of this article but which is in conflict with the provisions hereof.
- B. All nonconforming advertising signs facing on other streets within the city shall be removed within five (5) years from the effective date of this article.

§ 200-70. Variances and special permits. [Amended 08-2014]

The ZBA/Planning Commission may, in appropriate cases and after public notice and hearing, vary or modify the application of this article in harmony with its general purpose and intent and act on special permits wherever the same are required by the terms of this article.

§ 200-71. Appeals. [Amended 08-2014]

Any person aggrieved by any decision of the Code Enforcement Officer/Building Inspector relative to the provisions of this article may appeal such decision to the ZBA/Planning Commission.

§ 200-72. Revocation of business license.

A violation of any of the provisions of this article shall be grounds for revocation of any business license previously granted to the violator by the City of Mechanicville.

§ 200-73. Amendments. [Amended 08-2014]

The City may, from time to time, on its own motion or on recommendation of the ZBA/Planning Commission, after public notice and hearing, amend, supplement, change, modify, or repeal this article pursuant to the provisions of the City Law applicable thereto.

ARTICLE IX
Fences
[Adopted 04-1997]

§ 200-74. Definitions.

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

FENCE – A barrier, stockade or other device constructed of wood, brick, wire, or other material excluding concrete, not exceeding six (6) feet in height and eight (8) inches in width, intended for use as a boundary or means of protection or confinement. [Amended 10-2013]

FRONT YARD – Applies to that portion of the yard in front of the rear building line of any building. All corner properties adjacent to a public street, alley, or highway shall also be considered as a front yard for purposes of this article. However, this definition shall specifically not apply for purposes of swimming pool protection.

HEIGHT – The distance measured from the existing grade to the top of the fence.

§ 200-75. Approval required. [Amended 10-2013]

No fence, wall, or other type of structure or construction, including construction barriers, shall be erected, installed, or placed without the approval of the Code Enforcement Officer/Building Inspector. The Code Enforcement Officer/Building Inspector shall secure approval of the Bureau of Fire Prevention, where applicable.

§ 200-76. Application for permit; issuance.

Any person or persons, corporation, firm, or association intending to erect a fence shall, before any work is commenced, make application to the Code Enforcement Officer/Building Inspector on a form provided by the Code Enforcement Officer/Building Inspector. Said application shall be accompanied by a plan or sketch showing the proposed location of any fence, the materials proposed to be used therein, which must be in accordance with this chapter, and any other pertinent local law regulating construction within the City, and be accompanied by an appropriate fee. Upon approval by the Code Enforcement Officer/Building Inspector, a permit shall be issued which will be in effect for a period of one year from the date thereon. Said permit shall be available on the job during the progress of the work so that it may be inspected by proper city officials

§ 200-77. Height limitations.

- A. Rear of homes or buildings. No fence shall be more than six (6) feet (6) six inches in height at the rear of homes or buildings situated in a residentially zoned district.
- B. Side of homes or buildings. Fences on side yards may be extended to a height of six (6) feet (6) six inches from the rear fence line to a point even with the front of the structure (home or building). Fences cannot extend beyond structures on adjacent properties, on either side. No other fence or portions of fence shall be higher than forty-eight (48) inches. This restriction shall apply to construction in all zoning districts.

§ 200-78. Location restrictions.

Any fence erected under this article shall be placed at least six (6) inches from any property line. Any fence erected in a front yard shall be placed at least one (1) foot back from the

sidewalk, but in no event may it be less than one (1) foot back from the front line and/or property line.

§ 200-79. Materials and composition.

- A. Any fence, wall, or similar structure, as well as shrubbery, which unduly cuts off light or air which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction to combating fires which may affect public safety is hereby expressly prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.
- B. The following fences and fencing materials are specifically prohibited:
 - (1) Barbed wire;
 - (2) Short, pointed fences;
 - (3) Canvas fences;
 - (4) Cloth fences;
 - (5) Electrically charged fences;
 - (6) Poultry fences;
 - (7) Turkey wire;
 - (8) Temporary fences, such as snow fences;
 - (9) Expandable fences and collapsible fences, except during construction of a building;
 - (10) Any protective barrier, concrete, or otherwise, used as a divider or as a means of preventing access to a prohibited area. [Adopted 10-2013]
- C. All chain-link fences erected shall be erected with the closed loop at the top of the fence.
- D. All entrances or gates shall open into the property.
- E. Notwithstanding the provisions of this section, the Code Enforcement Officer/Building Inspector may issue a permit for the construction of a security fence for commercial and industrial properties upon due application to and approval by the Code Enforcement Officer/Building Inspector of the City of Mechanicville.
- F. The Code Enforcement Officer/Building Inspector may deny such application if it is found that the fence is not appropriate. Upon such denial, the applicant may appeal the decision of the Code Enforcement Officer/Building Inspector to the ZBA/Planning Commission by notice within thirty (30) days of such denial. [Amended 08-2014]

- G. All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.
- H. On any corner lot, no structure, fence or planting over three (3) feet in height nor any obstruction to vision other than a post or trimmed tree shall be maintained within a triangular area formed by the lot lines along the streets to the points on such lines a distance of fifty (50) feet from their intersection and the line connecting such points.

ARTICLE X Administration

§ 200-80. Enforcement.

This chapter shall be enforced by the Code Enforcement Officer/Building Inspector. No building permit or certificate of occupancy shall be issued by him except where the provisions of this chapter have been complied with.

§ 200-81. Building permit.

- A. No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the Code Enforcement Officer/Building Inspector. All applications for such permits shall be on forms provided by the Code Enforcement Officer/Building Inspector. There shall be submitted with all applications two (2) copies of a plot plan drawn to scale showing the dimensions of the lot and the location of the building on the lot. For a special permit or site plan approval, the application shall be in accordance with Article V, Special Permit Uses, or Article VII, Site Plan Review, respectively.

B. Building permit renewals.

- (1) A building permit will be issued for a period of one (1) year. Building permits are not automatically renewed;
- (2) If the project has not been initiated as stipulated by the building permit, a new application must be submitted;
- (3) The applicant will be required to abide by current code ordinances.

§ 200-82. Certificate of Occupancy. [Amended 08-2014]

No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Code Enforcement Officer/Building Inspector. A temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by the Code Enforcement Officer/Building

Inspector. For previously existing construction, the Code Enforcement Officer/Building Inspector may, on request, issue such a certificate if he/she determines that the use of buildings in question meets the requirements of this chapter.

§ 200-83. ZBA/Planning Commission. [Amended 08-2014]

- A. **Appointment and organization.** The Zoning Board of Appeals, previously created in conformity with the provisions of Article 5-A of the General City Law shall henceforth be named the Zoning Board of Appeals/Planning Commission. (ZBA/Planning Commission).
- B. **Membership** The ZBA/Planning Commission shall consist of seven (7) members appointed by the Mayor as follows: four (4) members for a term of one (1) year, two (2) members for a term of two (2) years and one (1) member for a term of three (3) years. All members of the ZBA/Planning Commission shall be residents of the City of Mechanicville. The ZBA/Planning Commission may elect one of its members as Chairman, provided that the Mayor has not designated a member as Chairman. In the event of any vacancy on the ZBA/Planning Commission, the Mayor shall appoint a new member to serve the unexpired term. All members shall continue in office until their successors have been duly appointed and qualified.
- C. **Powers** The ZBA/Planning Commission shall have the authority and all powers as granted pursuant to Article 5-A of the General City Law and is hereby authorized, pursuant to City Law § 27-A, to review and approve site development plans in accordance with the provisions of the City Code.
- D. **Rules of procedure.** In conformity with law and the provisions of this chapter, the ZBA/Planning Commission may adopt rules of procedure for the conduct of its business, provided that such rules and any amendments and additions thereto shall be a part of its written record.
- E. **Applications; fees.**
 - (1) All matters coming before the ZBA/Planning Commission for its action shall be accompanied by a written application on forms provided by the ZBA/Planning Commission or by a written memorandum if by the Code Enforcement Officer/Building Inspector. Where a public hearing before the ZBA/Planning Commission is required by law or this chapter, the applicant shall pay to the city a fee as set from time to time by resolution of the ZBA/Planning Commission to cover the costs of the hearing. All applications shall be filed with the Code Enforcement Officer/Building Inspector, who shall record the same and transmit the application to the ZBA/Planning Commission;
 - (2) If the applicant should desire or if the Zoning ZBA/Planning Commission should deem it necessary that stenographic minutes of the meeting should be taken, then the applicant shall pay the full expense of the minutes. In the event that the applicant should desire a stenographic transcript of the proceedings before the ZBA/Planning Commission or in the event the ZBA/Planning Commission should

feel a stenographic transcript should be taken, then the applicant will be required to pay to the city an additional fee as set by the ZBA/ Planning Commission

§ 200-84. Required site plan approval. [Amended 08-2014]

When a use or development requires a variance or special use permit, the applicant shall submit a detailed site plan to the ZBA/Planning Commission as required for a special permit use and comply with the provisions of this Code regarding site plan review as set forth in Chapter 200.

§ 200-85. Hearings.

Each required hearing shall be preceded by five (5) days' public notice in a newspaper of general circulation in the City of Mechanicville and five (5) days' prior written notice to the applicant at the address given on the application. The day of the hearing shall not be counted in determining notice time.

§ 200-86. Variances. [Amended 08-2014]

A. Use variances.

- (1) The ZBA/Planning Commission, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein;
- (2) No such use variance shall be granted by a ZBA/Planning Commission without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the ZBA/Planning Commission that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) The alleged hardship has not been self-created. The ZBA/Planning Commission, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Area variances.

- (1) The ZBA/Planning Commission shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.
- (2) In making its determination, the ZBA/Planning Commission shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination the ZBA/Planning Commission shall also consider:
 - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA/Planning Commission but shall not necessarily preclude the granting of the area variance.
- (3) The ZBA/Planning Commission, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

§ 200-87. Penalties for offenses. [Amended 10-2013]

For violations of any provisions of this chapter, the owner, general agent or contractor, or any other person who shall violate or assist in the violation of any provision of this chapter shall be subject to a conviction of an offense. Such violation shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.00) or imprisonment for not more than fifteen (15) days, or both, for each and every day that the violation continues to exist from the date from the date that written notice has been served pursuant to § 200-88.

§ 200-88. Notice of violation. [Amended 10-2013]

Upon determination by the Code Enforcement Officer/Building Inspector that a violation of this chapter exists, he/she shall send written notice to the last known owner of record of the property by certified mail return receipt requested as determined by the assessment records, informing the owner of the violation and the specific provisions of this chapter involved and stating that if no

action is taken to remove such violation within seven (7) days, he/she will institute proceedings to compel compliance with this chapter.

ARTICLE XI Amendments

§ 200-89. Authority.

This chapter may be amended in conformity with the provisions of law.

§ 200-90. Initiation. [Amended 08-2014]

The City Council may, on its own initiative or on petition or on recommendation of the ZBA/Planning Commission, amend, supplement, or repeal the regulations and provisions of this chapter after public notice and hearing.

ARTICLE XII Portable Buildings [Adopted 10-2013]

§ 200.92. Definition: Portable Buildings

Any prefabricated structure assembled off site and delivered to the site as a complete unit or a building purchased in kit form and assembled onsite, which can be moved without disassembly to another location.

§ 200.93. Setback, area and Spacing Regulations.

All portable buildings shall comply with the area, setback and spacing regulations applicable in the zoning district in which they are located and with the following additional regulations.

- A. Portable buildings in residential districts shall be set back a minimum of ten (10) feet from the rear lot lines. In all other districts the portable building shall maintain the same rear yard as is required for a principle structure located on the lot.
- B. Portable buildings shall maintain a five (5) foot side yard setback in all districts
- C. Portable structures shall otherwise comply with the area, height regulations applicable in the district in which they are located.
- D. No portable structure shall be permitted in any front yard.

- E. On corner lots, portable structures must setback half ($\frac{1}{2}$) the setback distance of the adjacent structure facing the side street.
- F. All portable structures used for temporary vending shall be excluded from these requirements.

§ 200.94. Installation Requirements.

If the portable structure has a total area exceeding one hundred (100) square feet the following installation requirements shall apply:

- A. A building permit shall be required.
- B. A site plan showing the principle structures and the proposed location of the portable.
- C. Structure shall be submitted with the building permit application.
- D. The structure shall be set on a permanent foundation or piers capable of carrying and distributing all imposed loads. The structure also shall be provided with a means to prevent wind uplift. This may be accomplished with trailer tie downs or permanently attached to the foundation or piers. A sketch showing how these items will be constructed shall be submitted for review.
- E. The foundation shall bear on undisturbed soil a minimum of two (2) feet below the finished grade.
- F. All portable structures used for nonresidential uses shall be certified by a third party that the structural system meets the loading criteria set forth in the building code. This letter of certification shall bear the seal of a registered New York State Engineer and shall be submitted with the building application.

**ARTICLE XIII
DRIVEWAYS
[Adopted 10-2013]**

§ 200-95. Setbacks.

Driveways placed and/or installed in any district within the City must be set back a minimum of six (6) inches from any side or rear property line.

§ 200-96. Approvals.

Prior to construction and installation, the Commissioner of Public Works shall approve all curb cuts.