

Chapter 108 - ZONING

FOOTNOTE(S):

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Charter reference— Authority to exercise powers of planning and zoning, § C5-1B(55).

State Law reference— Land use regulations and zoning, Md. Ann. Code art. 66B, § 1.01 et seq.

ARTICLE I. - IN GENERAL

Sec. 108-1. - Purpose.

The purposes of this chapter are:

- (1) To promote the health, safety, morals, and the general welfare of the community by regulating and restricting:
 - a. The height, number of stories and size of buildings and other structures;
 - b. The percentage of a lot that may be occupied;
 - c. The size of lots, yards, courts and other open spaces; and
 - d. The location and use of buildings, structures and land for trade, industry, residence and other purposes.
- (2) To provide for adequate light and air.
- (3) To prevent congestion and undue crowding of land.
- (4) To secure safety from fire, panic and other dangers.
- (5) To conserve the value of property.
- (6) To provide adequately for schools, parks and other public requirements and for other purposes

(Code 1977, § 107-1; Ord. No. 2000-10, 9-25-2000)

State law reference— Policy and powers, Md. Ann. Code art. 66B, § 4.01.

Sec. 108-2. - Territory affected.

This chapter shall apply to all lands, buildings and properties lying within the corporate boundaries of the town.

(Code 1977, § 107-2; Ord. No. 2000-10, 9-25-2000)

Sec. 108-3. - Interpretation of provisions.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements not intended to prohibit the use or application of higher standards, but where this chapter imposes a greater restriction than is imposed or required by other provisions of the law or by other rules, regulations or ordinances or by private restrictions, the provisions of this chapter shall control, unless a use is expressly permitted in a zone or unless permitted by the board of appeals.

(Code 1977, § 107-3; Ord. No. 2000-10, 9-25-2000)

Sec. 108-4. - Word usage.

- (a) In the interpretation and construction of this chapter, certain words and phrases shall be understood to have particular or limited meanings as herein defined, except where the context otherwise requires.
- (b) In general:
- (1) The singular number shall include the plural, and the plural the singular;
 - (2) The word "building" shall include the word "structure;"
 - (3) The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used; and
 - (4) The word "shall" is mandatory and not directory.

(Code 1977, § 107-4; Ord. No. 2000-10, 9-25-2000)

Sec. 108-5. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a structure subordinate to an existing principal building on the same lot and serving a purpose customarily incidental to the use of the principal building or land use.

Accessory living quarters means an accessory building used solely as the temporary dwelling of guests of the occupants of an existing principal use; such dwelling having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

Accessory use means a use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to, and customarily found in connection with such primary use.

Agriculture means the use of land for agricultural purposes, including field cropping, pasturing, aquaculture, horticulture, floriculture, viticulture, forestry, tree farming and the necessary accessory uses for packing, treatment or storing the produce thereof; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agriculture activities and provided further that the above uses shall not include the business of keeping poultry or garbage feeding of hogs or other animals, or fur farms, or the raising of such animals as rats, mice, monkeys, reptiles and the like.

Alley means a public or private way affording secondary means of access to abutting property, having a width more than ten feet, but less than 16 feet in width, which has been dedicated or deeded to the public for public use.

Basement means a story where the floor is more than 12 inches, but not more than one-half of its story height, below the average level of the adjoining ground.

Bed-and-breakfast means a dwelling or part thereof, where meals and/or lodging is provided for compensation for transient persons and designed for or used exclusively as the primary residence of one family.

Billboards and signs.

- (1) *Billboard* means any off-premises structure or portion thereof, situated on private premises, on which lettered, figured or pictorial matter is displayed for commercial advertising purposes other than the name and occupation of the user of such premises or the nature of the business conducted thereon or the principal products sold or manufactured thereon.
- (2) *Combination sign* means a sign incorporating any combination of the features of pole, projecting, wall and roof signs.
- (3) *Display surface* means the area made available by the sign structure for the purpose of displaying the advertising message.
- (4) *Electric sign* means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.
- (5) *Ground sign* means a billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground other than a combination sign or pole sign, as defined by this chapter.
- (6) *Marquee* means a permanent roofed structure attached to and supported by the building and projecting over public or private property.
- (7) *Pole sign* means a sign wholly supported by a sign structure in the ground.
- (8) *Portable display surface* means a display surface, temporarily fixed to a standardized advertising structure, which is regularly moved from structure to structure.
- (9) *Projecting sign* means a sign other than a wall sign which projects from and is supported by a wall of a building or structure.
- (10) *Real estate sign* means a sign advertising for sale or rent the premises on which it is located.
- (11) *Roof sign* means a sign erected upon or above a roof or parapet of a building or structure.
- (12) *Sidewalk sign* means an accordion-type sign which may be placed on the sidewalk, displaying only the name and nature of the business.
- (13) *Sign* means any sign, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes other than paint on the surface of a building.
- (14) *Sign structure* means any structure, which supports or is capable of supporting a sign as defined by this chapter.
- (15) *Temporary sign* means any sign, banner, pendant valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, wood or other light materials, with or without frames, intended to be displayed for a limited period of time.
- (16) *Wall sign* means any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.

Board means the board of appeals established hereunder.

Boardinghouse means a dwelling containing not more than six guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for persons not transients.

Building means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or chattels, and any tent, cabin or mobile house. When such a structure in single ownership is divided by one or more unpierced walls extending from the ground up, it shall be considered one building for the purpose of applying the provisions of this chapter.

Building, height of, means the vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Cellar means a story having more than one-half of its height below average finished grade. A cellar is counted as a story for the purpose of height regulations only if used as a separate dwelling.

Comprehensive plan means the long-range plan for desirable use of land, as approved by the planning and zoning commission and officially adopted by the Mayor and Council and as amended from time to time, the purpose of such plan being, among other purposes, to serve as a guide in zoning and progressive changes in the zoning of land to meet changing community needs, in the subdividing and use of undeveloped land and in the acquisition of rights-of-way or sites for such public facilities as streets, parks, schools and public buildings.

Conditional use means a use which may be permitted in a district through the granting by the board of appeals of a special exception as defined in Md. Ann. Code art. 66B, § 1.00, as amended upon a finding by the board that it meets specified conditions.

Construction, start of, means the combining of labor and material into any portion of the structure on the site thereof.

Court means an open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

Day-care center means a nursery school or child-care facility providing adult supervision and care for not fewer than five persons not members of the caregiver's family in the caregiver's home or in a building outside of the home.

Day-care, residential, means a dwelling unit in which daytime adult supervision is provided for up to eight children not members of caregiver's family under the age of 21 and in which the dwelling is the primary residence of the caregiver.

District means a designated geographical area of the town within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter. The term "R District" shall mean any R-1, R-2, R-3 and R-4 District; the term "B District" shall mean any B-1, B-2, and B-3 District; the term "M District" shall mean any M-1 and M1-A District; the term "H District" shall mean any H-1 District.

Domiciliary care unit means any institution, which admits four or more non-related aged or disabled persons, maintains the necessary facilities and provides a protective institutional or home-type environment to persons of advanced age or mental or physical disability. This shall not include "limited dwellings."

Dwelling means any building or portion thereof occupied or intended to be occupied exclusively for the residence purposes, but not including a tent, cabin, recreational vehicle or mobile home or a room in a hotel or motel.

- (1) *Dwelling, single-family*, means a detached building designed for or used exclusively for residence purposes by one family or housekeeping unit.
- (2) *Dwelling, two-family*, means a detached building designed for or used exclusively for residential purposes by not more than two families or housekeeping units.
- (3) *Dwelling, multifamily*, means a detached building designed for or used exclusively for residence purposes by more than two families or housekeeping units.
- (4) *Dwelling, townhouse*, means a single-family attached dwelling unit with one dwelling unit from ground to roof, two points of independent outside access, at least two other dwellings built in conjunction therewith and any portion of one or two unpierced party walls in common with an adjoining dwelling and having yards on at least two sides.
- (5) *Dwelling, limited*, means a dwelling unit consisting of no more than two rooms, exclusive of bath facilities, designed or intended for retirement living or temporary assisted living, including nursing homes, assisted living facilities and retirement housing having shared dining and recreational facilities.

Essential services means facilities owned or maintained by public utility companies or public agencies, located in public ways or in easements provided for the purpose or on a customer's premises and not requiring a private right-of-way, and reasonably necessary for the furnishing of adequate water, sewer, gas, electric, communication or similar services to adjacent customers, but not including any building or any yard, station or facility requiring a site in excess of 400 square feet and not including any cross-country pipeline or transmission line on towers or any line requiring a private right-of-way.

Family means a person living alone or two or more persons living together as a single housekeeping unit, but not including a group of persons occupying a boardinghouse, lodginghouse, hotel, dormitory or institution.

Farm means a parcel of land not less than five acres in size used for agricultural purposes as defined in this chapter.

Fence means a fixed structure designed to define a designated area or property.

Flag lot means a polygonal-shaped lot that has the appearance of a flag with staff or panhandle in which the handle or staff is used as the point to a street or road. The term "flag lot" and "panhandle" are synonymous.

Garage, private, means a garage intended for and used for the storage of the private motor vehicles of the families resident upon the premises.

Garage, public, means a space or structure other than a private garage for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or recreational vehicles.

Home occupation means a business conducted in a dwelling or a single accessory building and in accordance with the provisions of section 108-867.

Junkyard means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, parked, stored, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building and not including pawnshops and establishments for sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials as a part of manufacturing operations.

Lot means any plot or parcel of land occupied or intended to be occupied by a principal building or use, or a group of buildings conforming to the regulations of this chapter and its accessory buildings and uses, including all open spaces required by this chapter, and having frontage on a street as defined herein. In the case of a farm or estate, five acres or more in size, the lot shall be deemed to be that part of the property on which the principal building and its accessory buildings and uses are located, together with the yards and other open spaces required by this chapter, and such lot need not front directly on a public road if connected therewith by a private lane or road which serves no other lot.

- (1) *Lot, corner*, means a lot abutting upon two or more streets at their intersection or upon two parts of the same street and, in either case, forming an interior angle of less than 135;deg;
- (2) *Lot, through*, means a lot having frontage on two non-intersecting streets as distinguished from a corner lot.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot line, front, means the line separating the lot from the street right-of-way upon which it fronts.

Lot line, rear, means the lot line opposite and most distant from the front lot line.

Lot line, side, means any lot line other than the front or rear lot line.

Lot line, street or alley, means any lot line separating the lot from a street or alley.

Lot width means the width of the lot measured at right angles to its center line at the front setback line.

Manufactured home means a structure that is transportable in one or more sections, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Mobile Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. This term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

State law reference— Similar definition, Md. Real Property Code Ann. § 8A-101.

Motel or hotel means any establishment consisting of two or more guest rooms or suites, with separate outside entrances and adjacent parking spaces, designed and maintained for the accommodation of transients; or any establishment for the accommodation of transients which proclaims itself a "motel."

Noncombustible means, as applied to building construction material, a material which, in the form in which it is used, is either one of the following:

- (1) Material of which no part will ignite and burn when subjected to fire. Any material conforming to specifications in the building code in effect in the town and other applicable codes shall be considered noncombustible.
- (2) Material having a structural base of noncombustible material as defined in subsection (1) of this definition, with a surfacing material not over one-eighth-inch thick, which has a flame-spread rating of 50 or less.

Nonconforming use means an existing building, structure or premises legally devoted to or occupied by or for a use that does not conform to the use provisions of this chapter, or amendments thereto, for the district in which it is located.

Nursing or hospice facility means a facility, licensed by the state, to provide basic or skilled nursing care for physical, emotional, or mental diseases or disabilities to three or more individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. The term "nursing or hospice facility" shall not include hospitals or facilities for the primary treatment of sickness or injuries or for surgical care.

Open space means the area of a lot or parcel unoccupied by principal or accessory structures, streets, driveways or parking areas, but including areas occupied by walkways, patios, porches without roofs, playgrounds, outdoor recreation or play apparatus, gardens or trees.

Parking lot, commercial, means a surfaced area of one or more parking spaces designed or used for the parking of vehicles and available to the public whether for a fee or as an accommodation to clients or customers.

Parking space means a surfaced area either within a structure or in the open, exclusive of driveways or access drives, for the parking of one vehicle.

Planned unit development (PUD) means a residential and/or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, may be waived or varied by the planning and zoning commission to allow flexibility and creativity in site and building design and location in accordance with general guidelines.

Planning and zoning commission means the town planning and zoning commission.

Planning director means the planning director or an authorized representative, appointed in accordance with the provisions of division 2 of article II of this chapter.

Recreational vehicle means any vehicle or structure constructed in such a manner as to provide sleeping and cooking facilities or the conduct of any business, trade or occupation, or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and transported over highways and streets, propelled, or drawn by its own or other power.

Recreational vehicle park means any park, tourist park, camp court, site, lot, parcel or tract of land which is designed, maintained or intended for the purpose of supplying a location or accommodation for two or more recreational vehicles for living purposes or upon which two or more recreational vehicles are parked or mounted for living purposes.

Roadside stand means a structure designed or used for the display or sale of neighborhood agricultural products or goods produced on the premises upon which a stand is located.

Self-service storage facility means a building or group of buildings with controlled access, containing varying sizes of individual, compartmentalized and controlled access stalls, lockers or rooms to be leased or rented for the storage of goods, wares, merchandise, substances or articles.

Setback line means the minimum building line along the front or rear of a lot, or along the side of a corner lot adjoining the side street, as determined by the yard requirements of this chapter or of any superior regulation.

Sewage disposal plant means a plant or lagoon for the treatment of sewage, which serves the town or any group of properties, as distinguished from a private septic tank or package treatment plant which is accessory to and located on the same premises with a principal use.

Stable, private, means a stable with a capacity of not more than two animals.

Story means that portion of a building, other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the ceiling next above it.

- (1) *Story, ground*, means the lowest story, or ground story, or first story of any building, the floor of which is not more than 3½ feet below the average contact ground level at the exterior walls of the building, except that any basement used as a separate dwelling by other than a janitor or caretaker or his family shall be deemed a ground or first story.
- (2) *Story, half*, means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story; provided, however, that any partial story used as a separate dwelling, other than for a janitor or caretaker and his family, shall be deemed a full story.

Street means a public right-of-way 50 feet or more in width which provides a means of public access to abutting property, or any such public or private right-of-way not less than 30 feet in width which existed prior to the enactment of the ordinance from which this chapter is derived. The term "street" shall include road, avenue, drive, lane, circle, square, court, highway, beach, way or similar term.

Street line means the right-of-way or property line.

Street, major, means a street or highway designated as a major street or expressway on the official major street plan of the town.

Structural alteration means any change in the structural members of a building, such as bearing walls columns, beams or girders or as may be defined by the building code in effect in the town.

Structure means anything constructed, the use of which requires a fixed location on the ground or is attached to something having such location, but not including sidewalks, driveways, curbs or essential services defined in this chapter.

Use first permitted means a use, which in the sequence of successively listed zoning districts, occurs as a permitted use for the first time in a special zoning district.

Warehouse means a building or part of a building that is used for the storage and distribution of goods, wares, merchandise, substances or articles.

Yard, front, means an open space extending the full width of the lot between any part of a building and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in article VII of this chapter.

- (1) *Front yard, least width*, means the shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in section 108-245, and the front lot line.

Yard, rear, means an open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in article VII of this chapter.

- (1) *Rear yard, least depth*, means the shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in section 108-245, and the rear lot line.

Yard sale means the temporary display and sale of personal property along any public or approved private road.

Yard, side, means an open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as herein specified in article VII of this chapter.

- (1) *Side yard, least width*, means the shortest distance, measured horizontally, between any part of a building, other than such parts as excepted in section 108-245, and the nearest side lot line.

Zoning certificate means a written statement issued by the planning director authorizing the use and occupancy of buildings, structures, or premises consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

Zoning map means the zoning map of the town, dated April 5, 1966, together with all amendments thereto subsequently adopted.

(Code 1977, § 107-5; Ord. No. 2000-10, 9-25-2000; Ord. No. 2005-5, 7-25-2005; Ord. No. 2009-08, 11-24-2008; Ord. No. 2010-05, 7-12-2010; Ord. No. 2010-12, 11-22-2010)

Secs. 108-6—108-28. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Secs. 108-29—108-59. - Reserved.

DIVISION 2. - PLANNING DIRECTOR

Sec. 108-60. - Established.

The office of the planning director is hereby established.

(Code 1977, § 107-62; Ord. No. 2000-10, 9-25-2000)

Sec. 108-61. - Appointment.

The planning director shall be appointed by and shall serve at the pleasure of the Mayor and Council. The Mayor and Council shall determine the compensation and terms of service of the planning director.

(Code 1977, § 107-62; Ord. No. 2000-10, 9-25-2000)

Sec. 108-62. - Powers and duties.

- (a) The Mayor and Council, at its discretion, may arrange for the sharing of a planning director with the county or with another municipality in the county, provided that such director shall be responsible to this town's Mayor and Council for any zoning certificate issued or action taken with respect to the administration and enforcement of this chapter.
- (b) It shall be the duty of the planning director to administer and cause the enforcement of the provisions of this chapter in accordance with its administrative provisions.

(Code 1977, § 107-62; Ord. No. 2000-10, 9-25-2000)

Secs. 108-63—108-82. - Reserved.

DIVISION 3. - ZONING CERTIFICATES AND BUILDING PERMITS

Sec. 108-83. - Required.

- (a) Except as otherwise provided herein, it shall be unlawful to locate, erect or begin the construction, reconstruction, extension, conversion or structural alteration of any building or structure, or to begin the excavation for such building or structure, without first applying for a zoning certificate.
- (b) Likewise, it shall be unlawful to use or permit the use of any building or land or part therefor, hereafter created or erected, wholly or partly, or to change the use or permit the change of use of any building, structure or land, until a zoning certificate, together with a special use permit where required, shall have been issued by the planning director. Such zoning certificate shall show that the building or other structure or part thereof and the proposed use thereof, or the proposed use of the land or premises, conform to the provisions of this chapter.

(c) It shall be the duty of the planning director to issue such zoning certificate if he finds to his satisfaction that the building, structure, premises, and proposed use conform to all the requirements set forth in this chapter.

(Code 1977, § 107-63(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-84. - Application.

Application for a zoning certificate shall be made to the planning director coincident with the application for a building permit where such is required. Every application for a zoning certificate, whether in connection with a building permit or not, shall be accompanied by:

- (1) A drawing approximately to scale, showing the shape and dimensions of the lot to be used or built upon;
- (2) The size and location on the lot of every existing building and structure and its driveways;
- (3) The existing and intended use of the premises and of each building or part thereof; and
- (4) Such other information with regard to the lot and its neighboring lots, buildings and uses as may be necessary to determine and provide for the administration and enforcement of this chapter.

(Code 1977, § 107-63(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-85. - Issuance.

Issuance of a zoning certificate shall be withheld until the building or the necessary work thereon has been completed in accordance with the provisions of this chapter. No work shall be commenced, however, before the issuance of a building permit showing that application has been made for a zoning certificate and that the building or part thereof and the proposed use thereof conform to the provisions of this chapter. No construction work shall be started before the lot and the location thereon of the projected building or other improvements have been staked out on the ground and have been inspected by the planning director.

(Code 1977, § 107-63(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-86. - Fee.

A filing fee shall accompany each application for a zoning certificate in such amount as may be determined by the Mayor and Council.

(Code 1977, § 107-63(F); Ord. No. 2000-10, 9-25-2000)

Sec. 108-87. - Conflict with chapter provisions.

All town officials and employees who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter and shall issue no permit or license for any use, building or purpose if the same would be in conflict with the provisions of this chapter. Any permit or license issued in conflict with the provisions of this chapter shall be null and void.

(Code 1977, § 107-63(G); Ord. No. 2000-10, 9-25-2000)

Secs. 108-88—108-117. - Reserved.

DIVISION 4. - ENFORCEMENT

Sec. 108-118. - Violations and penalties.

- (a) It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation in or any provisions of this chapter or any amendment or supplement thereto, or to fail to comply with any reasonable requirement or condition imposed by the board of appeals. Any person, firm or corporation violating any regulation in any provisions of this chapter or any amendment supplement thereto shall be deemed guilty of a municipal infraction, and shall be fined not less than \$25.00 nor more than \$400.00. Each and every day during which such violation continues may be deemed a separate offense.
- (b) All zoning certificates and building permits shall be revocable for failure to comply with all applicable requirements and conditions.

(Code 1977, § 107-64(A), (B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-119. - Prevention of violations.

In case any building is or is proposed to be located, erected, constructed, reconstructed, altered, repaired, converted, maintained or used, or any land is or is proposed to be used, in violation of this chapter or any amendment or supplement thereto, the Mayor and Council, the planning director or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, restrain, correct or abate such unlawful location, maintenance or use, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business or use in or about such premises.

(Code 1977, § 107-65; Ord. No. 2000-10, 9-25-2000)

Secs. 108-120—108-136. - Reserved.

DIVISION 5. - BOARD OF APPEALS

FOOTNOTE(S):

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State Law reference— Board of appeals, Md. Ann. Code art. 66B, § 4.07.

Subdivision I. - In General

Sec. 108-137. - Establishment.

In compliance with the provisions of Md. Ann. Code art. 66B, § 4.07, as amended, a board of appeals is hereby established. The number of members of said board, their appointment, terms of office, succession, removal, filling of vacancies and their powers and duties shall all be as provided in Md. Ann. Code art. 66B, § 4.07. There shall be five members and one alternate member on the board of appeals. The persons appointed to the board of appeals shall be selected for their understanding of and appreciation for zoning principals, knowledge of conditions in the community and of its planning objectives and policies, general civic interest, as opposed to special or private interest, and a fair judicial approach.

(Code 1977, § 107-66; Ord. No. 2000-10, 9-25-2000)

State law reference— Appointment, term of office, removal, meetings, etc., Md. Ann. Code art. 66B, § 4.07.

Sec. 108-138. - Organization.

- (a) The board of appeals shall be organized in accordance with the provisions of this chapter. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall make a transcript and keep minutes of its proceedings showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record. The board of appeals shall immediately file the transcript of its proceedings in the office of the board. A transcript shall be a public record. If a recording or a transcript of a recording is not prepared in the normal course of the board's proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of preparing the recording or transcript. All actions of the board shall be by resolution.
- (b) The board of appeals may call upon any town official or department head for assistance in the performance of its duties, and it shall be the duty of such officers to render such assistance to the board as may reasonably be required.
- (c) It shall be the duty of the planning director to serve as secretary and administrative officer for the board of appeals. One of his duties shall be to investigate each case and prepare a report thereon for information and assistance of the board.

(Code 1977, § 107-67; Ord. No. 2000-10, 9-25-2000)

State law reference— Similar provisions, Md. Ann. Code art. 66B, § 4.07(a), (b).

Secs. 108-139—108-159. - Reserved.

Subdivision II. - Powers

Sec. 108-160. - Administration errors.

The board of appeals shall have the power to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or any ordinance adopted under this chapter.

(Code 1977, § 107-69(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-161. - Interpretation and adjustment of zoning map and district lines.

The board of appeals may determine, after notice to the owners of the properties affected and after public hearing, boundaries of districts as follows:

- (1) Where the street or lot layout actually on the ground, or as recorded, differs from the street or lot lines shown on the zoning map, the board shall interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question.
- (2) Where the boundary line of a district divides a lot held in a single ownership on the effective date of the ordinance from which this chapter is derived, the board may permit the extension of a district, but not more than 200 feet beyond said boundary line.

(Code 1977, § 107-69(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-162. - Temporary uses.

The board of appeals may authorize the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this chapter for the district in which it is located, provided that such use is a temporary nature and does not involve the erection of substantial buildings. Such certificate shall be granted in the form of a temporary and revocable permit for a period of not more than 12 months, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

(Code 1977, § 107-69(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-163. - Conditional uses, variances and special exceptions.

- (a) The board of appeals shall have the power to hear and decide application for conditional uses or for decisions upon other special questions or exceptions on which the board is authorized by this chapter to pass. The board shall have the power to authorize on appeal in specific cases a variance from the terms of an ordinance. All such applications shall be deemed to be for special exceptions authorized by Md. Ann. Code art. 66B, § 4.07.
- (b) In addition to permitting the conditional use and exceptions herein specified, the board shall have the power to permit the following conditional uses and special exceptions:
- (1) A business use in any R District, next to a nonconforming business or industrial use or between two such uses.
 - (2) On a lot adjoining or in a building adjoining any nonconforming use, a use of the next higher classification.
 - (3) Within any district, the disposal of wastes by the sanitary landfill method.
 - (4) A sewage disposal plant in any district when such location is necessary and unavoidable and provided that all reasonable protection is afforded to adjacent properties by means of location, design, screening or otherwise.
 - (5) A business use in any R District on a lot that adjoins an M District on one side, but not extending more than 100 feet from the district line.
 - (6) A commercial parking lot for passenger vehicles only in any R District on a lot that sides upon a B District, but not extending more than 100 feet from the district line, provided that such lot shall be used only for free parking by patrons or employees of one or more establishments located in the adjacent B District, or as a municipal parking lot, in which case parking fees may be collected and subject to the regulations and provisions in sections 108-767(d) and 108-788
 - (7) Special building-moving exceptions.
 - a. An exception to the prohibition against the moving of houses is permitted, provided that the board finds that the following conditions and standards are met:
 1. That the moving of said buildings will not adversely affect the uses of adjacent and neighboring property.
 2. That the character of the neighborhood to which the building is being moved will not be adversely affected.
 3. That the building being moved will not unduly adversely affect the value of neighboring properties in the area to which the building is being moved.

4. That adequate off-street facilities are provided.
 5. That the sidewalks are constructed or will be constructed to the town specifications prior to the occupation of the building for any purpose, if determined necessary by the board.
 6. That all other zoning requirements that apply to new construction are being met.
 7. That a professional registered engineer or architect certifies that said building, as moved, will comply fully within the requirements of any building code in effect within the town at the time of the hearing before the board of appeals.
 8. That a professional registered engineer or architect certifies that the moving of such building will not cause any damage to municipally maintained streets.
 9. That the building to be moved meets all standards set by the county fire marshal or inspector as to all fire safety factors. No building that does not meet all current fire safety standards shall be moved to a new or different location.
- b. There shall be submitted, along with an application for special building-moving exception, a site plan showing the property to which the building is being moved. Said site plan shall show:
1. The proposed location of the building to be moved.
 2. The location of all sidewalks.
 3. A parking plan that is in accordance with the parking requirements of this chapter.
 4. The location of buildings on all adjacent lots and their relation to the proposed building's location.
- c. The applicant shall submit to the board of appeals a color photograph, not more than 60 days old, of the building that he proposes to move. He shall also provide the board with color photographs, not more than 60 days old, of all buildings located on the lots that abut the property and of all buildings on the opposite side of any street within 50 feet of the site to which the building is to be moved.
- d. In granting a special building-moving exception, the board may specify appropriate conditions and safeguards as it sees fit, in its discretion.
- e. All buildings moved pursuant to this article shall comply completely with all standards herein established and any conditions or safeguards specified by the board of appeals within 90 days of the issuance of any moving permit.
- f. Any such house-moving exception so granted shall be contingent on the applicant's therefor depositing with the town a cash bond in an amount to be determined by the board of appeals, but in no event less than \$500.00, which said cash bond shall be forfeited to the town if the house or houses being moved pursuant to said exception remain on, or continue to traverse, any public way within the town for more than a total of two days.
- g. Whenever an applicant for a special building-moving exception cancels or withdraws his application after an advertisement for a public hearing in connection with said application has been published, any rescheduling for a public hearing on said application or reapplication for the same exception shall be more than four months after the original public hearing was scheduled.

(c)

In considering an application for a conditional use or other exception, the board of appeals shall give due regard to the nature and condition of all adjacent uses and structures. In authorizing any such use or exception the board may impose such requirements and conditions as to location, construction, equipment, operation and maintenance, in addition to those expressly stipulated in this chapter for the particular use or exception, as the board may deem necessary to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise or other similar nuisances, and it may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive. In authorizing a conditional use or exception, subject to compliance with certain conditions, the board may require, from the owners, lessees or tenants of the property for which the conditional use or exception is granted, such evidence, written agreement guaranty or bond as it may deem necessary to ensure that the conditions stipulated by the board are being and will be complied with. Any such written agreement may be required by the board to be recorded among the land records of the county at the expense of the applicant.

(Code 1977, § 107-69(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-164. - Nonconforming uses.

The board of appeals may authorize the issuance of a zoning certificate, after a public hearing, for any of the following:

- (1) The substitution for a nonconforming use for another nonconforming use if no structural alterations are made except those required by law or regulation; provided, however, that in any R or B District, no change shall be permitted to any use prohibited in an M-1 District.
- (2) The extension of a building devoted to a nonconforming use or the construction of additional buildings, or the extension of a nonconforming use of land, where any such extension is necessary and incidental to the continuation of the existing use but is not authorized by section 108-670(3)a. No such extension or addition shall be deemed to extend or otherwise affect the date when such nonconforming use or building must be changed or removed, if subject to any of the provisions of section 108-670(2).

(Code 1977, § 107-69(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-165. - Variances.

- (a) Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of the ordinance from which this chapter is derived, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property or of the use of development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this article would involve practical difficulty or would cause unnecessary hardship, unnecessary to carry out the spirit and purpose of this chapter, the board shall have the power upon appeal in specific cases, filed as herein before provided, to authorize such variance from the terms of this chapter as will relieve such hardship, so that the spirit and purpose of this chapter shall be observed and substantial justice done. In authorizing a variance, the board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purpose of this chapter and in the public

interest. In authorizing a variance, with attached conditions, the board may require such evidence and guaranty, or bond, as it may deem necessary that the conditions attached are being and will be complied with.

- (b) No such variance in the provisions or requirement of this chapter shall be authorized by the board unless the board finds, beyond reasonable doubt, that all the following facts and conditions exist:
- (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district.
 - (2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
 - (3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of this chapter or the public interest.
- (c) No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or the intended use of said property for which variance is sought, one or the other or in combination, is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such condition or situation to be adopted by the Mayor and Council as an amendment to this chapter.

(Code 1977, § 107-69(F); Ord. No. 2000-10, 9-25-2000)

Sec. 108-166. - Limitations, guides and standards.

Where, in this chapter, certain powers are conferred upon the board of appeals or the approval of the board of appeals is required before a permit may be issued, or the board is called upon to decide certain issues, such board shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing and consider all testimony and data submitted, and it shall hear any person for or against the issuance of the permit. However, the application for the permit shall not be approved where the board finds the proposed building, addition, extension of the building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare or would result in dangerous traffic conditions or would jeopardize the lives or property of other people in the neighborhood. In deciding such matters, the board shall give consideration, among other things, to the following:

- (1) The purpose, application, interpretation and standards of these regulations as set forth in article I of this chapter.
- (2) Decisions of the circuit court for the county and the court of appeals of the state.
- (3) The orderly growth and improvement of the neighborhood and community.
- (4) The most appropriate use of land and structures in accordance with a comprehensive plan.
- (5) Facilities for sewers, water, schools, traffic, transportation and other services, and the ability of the town or other public agency to supply such services.
- (6) The limitations of firefighting and rescue equipment and the means of access for fire and police protection.
- (7) The probable effect of such use upon the peaceful enjoyment of people in their homes.

- (8) The number of people residing, working or studying in the immediate vicinity.
- (9) The type, character and use of structures in the vicinity, especially where people are apt to gather in large numbers such as in schools, churches, theaters and the like.
- (10) Traffic conditions, including facilities for pedestrians such as sidewalks and safety zones and parking facilities available and the access of cars to highways.
- (11) The preservation of cultural and historic landmarks.
- (12) The conservation of property values.
- (13) The probable effect of odors, dust, gas, smoke, fumes, vibration, glare or noise upon the uses of surrounding properties.
- (14) The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.

(Code 1977, § 107-70; Ord. No. 2000-10, 9-25-2000)

Sec. 108-167. - Limited effect of exceptions, variances and approvals.

Where the board of appeals approves an exception, variance or other application or appeal under these regulations, such approval shall not change the use classification of the building or premises, or give it any status as a nonconforming use other than it may already have had, or qualify any adjacent property for any special treatment, such as an exception or variance, nor shall there be another change of use without approval of the board.

(Code 1977, § 107-71; Ord. No. 2000-10, 9-25-2000)

Secs. 108-168—108-187. - Reserved.

DIVISION 6. - APPLICATIONS; APPEALS; HEARINGS; STAY OF PROCEEDINGS

Sec. 108-188. - Applications.

An application, in cases in which the board of appeals has original jurisdiction under the provisions of this chapter, may be made by any property owner or contract purchaser, or by a governmental officer, department, board or bureau. Such application shall be filed with the planning director, who shall transmit same to the board.

(Code 1977, § 107-68(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-189. - Appeals.

An appeal to the board may be taken by any person aggrieved by any decision of the administrative officer; or by any officer, department, board or bureau affected by any decision of the planning director. Such appeal shall be taken within 20 days after the decision by filing with the planning director and with the board of appeals a notice of appeal specifying the grounds thereof. The planning director shall transmit to the board all the papers constituting the record upon which the action appealed from was based.

(Code 1977, § 107-68(B); Ord. No. 2000-10, 9-25-2000)

State law reference— Similar provisions, Md. Ann. Code art. 66B, § 4.07(e).

Sec. 108-190. - Fees.

A filing fee shall accompany each application or appeal to the board of appeals, as may be determined by the Mayor and Council.

(Code 1977, § 107-68(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-191. - Hearings.

The board shall fix a reasonable time for the hearing of the application or appeal, shall give at least ten days' notice of the time and place of such hearing in a newspaper of general circulation in the community and to the parties in interest, shall cause the property to be posted conspicuously with a notice of the hearing and shall decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

(Code 1977, § 107-68(D); Ord. No. 2000-10, 9-25-2000)

State law reference— Similar provisions, Md. Ann. Code art. 66B, § 4.07(g).

Sec. 108-192. - Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the planning director certifies to the board, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order, which may be granted by the board or by a court record, on application, after notice to the planning director and on due cause shown.

(Code 1977, § 107-68(E); Ord. No. 2000-10, 9-25-2000)

State law reference— Similar provisions, Md. Ann. Code art. 66B, § 4.07(f).

Sec. 108-193. - Actions of board of appeals.

(a) In exercising its powers, the board of appeals may, in conformity with the provisions of Md. Ann. Code art. 66B, § 4.07:

- (1) Wholly or partly reverse the order, requirement, decision, or determination from which the appeal is taken;
- (2) Wholly or partly affirm the order, requirement, decision, or determination from which the appeal is taken;
- (3) Modify the order, requirement, decision, or determination from which the appeal is taken; or
- (4) Issue a new order, requirement, decision, or determination.

(b) The board shall have all the powers of the administrative officer from whom the appeal is taken.

(Code 1977, § 107-68(F); Ord. No. 2000-10, 9-25-2000)

State law reference— Similar provisions, Md. Ann. Code art. 66B, § 4.07(h).

Sec. 108-194. - Repeated applications.

If an application or appeal is disapproved by the board of appeals, thereafter the board shall not be required to consider another application for substantially the same proposal, on the same premises, until after one year from the date of such disapproval. If advertised and thereafter the applicant withdraws the

application or appeal, he shall be precluded from filing another application or appeal for substantially the same proposal on the same premises for one year.

(Code 1977, § 107-68(G); Ord. No. 2000-10, 9-25-2000)

Sec. 108-195. - Court review.

Any person or persons, jointly or severally, aggrieved by any decision of the board of appeals, or any taxpayer, officer, department, board or bureau of the town, may appeal the same to the circuit court for the county. If, upon the hearing, it shall appear to the court that the testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or modify the decision brought up for review. Appeals from such determinations may be taken to the court of special appeals as provided by law.

State law reference— Appeals, Md. Ann. Code art. 66B, § 4.08.

(Code 1977, § 107-68(H); Ord. No. 2000-10, 9-25-2000)

Secs. 108-196—108-213. - Reserved.

ARTICLE III. - DISTRICT CHANGES AND OTHER AMENDMENTS

Sec. 108-214. - Amendments to zoning regulations, zoning map and comprehensive plan.

- (a) Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Mayor and Council may, after recommendation by the planning and zoning commission and subject to the procedure set forth in this article, amend, supplement or change the regulations, district boundaries or classifications of property now or hereafter established by this chapter or amendments thereof. Such amendment, supplement or change may be initiated by resolution of the Mayor and Council, by motion of the planning and zoning commission or by petition of any property owner or contract purchaser addressed to the Mayor and Council.
- (b) The Mayor and Council hereby expresses its recognition of the fact that sections of the community are changing from a rural to a residential, commercial, industrial or other character, and, although an attempt has been made in the comprehensive plan to anticipate and direct such growth along desirable lines, it is inevitable that no such plan can be perfect or everlastingly valid. It anticipates, therefore, that the comprehensive plan will need amending from time to time, as contemplated and authorized by Md. Ann. Code art. 66B, § 3.05, and that the zoning map must also be amended from time to time in order that it may continue to be in conformity with such comprehensive plan, as required by Md. Ann. Code art. 66B, §§ 4.02, 4.03, 4.04 and 4.05.

(Code 1977, § 107-72; Ord. No. 2000-10, 9-25-2000)

Sec. 108-215. - Procedure for change.

- (a) Any proposed amendment, supplement or change originating with or received by the Mayor and Council shall first be referred to the planning and zoning commission for investigation and recommendation. The planning and zoning commission shall cause such investigation to be made as it deems necessary and for

this purpose may require the submission of pertinent data and information by any person concerned, may hold such public hearing as are provided by its own rules and shall submit its report and recommendation within 60 days unless an extension of time is granted.

- (b) After receiving the recommendation of the planning and zoning commission on any proposed amendment, supplement or change and before adopting such amendment, the Mayor and Council shall hold a public hearing in relation thereto, at which hearing parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in a paper of general circulation in the community once each week for two successive weeks. The first notice of the hearing shall be published at least 14 days before the hearing. The property in question shall be posted conspicuously with a notice of the hearing.
- (c) No substantial change in or departure from the proposed amendment as recommended by the planning and zoning commission shall be made unless the same be resubmitted to said commission for its further recommendation.
- (d) The Mayor and Council may impose such restrictions, conditions and limitations with regard to the proposed amendment, supplement or change as conferred by Md. Ann. Code art. 66B upon the county commissioners.
- (e) A filing fee shall be charged for processing an application for a change in zoning, as may be determined by the Mayor and Council.
- (f) Every application for a change in zoning district boundaries shall be accompanied by a plat drawn to such scale as the planning director shall require, showing the existing and proposed boundaries and such other information as he may need to enable him to properly locate and plot the amendment on the official zoning map. It shall be the duty of the planning director to change the official zoning map promptly upon the adoption of any amendment so that there will always be an up-to-date public record of the zoning districts.

(Code 1977, § 107-73; Ord. No. 2000-10, 9-25-2000)

Secs. 108-216—108-238. - Reserved.

ARTICLE IV. - EXCEPTIONS AND MODIFICATIONS

Sec. 108-239. - Application of provisions.

The regulations specified in this chapter shall be subject to the following exceptions, modifications and interpretations.

(Code 1977, § 107-53; Ord. No. 2000-10, 9-25-2000)

Sec. 108-240. - Use of existing lots of record.

In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of the ordinance from which this chapter is derived, and in separate ownership from any adjacent lot, irrespective of its area or width or the width of the street on which it fronts, subject to the following requirements:

- (1) The sum of the side yard widths on any such lot or plot need not exceed 30 percent of the width of the lot, but in no case shall any one side yard be less than 12 percent of the width of the lot.

- (2) The depth of the rear yard on any such lot need not exceed 30 percent of the depth of the lot, but in no case shall it be less than 25 feet.

(Code 1977, § 107-54; Ord. No. 2000-10, 9-25-2000)

Sec. 108-241. - Structures permitted above height limit.

The building limitations of this chapter shall not apply to:

- (1) Farm buildings and structures, if located at least 200 feet from all property lines.
- (2) Fire or parapet walls, cupolas, steeples, flagpoles, silos, smokestacks, masts, water tanks or other roof superstructures.
- (3) Monitors, scenery lofts, penthouses or roof structures for housing elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, provided that all such structures above the height otherwise permitted in the district shall not occupy more than 25 percent of the ground area of the building.
- (4) Towers, monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures where the manufacturing process requires a greater height, and essential services defined in section 108-5
- (5) Churches, schools, institutional buildings, public utility buildings and structures and any building or structure in an M District if not less than 200 feet distant from any R District, provided that for each three feet by which the height of such building or structure exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.

(Code 1977, § 107-55; Ord. No. 2000-10, 9-25-2000)

Sec. 108-242. - Area requirement modifications.

- (a) Every structure with water and/or sewer services available within the corporate limits of the town shall be connected to the water and sewer system.
- (b) No lot of less than five acres shall have a privy, chemical toilet or other toilet of any kind not connected to either the public sewer system or to a private disposal facility approved by the proper health authorities, except where installed temporarily for use in connection with a construction project.

(Code 1977, § 107-56; Ord. No. 2000-10, 9-25-2000)

Sec. 108-243. - Front yard modifications.

Where a building is to be located between two existing principal buildings in the same block front and within 200 feet of them, the front yard requirement for the proposed building shall be the average of those provided by the two existing buildings. In the case of a corner lot, the proposed building shall be set in line with the building next adjoining and within 200 feet. In either case, however, no front yard shall be less than 25 feet in any R District or 20 feet elsewhere.

(Code 1977, § 107-57; Ord. No. 2000-10, 9-25-2000)

Sec. 108-244. - Through lots.

Buildings on lots extending through from street to street shall provide the required front yard on both streets, but need not provide the required rear yard in case an equivalent open space is provided in lieu of such required rear yard.

(Code 1977, § 107-58; Ord. No. 2000-10, 9-25-2000)

Sec. 108-245. - Rear and side yard modifications.

- (a) In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half of the alley width may be included as a portion of the rear or side yard, as the case may be.
- (b) Each side yard shall be increased in width by two inches in any R District for each foot by which the length of the side wall of the building adjacent to the side yard exceeds 40 feet.
- (c) The side yard width may be varied where the side wall of a building is not parallel to the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the otherwise required least width.
- (d) Where a corner lot rears upon the side lot line of another lot in an R District, either directly or across an alley, the side yard setback for the corner lot shall have a width equal to not less than one-half the required depth of the front yard on the lot in the rear.

(Code 1977, § 107-59; Ord. No. 2000-10, 9-25-2000)

Sec. 108-246. - Other exceptions to yard requirements.

- (a) The following architectural features may project into required yards or courts as hereinafter set forth:
 - (1) Into any required front yard, rear yard, outer court or required side yard adjoining a side street lot line:
 - a. Cornices, eaves or other architectural features may project a distance not exceeding two feet.
 - b. Fire escapes may project a distance not exceeding two feet.
 - c. An uncovered stair and necessary landings may project a distance not to exceed six feet.
 - d. Bay windows, balconies and chimneys may project a distance not to exceed three feet, provided that such features do not occupy, in the aggregate, more than one-third of the length of the wall on which they are located.
 - (2) Subject to the conditions specified in subsections (a)(1) and (2) of this section, the above-named features may project into any required side yard adjoining an interior side lot line a distance not to exceed one-fifth of the width of such side yard, but not to exceed six feet in any case.
- (b) Fences, walls and hedges may be located in required yards or courts subject to the limitation in section 108-709 and the following:
 - (1) Fences and walls not exceeding at any point four feet in height above the elevation of the ground at such point may be located in any yard or court.
 - (2) Fences and walls not exceeding at any point six feet in height above the elevation of the ground at such point may be located in any rear yard or side yard area, provided that on a reversed corner lot no such fence or wall shall be closer to the side street lot line, within 25 feet of the side lot line of an adjoining lot to the rear, than a distance equal to the least depth of the front yard required for a one-story building on such adjoining lot.

(Code 1977, § 107-60; Ord. No. 2000-10, 9-25-2000; Ord. No. 2009-07, 5-11-2009)

Secs. 108-247—108-270. - Reserved.

ARTICLE V. - SITE PLAN REVIEW

Sec. 108-271. - Scope.

- (a) Before a zoning certificate is issued for any use designated in article VI of this chapter as requiring site plan review, the procedures of this section shall be followed in order to more effectively administer, enforce and implement the purposes, intent and requirements of this chapter.
- (b) Any proposed development, which constitutes a subdivision as defined in chapter 106, subdivision of land, shall not be required to follow the procedures of this section.
- (c) An applicant who must undergo a site plan review for a proposed development shall pay a fee to the town in accordance with the fee schedule adopted by resolution of the Mayor and Council, and as may be amended from time to time.

(Code 1977, § 107-61(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-272. - Procedure.

- (a) General procedure.
 - (1) When the applicant applies to the planning director for a zoning certificate, the applicant shall submit three complete sets of the site plans on sheets no larger than 24 by 36 inches.
 - (2) No zoning certificate shall be granted until after the planning and zoning commission submits its recommendation to the planning director or after 45 days of the date the site plans were submitted.
 - (3) Site plan approval shall not relieve the applicant from any other provisions of this chapter and shall not constitute a recommendation for a variance or other relief that the applicant may seek from the board of appeals.
- (b) The planning director shall forward two copies of the site plan to the planning and zoning commission at the regularly scheduled meeting of each month as set by the commission. The planning director shall retain one copy of the site plan for review.
 - (1) The planning and zoning commission shall make a written recommendation to the planning director within 45 days of the date the plan was submitted on whether the site plan indicates that a zoning certificate should be granted or denied.
 - (2) The written recommendation shall include the underlying findings and reasons affecting the recommendation.
 - (3) Failure to make a written recommendation within such 45 days shall be considered a recommendation to issue such zoning certificate.
- (c) Decisions.
 - (1) The planning director shall review the site plan and the planning and zoning commission's recommendations and issue or deny the zoning certificate within 60 days after the site plan was officially submitted.
 - (2) The decision of the planning director shall be in writing and shall be communicated to the applicant personally or mailed to him at his known address not later than the day following the decision.
 - (3) The decision shall indicate the specific provisions of this chapter and other laws which have not been met and the specific reasons therefor.

(Code 1977, § 107-61(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-273. - Requirements.

The following information shall be included on the site plan:

- (1) A statement describing the proposed use.
- (2) A site layout drawn to a scale of not less than one inch equals 50 feet, showing the location, dimensions and area of each lot, the location, dimensions and height of proposed buildings, structures, streets and any existing buildings in relation to the property and street lines. If the application relates to property which is scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property.
- (3) The location, dimensions (number shown) and arrangements of all open spaces and yards, landscaping, fences and buffer yards including methods and materials to be employed for screening.
- (4) The location, size (numbers shown), arrangement and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading and provisions to be made for lighting such areas.
- (5) The location and dimensions of sidewalks and all other areas to be devoted to pedestrian use.
- (6) Zoning districts and requirements.
- (7) Certification by the person who prepared the site plan.
- (8) Certification of ownership and acknowledgment of the site plan, signed by the owner.
- (9) Such other information that may be reasonably required for the purpose of this section.

(Code 1977, § 107-61(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-274. - Site design guidelines.

The following guidelines are divided into eight categories to assist the applicant in the preparation of site and building plans as to assist the planning and zoning commission and the planning director in their review of all site plans. These guidelines are meant to encourage creativity, innovation and well-designed developments. They apply to principal buildings and structures and to all accessory buildings, structures, signs, and other site features.

- (1) *Relation of proposed buildings to surrounding environment.* Relate proposed structure(s) harmoniously to the terrain and to existing buildings that have a visual relationship to the proposed structure(s). To achieve this favorable relationship between existing and proposed uses, create focal points with respect to avenues of approach, terrain features or other buildings and relate open space between all existing and proposed buildings.
- (2) *Drive, parking and circulation.* For vehicular and pedestrian circulation, including walkways, interior drives and parking, give special attention to the location and number of access points to public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, arrangement of safe and convenient parking areas. Design these vehicular and pedestrian areas to enhance the appearance of and access to the proposed buildings and structures and to the neighboring properties.

- (3) *Surface water drainage.* Give special attention to proper site surface drainage to ensure that removal of surface waters will not adversely affect either neighboring properties or the public storm drainage system. Remove and efficiently carry away all stormwater from all roofs, canopies and paved areas. Collect surface water from all paved areas to permit vehicular and pedestrian movement.
- (4) *Utility service.* Place electric and telephone lines underground, where possible. Locate, paint and undertake any other treatment to ensure that any utilities which remain above ground will have a minimal adverse impact on neighboring properties.
- (5) *Advertising features.* Ensure that the size, location, lighting and materials of all permanent signs and outdoor advertising structures or features will enhance rather than detract from the design of proposed buildings and structures and neighboring properties.
- (6) *Special features.* Provide needed setbacks, screen plantings and other screening methods for exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures to help make them compatible with existing or contemplated site design and with neighboring properties.
- (7) *Preservation of landscape.* Preserve the landscape in its natural state by minimizing tree and soil removal. Ensure that grade changes are compatible with the general appearance of neighboring developed areas.
- (8) *Solar energy use.* Consider the desirability and feasibility of active and passive solar energy use. Orient proposed buildings and provide structures to provide for solar energy use and to preserve solar access of adjoining properties.

(Code 1977, § 107-61(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-275. - Highway corridor guidelines.

- (a) All development proposed along major highways as designated shall be subject to the procedures, standards and guidelines specified in the following sections in addition to those standards required within the district which development occurs. The following specific purposes will be accomplished through the review process for proposed development.
 - (1) Maintain pleasing aesthetic values along existing and proposed major highways located within the corporate limits of the town.
 - (2) Provide for the continued safe and efficient use of these roadways.
 - (3) Maintain natural beauty and scenic, cultural, and historic character of the corridors, particularly distinctive views, vistas, and visual continuity.
 - (4) Protect existing greenbelts, natural vegetation, and wildlife habitats along the corridors.
 - (5) Prohibit indiscriminate clearing, excessive grading and clear cutting along corridors.
 - (6) Minimize cut and fill operations by placing emphasis on the retention of natural topography of the corridors.
 - (7) Minimize intersections and site access points.
- (b) The highway corridors shall include all lands within 500 feet on each side of the following rights-of-way:
 - (1) US Route 50.
 - (2) US Route 113.

(3) Maryland Route 346.

(Code 1977, § 107-61(E, F); Ord. No. 2000-10, 9-25-2000)

Secs. 108-276—108-298. - Reserved.

ARTICLE VI. - DISTRICTS AND DISTRICT REGULATIONS

FOOTNOTE(S):

--- (3) ---

State Law reference— Creation of districts, uniformity, Md. Ann. Code art. 66B, § 4.02.

DIVISION 1. - GENERALLY

Sec. 108-299. - Districts established.

For the purpose of this chapter, the incorporated territory of the town is hereby divided into the following districts:

R-1 Residence District

R-2 Residence District

R-3 Apartment District

R-4 Residence District (PUD)

B-1 Town Center District

B-2 Shopping District

B-3 General Business District

M-1 Light Industrial District

M-1A Industrial District

H-1 Historic District

(Code 1977, § 107-6; Ord. No. 2000-10, 9-25-2000)

Sec. 108-300. - Zoning map.

The boundaries of the districts are hereby established as shown on the zoning map of the town, which map together with all notations, references and other matters thereon shall be and hereby made a part of this article. Said zoning map, properly attested, shall be and remain on file in the office of the planning director.

(Code 1977, § 107-7; Ord. No. 2000-10, 9-25-2000)

Sec. 108-301. - Interpretation of boundaries.

(a) Except where referenced on the zoning map to a street line or other designated line by dimensions shown on the map, the district boundary lines are intended to follow property lines, lot lines or the centerlines of the streets, alleys, railroads, small streams or other identifiable landmarks as they existed at the time of the adoption of this chapter, but where a district line obviously does not coincide with the property line,

lot lines or such centerlines, or where it is not designated by dimensions, it shall be deemed to be 200 feet back from the nearest street line in case it is drawn parallel with a street line, or its location shall be determined by scaling in other cases.

- (b) Where a district boundary line, as established in this article or as shown on the zoning map, divides a lot which was in single ownership and of record at the time of enactment of this chapter, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this chapter shall be considered as extending to the entire lot, provided that the more restricted portion of such lot is entirely within 50 feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- (c) Questions concerning the exact location of district boundary lines shall be determined by the board of appeals, as provided in section 108-161 and in accordance with rules and regulations which it may adopt.

(Code 1977, § 107-8; Ord. No. 2000-10, 9-25-2000)

Sec. 108-302. - Extensions of district boundaries.

Whenever any street, alley or other public way is abandoned by official action as provided by law, the zoning districts adjoining the sides of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended district or districts.

(Code 1977, § 107-9; Ord. No. 2000-10, 9-25-2000)

Sec. 108-303. - Classification of territory not included within specific districts.

In case any territory has not been specifically included within a district, or where territory becomes a part of the incorporated area of the town by annexation or otherwise, such territory shall automatically be classified in the R-1 District until otherwise classified.

(Code 1977, § 107-10; Ord. No. 2000-10, 9-25-2000)

Secs. 108-304—108-324. - Reserved.

DIVISION 2. - R-1 RESIDENCE DISTRICT

Sec. 108-325. - Permitted uses.

The following uses shall be permitted and the following regulations and the applicable regulations contained in other articles shall apply in the R-1 Residence District. Principal permitted uses are as follows:

- (1) Single-family dwellings.
- (2) Churches and parish houses.*
- (3) Schools and colleges for academic instruction.*
- (4) Agriculture, grazing and the usual agricultural buildings and structures, but not including chicken farms, hog farms or fur farms, provided that any heating plant, horse barn, cow barn, feeding pen or other building in which farm animals are kept shall comply with the distance requirement in section 108-712
- (5) Silviculture.
- (6)

Publicly owned buildings and properties of an administrative or public service type but not including such uses as storage yards, warehouses or garages.*

- (7) Publicly owned areas and buildings, such as parks playground, community centers, and buildings or properties of a cultural or conservative nature.*
- (8) Residential day care, provided that there is established and maintained in connection therewith a completely fenced and screened play lot of adequate size located at least 15 feet from any residential lot line.

*Requires site plan review.

(Code 1977, § 107-34(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-326. - Conditional uses.

Conditional uses requiring board of appeals authorization in accordance with sections 108-160 through 108-166 and site plan review pursuant to article V of this chapter are as follows:

- (1) Country clubs, public and private golf courses, swimming clubs and other social and recreational clubs and facilities for private noncommercial use, provided that any such establishment shall have an area of at least three acres and every principal building or swimming pool shall comply with one-half the distance requirement in section 108-712
- (2) Public utility structures and properties other than essential services defined in section 108-5, but not including production, construction, maintenance or storage buildings or yards.
- (3) Cross-country electric transmission or communication line, cables or towers; oil, gas, water, sewer, or other pipelines; railroad lines; or any other utility located on a private right-of-way.
- (4) The new construction of a dwelling or the conversion of an existing dwelling into a bed-and-breakfast facility, which shall be a single-family owner-occupied dwelling in which overnight sleeping rooms are rented on a short-term basis to transients subject to the following restrictions:
 - a. No bed-and-breakfast facility shall contain more than four guest sleeping rooms.
 - b. Only designated rooms shall be used for sleeping.
 - c. A minimum of one full bathroom with lavatory, toilet and shower or tub or combination thereof shall be available for every two guestrooms as well as one for the owner-occupant.
 - d. No guestroom shall contain more than two beds.
 - e. On-site off-street parking in the rear or side yard in accordance with this Code shall be provided at the rate of one space per guestroom and two spaces for the owner-occupant.
 - f. No cooking facilities shall be permitted in any guestroom.
 - g. Upon conversion of an existing dwelling to a bed-and-breakfast facility, no additional entrance shall be permitted in the front facade.
 - h. No guest shall be permitted in a bed-and-breakfast facility for more than ten consecutive nights.
 - i. No more than four persons shall simultaneously occupy any one guestroom in a bed-and-breakfast facility.
 - j. There shall be no more than two nonresident employees in or about the bed-and-breakfast facility.

- k. There may be only one on-premises advertising sign, which shall not exceed more than four square feet. The sign shall not be self-illuminated.
 - l. Breakfast only shall be served only to overnight guests.
 - m. Where a bed and breakfast facility exists or is proposed for a lot greater than one acre in size, the board of appeals shall have the authority to modify the above criteria, provided that such modification does not substantially impair the purpose of this chapter as stated in section 108-1
- (5) Day-care centers.
- (6) Nursing facility, hospice facility or other institution for human care size. In addition to the review parameters established in article V of this chapter, and sections 108-160 through 108-166, application for such uses shall include an exterior lighting plan to ensure minimal adverse impact on neighboring properties.

(Code 1977, § 107-34(B); Ord. No. 2000-10, 9-25-2000; Ord. No. 2012-02, 4-23-2012)

Sec. 108-327. - Accessory uses.

Accessory buildings and uses customarily incidental to any principal use or authorized conditional use are permitted, including:

- (1) Private garages, parking areas, stables, swimming pools and other customary outbuildings and structures, provided that any stable shall comply with one-half the distance requirement in section 108-712
- (2) Temporary real estate signs complying with the regulations in article X of this chapter.
- (3) Identification signs complying with the regulations in article X of this chapter.
- (4) Security signs not exceeding two square feet.
- (5) One bulletin board or sign for any permitted church, school or other public or semipublic institution not exceeding 32 square feet in size, which sign may be indirectly lighted.
- (6) Customary home occupations, provided that the home occupation is clearly and obviously subordinate to the principal use of a residential use. Home occupations shall be conducted wholly within the primary structure or an existing accessory building on the premises and pursuant to section 108-844
- (7) The keeping of not more than one roomer or boarder by a resident family.
- (8) An accessory living quarters as defined pursuant to section 108-5
- (9) Yard sales, provided that the personal property shall be removed 12 hours after the yard sale. Any item remaining on site for more than two days shall be declared a nuisance.
- (10) The keeping of no more than six female chickens, provided that:
 - a. All chickens must be confined at all times within a pen located no less than 25 feet from any residence.
 - b. Chickens must be registered with the state department of agriculture, domestic poultry and exotic bird registration division, via application forms provided by the town. The applicant shall complete the application form and return the form to the planning director, who shall then forward the application form to the state department of agriculture.

- c. All chickens must be provided with access to a shelter that provides suitable protection from inclement weather.
- d. Each pen containing poultry must be kept free of odors and materials that may attract rodents and maintained in such a way as to minimize turf destruction.
- e. No male chickens, waterfowl or other game birds may be harbored or maintained.
- f. Chickens shall only be permitted on residential lots containing single-family residences which are occupied.

(Code 1977, § 107-34(C); Ord. No. 2000-10, 9-25-2000; Ord. No. 2009-16, 1-11-2010)

Sec. 108-328. - Height regulations.

No principal structure or part thereof, except as provided in section 108-241, shall exceed 2½ stories or 35 feet in height, and no accessory structure shall exceed 1½ stories or 25 feet in height.

(Code 1977, § 107-34(D); Ord. No. 2000-10, 9-25-2000; Ord. No. 2009-16, 1-11-2010; Ord. No. 2012-03, 6-3-2012)

Sec. 108-329. - Lot area, width and yard requirements.

The following minimum requirements shall be observed, subject to the modified requirements in article IV of this chapter:

| Use | Minimum Lot Area (square feet) | Minimum Lot Width (feet) | Lot Area per Family (square feet) | Front Yard Depth ¹ (feet) | Side Yard Width | | Rear Yard Depth (feet) |
|-----------------------------------|--------------------------------|--------------------------|-----------------------------------|--------------------------------------|------------------------|----------------------|------------------------|
| | | | | | Least Width (feet) | Sum of Widths (feet) | |
| Dwelling | 10,000 | 80 | 10,000 | <u>25</u> | 10 | <u>25</u> | 35 |
| Churches* | 2 acres | 200 | — | 35 | <u>25</u> | 50 | 40 |
| Schools* | 5 acres | 400 | — | 35 | 35 | 80 | 50 |
| Day-care centers* | 40,000 | <u>100</u> | — | 35 | <u>15</u> | — | 40 |
| Public utility uses ^{3*} | 10,000 | 80 | — | 35 | <u>25</u> | 50 | 40 |
| Other permitted uses* | 40,000 | <u>100</u> | — | 35 | <u>25</u> ² | 50 ² | 40 ² |

Notes:

1. For narrow streets, see section 108-706; for built-up frontage see section 108-243.
2. Or greater as may be specified elsewhere in this chapter.
3. Other than essential services as defined as section 108-5.

*Requires site plan review.

(Code 1977, § 107-34(E); Ord. No. 2000-10, 9-25-2000; Ord. No. 2009-16, 1-11-2010; Ord. No. 2010-11, 11-22-2010)

Secs. 108-330—108-346. - Reserved.

DIVISION 3. - R-2 RESIDENCE DISTRICT

Sec. 108-347. - Permitted uses.

The following uses shall be permitted and the following regulations and the applicable regulations contained in other articles shall apply in the R-2 Residence District. Principal permitted uses in the R-2 Residence District include any principal use or structure permitted and as regulated in the R-1 District, except as herein after modified.

(Code 1977, § 107-35(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-348. - Conditional uses.

The following uses in the R-2 Residential District require board authorization in accordance with sections 108-160 through 108-166:

- (1) Any conditional use permitted and as regulated in the R-1 District, except as hereinafter modified.
- (2) As a condition of subdivision approval, established side yards of less than otherwise required, but in no event less than six feet, shall be approved by the planning and zoning commission.
- (3) As a condition of a subdivision approval an established road right-of-way less than otherwise required, but in no event less than 40 feet, shall be approved by the planning and zoning commission.

(Code 1977, § 107-35(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-349. - Height requirements.

Height requirements shall be the same as the R-1 District.

(Code 1977, § 107-35(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-350. - Lot area and yard requirements.

The following minimum requirements shall be observed, subject to the modified requirements in article IV of this chapter:

| | | |
|--|--|--|
| | | |
|--|--|--|

| Use | Minimum Lot Area (square feet) | Minimum Lot Width (feet) | Lot Area per Family (square feet) | Front Yard Depth ¹ (feet) | Side Yard Width | | Rear Yard Depth (feet) |
|-----------------------------|--------------------------------|--------------------------|-----------------------------------|--------------------------------------|--------------------|----------------------|------------------------|
| | | | | | Least Width (feet) | Sum of Widths (feet) | |
| Dwellings | 8,000 | 70 | 8,000 | <u>25</u> | 8 | <u>20</u> | 35 |
| Public utility ² | Same as R-1 District uses | | | | | | |
| Other permitted uses | Same as R-1 District uses | | | | | | |

Notes:

1. For narrow streets, see section 108-706; for built up frontage, see section 108-243.
2. Other essential services as defined in section 108-5.

(Code 1977, § 107-35(D); Ord. No. 2000-10, 9-25-2000; Ord. No. 2009-16, 1-11-2010)

Secs. 108-351—108-373. - Reserved.

DIVISION 4. - R-3 APARTMENT DISTRICT

Sec. 108-374. - Permitted uses.

The following uses shall be permitted and the following regulations and the applicable regulations contained in other articles shall apply in the R-3 Apartment District. All principal permitted uses and conditional uses shall require site plan review in accordance to article V of this chapter. Principal permitted uses include any principal use or structure permitted and as regulated in the R-2 District, and as hereinafter modified.

(Code 1977, § 107-36(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-375. - Conditional uses.

Conditional uses requiring board authorization in accordance with sections 108-160 through 108-166 and site plan review pursuant to article V of this chapter are as follows:

- (1) Any conditional use permitted and as regulated in the R-2 District, except as hereinafter modified.
- (2)

Clubs, fraternities, lodges and meeting places of similar organizations, not including any use that is customarily conducted as a gainful business or where liquor is sold, provided that buildings in which such meeting places are housed shall be located at least 20 feet from any other lot in any R District.

- (3) Limited dwellings.
- (4) Two-family dwellings.
- (5) Townhouse dwellings.
- (6) Multifamily dwellings.
- (7) Conversion of a building into dwellings in accordance with the provisions of section 108-710
- (8) Banks, building and loan associations, trust companies and financial and lending institutions.
- (9) Churches.
- (10) Schools.
- (11) Boardinghouses and lodginghouses.

(Code 1977, § 107-36(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-376. - Accessory uses.

Permitted accessory uses for the R-3 Apartment District include the following:

- (1) Accessory uses and structures permitted and as regulated in the R-2 District, except as hereinafter modified.
- (2) One exterior sign identifying only the name of each place and the uses conducted therein, which sign shall be integral with or attached to the building without projecting more than 12 inches and shall not be lighted. No such sign shall exceed one square foot in area for each ten linear feet of horizontal wall on which it is placed, nor shall it project above the roofline.
- (3) Other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any permitted principal or conditional use.

(Code 1977, § 107-36(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-377. - Height regulations.

No principal structure shall exceed three stories or 50 feet in height, and no accessory structure shall exceed 1½ stories or 25 feet in height, except as provided in section 108-241.

(Code 1977, § 107-36(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-378. - Lot area, width and yard requirements.

The following minimum requirements shall be observed, subject to the modified requirements in article IV of this chapter:

| Use | Minimum Lot Area (square | Minimum Lot Width (feet) | Lot Area per | Front Yard Depth ¹ | Least Width (feet) | Sum of Widths (feet) | Rear Yard Depth |
|-----|--------------------------|--------------------------|--------------|-------------------------------|--------------------|----------------------|-----------------|
|-----|--------------------------|--------------------------|--------------|-------------------------------|--------------------|----------------------|-----------------|

| | feet) | | Family (square feet) | (feet) | | | (feet) |
|----------------------------------|-----------------------------------|-----|----------------------------|-----------|-----------------------|------------------------|--------|
| All dwellings | 6,000 | 60 | 6,000 | <u>25</u> | 10% (minimum 6) | 25% (minimum 15) | 35 |
| Limited dwellings | 5,000 | 50 | 2,000 | 25 | — | — | 25 |
| Public utilities | 5,000 | 50 | — | 25 | 6 | <u>15</u> | 35 |
| Other permitted uses | Same as specified in R-2 District | | | | | | |
| Churches | 2 acres | 200 | — | 35 | 25 | 50 | 40 |
| Schools | 5 acres | 200 | — | 35 | 25 | 50 | 40 |
| Boardinghouses and lodginghouses | 12,000 | 80 | 2,000 | 25 | 8 | <u>20</u> | 35 |

Notes:

1. For narrow streets, see section 108-706; for built-up frontage, see section 108-243.

(Code 1977, § 107-36(E); Ord. No. 2000-10, 9-25-2000)

Secs. 108-379—108-399. - Reserved.

DIVISION 5. - R-4 RESIDENCE DISTRICT

Sec. 108-400. - Permitted uses.

The following uses shall be permitted and the following regulations and the applicable regulations contained in other articles shall apply in the R-4 Residence District. All principal permitted uses and conditional uses shall require site plan review in accordance with article V of this chapter. Principal permitted uses include:

- (1) Any principal use or structure permitted and as regulated in the R-3 District, except as herein modified.
- (2) Any conditional use permitted and as regulated in the R-3 Districts, except as hereinafter modified.

- (3) Two-family dwellings.
- (4) Townhouse dwellings.
- (5) Multifamily developments.
- (6) As a condition of a subdivision approval, established side yards of less than otherwise required, but in no event less than five feet, provided that it is approved by the planning and zoning commission.
- (7) As a condition of a subdivision approval, an established street right-of-way, less than otherwise required, but in no event less than 30 feet, provided that it is approved by the planning and zoning commission.

(Code 1977, § 107-37(A); Ord. No. 2000-10, 9-25-2000; Ord. No. 2001-9, 10-22-2001; Ord. No. 2005-8, 7-25-2005)

Sec. 108-401. - Accessory uses.

The following accessory uses for the R-4 Residence District are permitted:

- (1) Accessory uses and structures permitted and as regulated in the R-3 District, except as hereinafter modified.
- (2) Other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any permitted principal or conditional use.

(Code 1977, § 107-37(B); Ord. No. 2000-10, 9-25-2000; Ord. No. 2005-8, 7-25-2005)

Sec. 108-402. - Height regulations.

Height regulations shall be as specified in the R-3 District.

(Code 1977, § 107-37(C); Ord. No. 2000-10, 9-25-2000; Ord. No. 2005-8, 7-25-2005)

Sec. 108-403. - Lot area, width and yard requirements.

The following minimum requirements shall be observed, subject to the requirements in article IV of this chapter:

| Use | Minimum Lot Area (square feet) | Minimum Lot Width (feet) | Lot Area per Family (square feet) | Front Yard Depth ¹ (feet) | Side Yard Width | | Rear Yard Depth (feet) |
|----------------------|-----------------------------------|--------------------------|-----------------------------------|--------------------------------------|--------------------|----------------------|------------------------|
| | | | | | Least Width (feet) | Sum of Widths (feet) | |
| All dwellings | 5,000 | 50 | 5,000 | 25 | 6 | <u>15</u> | 35 |
| Public utilities | 5,000 | 50 | — | 25 | 6 | <u>15</u> | 35 |
| Other permitted uses | Same as specified in R-3 District | | | | | | |

Notes:

1. For narrow streets, see section 108-706; for built-up frontage, see section 108-243.

(Code 1977, § 107-37(D); Ord. No. 2000-10, 9-25-2000; Ord. No. 2001-9, 10-22-2001; Ord. No. 2005-8, 7-25-2005)

Secs. 108-404—108-434. - Reserved.

DIVISION 6. - B-1 TOWN CENTER DISTRICT

Sec. 108-435. - Permitted uses.

The following uses shall be permitted and the following regulations and the applicable regulations contained in other articles shall apply in the B-1 Town Center District. All principal permitted uses and conditional uses shall require site plan review in accordance with article V of this chapter. Principal permitted uses are as follows:

- (1) Hotels and motels, subject to section 108-843
- (2) Bed-and-breakfast, subject to section 108-326
- (3) Any community retail business or service establishment, such as a food, drug, clothing, hardware, accessory, variety, hair salons, a beauty shop, florist or specialty shops, shoe repair shop, laundromat and dry-cleaning facilities, banks, funeral homes professional offices, a real estate offices or insurance offices or the like, supplying commodities or performing services primarily for residents and visitors of the town.
- (4) Restaurants, cafes (to include outdoor dining), pubs, and confectioneries.
- (5) Antique or gift shops.
- (6) Automobile service stations, light repair and storage garages and commercial parking lots for passenger vehicles, subject to provisions in section 108-817 and provided that all motor tuning or testing or other noisy activities are conducted within enclosed buildings.
- (7) Theaters, opera houses, live entertainment venues.
- (8) Furniture stores, interior decorating shops, provided that all principal buildings and workshops and all paint storage are located at least 50 feet from any lot in an R District.
- (9) Warehousing for products and goods sold on the premises, provided that the first 30 feet of any warehouse fronting Main Street be used for the sale of the goods produced or stored.
- (10) Boardinghouses and lodginghouses.
- (11) Any other retail business or service establishment which is determined by the board of appeals to be of the same general character as those specified herein, but not including any use prohibited herein or of a class first permitted in a B-2, B-3 or M District.
- (12) Dwellings above street level floors where street level floors are utilized for commercial, retail or other uses as allowed in this chapter.

(Code 1977, § 107-38(A); Ord. No. 2000-10, 9-25-2000; Ord. No. 2008-10, 11-24-2008)

Sec. 108-436. - Accessory uses.

The following accessory uses are permitted in the B-1 Town Center District:

- (1) Accessory buildings and uses customarily incidental to any permitted principal use, and not otherwise prohibited.
- (2) Exterior signs pertaining only to the uses conducted on premises. Such signs shall be integral with or attached to the building; or if any such building is more than 25 feet back from the street line, a freestanding sign located at the street right-of-way line shall be permitted. No such sign shall project over any street line unless attached to a marquee or canopy no more than three feet above a parapet wall or roof line if mounted on the building, nor shall it exceed 25 feet in total height if freestanding. The area of all such signs on the premises shall not exceed in aggregate one square foot for each linear foot of building frontage. Where the lot adjoins an R District, any exterior sign 50 feet thereof shall be attached flat against the front of the building. Other requirements pursuant to article X of this chapter shall apply to signs in a B-1 District.
- (3) The manufacturing, processing or treatment of goods for sale primarily at retail on the premises or the cleaning, laundering, repairing or other treatment of objects as a retail service to customers on the premises, in which operations not more than three persons shall be engaged at any one time.

(Code 1977, § 107-38(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-437. - Required conditions.

The following conditions are required in the B-1 Town Center District:

- (1) All business and processing, except as stipulated, shall be conducted wholly within completely enclosed buildings, except for the sale of automotive fuels, lubricants and incidental services at service stations, and the parking or loading of vehicles, unless authorized as an exception by the board of appeals.
- (2) Where a B-1 District fronts directly across the street or abuts a lot line from any R District, the parking and loading facilities shall be set back at least 25 feet from the street line or lot line, and the intervening space shall be landscaped. All buildings in such cases shall be set back at least 15 feet.
- (3) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of hazard, odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter or water-carried waste.
- (4) No lighting other than minimum protective night lighting shall remain on after business hours. All lighting shall be shaded so as to direct the light away from residential premises and public streets.

(Code 1977, § 107-38(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-438. - Height regulations.

No structures shall exceed three stories or 45 feet, and no accessory structure shall exceed two stories or 30 feet in height, except as provided in section 108-241.

(Code 1977, § 107-38(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-439. - Conditional uses.

Conditional uses require board authorization, in accordance with section 107-69 and 107-70, and site plan review, pursuant to article V of this chapter.

(Code 1977, § 107-38(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-440. - Lot area, width and yard requirements.

The following minimum requirements shall be observed, subject to the modified requirements in article IV of this chapter:

| Use | Minimum Lot Area | Minimum Lot Width (feet) | Lot Area per Unit | Use Front Yard Depth ¹ (feet) | Side Yard Width Each Side (feet) | Rear Yard Depth (feet) |
|---|------------------|--------------------------|-------------------|--|--|---|
| Hotels | 40,000 | <u>100</u> | 2,000 | 25 | <u>20</u> | <u>20</u> |
| Boardinghouses or lodginghouses | 20,000 | 80 | 4,000 | 25 | 10 | 30 |
| Community retail service establishments | 6,000 | 60 | | 10 ² | None, except 15 when adjoining an R District | 30 abutting an R District, otherwise 15 |
| Other permitted uses | — | — | — | 10 ² | None, except 15 when adjoining an | 30 abutting an R District, otherwise 15 |

| | | | | | | |
|--|--|--|--|--|------------|--|
| | | | | | R District | |
|--|--|--|--|--|------------|--|

Notes:

1. For narrow streets, see section 108-706; for built-up frontage, see section 108-243.
2. Or greater, as specified elsewhere in this chapter.

(Code 1977, § 107-38(F); Ord. No. 2000-10, 9-25-2000)

Secs. 108-441—108-463. - Reserved.

DIVISION 7. - B-2 SHOPPING DISTRICT

Sec. 108-464. - Principal uses.

The following uses shall be permitted and the following regulations and the applicable regulations contained in the other articles shall apply in the B-2 Shopping District. All principal permitted uses and conditional uses shall require site plan review in accordance with article V of this chapter, site plan review. Principal permitted uses include the following:

- (1) Any principal use or structure permitted and as regulated in the B-1 District, except as herein modified.
- (2) Boardinghouses or lodginghouses.
- (3) Bed-and-breakfasts.
- (4) Hotels and motels.
- (5) Any community retail business or service establishment, such as a food, drug, clothing, hardware, accessory, variety or department stores, barbershops, beauty shops, florist or specialty shop, a shoe repair shop, laundromats, cleaning shop, a bank or savings and loan office, a professional office, funeral homes, a real estate or insurance office or the like, supplying commodities or performing services primarily for residents of the town and surrounding community.
- (6) Tourist homes and produce stands.
- (7) Taverns, nightclubs, drive-in eating and drinking establishments, summer gardens and road houses, including entertainment and dancing, provided that the principal building shall comply with one-half the distance requirement of section 108-712
- (8) Automobile parking lots, repair shops or general garages, subject to the provisions in section 108-817
- (9) Automobile, tire, battery, recreational vehicle and implement establishments for display, hire, sale or general repair, including sales lots.
- (10) Animal hospitals, veterinary clinic or kennel, provided that any structure or area used for such purposes shall comply with the distance requirement of section 108-712

- (11) Bakery, laundry and clothes cleaning and dyeing establishments, all subject to one-half the distance requirement of section 108-712
- (12) Wholesale business, warehousing, storage and distributing establishments, except for flammable liquids, paints or explosives.
- (13) Municipally owned electric, communication, water, sewer, gas and fuel transmission lines and necessary equipment and buildings incidental thereto. Wireless transmitting stations, transformers, boosters, railroad lines and stations, water tanks and standpipes shall be subject to one-half the distance of section 108-712
- (14) Any other retail business or service establishment which is determined by the board of appeals to be of the same general character as those specified herein, but not including any use of a class first permitted in a B-3 or M District.

(Code 1977, § 107-39(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-465. - Accessory uses.

The following accessory uses are permitted in the B-2 Shopping District:

- (1) Accessory buildings and uses customarily incidental to any permitted principal use, and not otherwise prohibited.
- (2) The manufacturing, processing or treatment of goods for sale primarily at retail on the premises or the cleaning, laundering, repairing or other treatment of objects as a retail service to customers on the premises, in which operations not more than three persons shall be engaged at any one time.
- (3) Warehousing for goods merchandise or products offered for sale on the premises.

(Code 1977, § 107-39(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-466. - Required conditions.

The following conditions are required in the B-2 Shopping District:

- (1) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of hazard, odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter or water-carried waste.
- (2) Lots for public display or sale of automobiles, trucks, recreational vehicles, implements, boats or other machinery or equipment shall comply with the requirement that every such lot shall be fenced along each public street by an ornamental fence not less than 30 inches high, located at least five feet back from the property line or from any public sidewalk, and the space in front thereof shall be landscaped and neatly maintained.
- (3) No lighting, other than minimum protective night lighting, shall remain on after normal business hours. All lighting shall be shaded so as to direct the light away from residential premises and from public streets.
- (4) Along any side adjacent to any R District or institutional premises, an ornamental wall, fence or compact evergreen hedge and wire fence, not less than four feet nor more than six feet high, shall be installed and maintained in good condition without any advertising.

(Code 1977, § 107-39(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-467. - Height regulations.

Height regulations shall be the same as in the B-1 District.

(Code 1977, § 107-39(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-468. - Prohibited uses.

The following uses are prohibited in the B-2 Shopping District:

- (1) Any use specified as a permitted use or conditional use in a B-3 or M-1 District.
- (2) Warehousing for goods or merchandise other than those offered for sale on premises.
- (3) Warehousing within 50 feet of Main Street, Broad Street, William Street, or Commerce Street.

(Code 1977, § 107-39(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-469. - Lot area, width and yard requirements.

The following minimum requirements shall be observed, subject to the modified requirements contained in article IV of this chapter:

| Use | Minimum Lot Area | Minimum Lot Width (feet) | Lot Area per Unit | Front Yard Depth ¹ (feet) | Side Yard Width Each Side (feet) | Rear Yard Depth (feet) |
|-------------------------------|------------------|--------------------------|-------------------|--------------------------------------|----------------------------------|------------------------|
| Motels and hotels | Same as B-1 | | | | | |
| Boardinghouses | Same as B-1 | | | | | |
| Community retail and services | Same as B-1 | | | | | |
| Wholesale and warehousing | 6,000 | 60 | — | 20 | 6 | 25 |
| Other permitted uses | — | — | — | 10 ² | None, except 10 | 30 abutting an R |

| | | | | | | |
|--|--|--|--|--|---------------------------------------|------------------------------|
| | | | | | when adjoining an R District | District, otherwise 10 |
|--|--|--|--|--|---------------------------------------|------------------------------|

Notes:

1. For narrow streets, see section 108-706; for built-up frontage, see section 108-243.
2. Or greater as may be specified elsewhere in this chapter.

(Code 1977, § 107-39(F); Ord. No. 2000-10, 9-25-2000)

Secs. 108-470—108-491. - Reserved.

DIVISION 8. - B-3 GENERAL BUSINESS DISTRICT

Sec. 108-492. - Permitted uses; regulations and requirements.

The following uses shall be permitted and the following regulations and the applications contained in other articles shall apply in the B-3 General Business District. All permitted uses and conditional uses shall require site plan review in accordance with article V of this chapter, site plan review. Principal permitted uses include:

- (1) Any use or structure permitted and as regulated in the B-2 District, except as herein modified.
- (2) Retail sales of building supplies, not including concrete mixing or bulk storage of sand, gravel, lime or similar materials.
- (3) Contractor's equipment storage yard or plant or storage and rental of equipment commonly used by contractors.
- (4) Trucking or motor freight station or terminal.
- (5) Retail lumberyard, including millwork only when incidental.
- (6) Storage, sale and incidental milling or other processing of grain and livestock feed or storage and sale of coal, coke or firewood, provided that dust is effectively controlled during all operations.
- (7) Carting, express or hauling establishments, including storage of vehicles.
- (8) Stone or monument works not employing power-driven tools, or if employing such tools, then only within a completely enclosed building subject to one-half the distance requirement of section 108-712
- (9)

Any other use that is determined by the board of appeals to be of the same general character as the above-mentioned uses, including any kind of manufacturing or treatment incidental to the conduct of a retail business on the premises, except a use which is first permitted in an M District and/or is prohibited in any district.

(Code 1977, § 107-40(A), (B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-493. - Conditional uses.

Conditional uses requiring board authorization in accordance with sections 108-160 through 108-166 are as follows:

- (1) Electric, communication, water, sewer, gas and fuel transmission lines and necessary equipment incidental thereto and wireless transmitting stations, transformers, boosters, railroad lines and stations.
- (2) Flammable liquids, underground storage only, not to exceed 40,000 gallons and subject to the distance requirements of section 108-712
- (3) Drive-in theaters, provided that the screen shall be so located that the picture will not be visible from adjacent streets or highways and said screen shall be set back not less than 100 feet from the street line, and provided that all parts of such drive-in theaters shall comply with the distance requirement of section 108-712
- (4) Public swimming pools, dancing, skating, golf driving ranges, livery stables, riding academies, amusement parks, circuses, carnivals, target ranges or similar open-air recreational uses and facilities except race tracks, all subject to the requirements of section 108-712
- (5) Revival tents and outdoor meetings.
- (6) Telecommunications, television and radio broadcasting facilities, which consist of antennas, including but not limited to panels, dishes and omnidirectional, mounting hardware and all related equipment necessary to operate various telecommunications systems, including personal communications services (PCS) and cellular transmitting and receiving sites as well as monopoles, freestanding towers, guyed towers and other support and elevational assisting devices, subject to the requirements of section 108-712 and all height restrictions as may be found in this chapter.

(Code 1977, § 107-40(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-494. - Accessory uses.

Accessory uses and structures are permitted as regulated in the B-2 District.

(Code 1977, § 107-40(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-495. - Height regulations.

Height regulations shall be the same as in the B-2 District.

(Code 1977, § 107-40(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-496. - Lot area, width and yard requirements.

The following minimum requirements shall be observed, subject to the modified requirements contained in article IV of this chapter:

| Use | Minimum Lot Area | Minimum Lot Width (feet) | Lot Area per Unit | Use Front Yard Depth ¹ (feet) | Side Yard Width Each Side (feet) | Rear Yard Depth (feet) |
|----------------|---|--------------------------|-------------------|--|--|---|
| Permitted uses | As determined by the planning and zoning commission to be appropriate for the project | | | 10 ² | None, except 25 when adjoining an R District | 35 abutting an R District, otherwise 15 |

Notes:

1. For narrow streets, see section 108-706; for built-up frontage, see section 108-243.
2. Or greater as may be specified elsewhere in this chapter.

(Code 1977, § 107-40(F); Ord. No. 2000-10, 9-25-2000)

Secs. 108-497—108-515. - Reserved.

DIVISION 9. - M-1 LIGHT INDUSTRIAL DISTRICT

Sec. 108-516. - Purpose and intent.

- (a) This district is intended to provide for certain types of business and industry, characterized by light manufacturing, fabricating, warehousing and wholesale distribution which are relatively free from offense and which, with the proper landscaping and buffering, will not detract from residential or commercial desirability of adjacent properties. It is intended that such districts be located with access to major thoroughfares or other major means of transportation, depending upon the specific demands of the

industry being served. Industrial parks are encouraged in this district to provide for industrial uses with common access and infrastructure, as well as the provision of open space and adequate buffering to adjacent non-compatible uses.

- (b) The planning and zoning commission, at its discretion, may impose such restrictions to protect the aesthetic and visual character of land adjacent to major highway corridors and to provide for and promote orderly development. All development proposed within this district shall be subject to procedures, standards, and guidelines specified in other parts of this chapter.

(Code 1977, § 107-41(A), (B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-517. - Permitted uses.

- (a) The following uses shall be permitted and the following regulations and the applicable regulations contained in other articles shall apply in the M-1 Light Industrial District. All principal permitted uses and conditional uses shall require site plan review in accordance with article V of this chapter. The following uses and structures shall be permitted in the M-1 District.
- (1) The manufacturing, assembling, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, musical instruments, novelties, molded rubber or plastic products, electrical appliances, instruments or devices, optical or dental goods, printed matter and similar products.
 - (2) The preparation or packaging of food products except fish or meat products, sauerkraut, vinegar and yeast and except canneries and rendering plants.
 - (3) The manufacturing, compounding, assembling or treatment to articles of merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals, stone, shells, thread, wax, yarns or wood, except that no sawmill, planing mill or punch press of over 20 tons rated capacity shall be employed.
 - (4) The manufacturing of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by gas or electricity.
 - (5) The manufacture and repair of electric signs, advertising structures and light sheet metal products such as heating and ventilating equipment.
 - (6) Plumbing and roofing shops.
 - (7) Wholesale or service establishments.
 - (8) Contractor shops, equipment and material storage yards, such as electrician, carpenter, plumber, heating, sheet metal, sign painting, printing, upholstery, furniture painting or interior decorating, merchandise fabrication and repair.
 - (9) Public utility structures and other essential services.
 - (10) Publicly owned facilities such as administration buildings, firehouses, which serve the needs of the community.
 - (11) Agriculture uses such as forestry, dairying, pasturage, crop growth, horticulture, stables when located not less than 200 feet from any residential lot line, grazing pastures, nursery crops, non-commercial maintenance buildings, but not including such uses as poultry houses and hog houses.
 - (12) Warehouses and self-storage facilities.
- (b) The following uses, when conducted wholly within completely enclosed buildings, except for parking and loading areas and subject to the distance requirement of section 108-712

- (1) Automobile, truck, recreational vehicle, bus, implement, machinery or similar equipment fabrication, assembly or major repair.
- (2) Automobile body or paint shops.
- (3) Tire recapping plants.
- (4) Blacksmith, welding or other metalworking shops not employing reciprocating hammers or punch presses over 20 tons rated capacity.
- (5) Creamery, bottling, ice manufacturing or cold storage plant or milk distributing depot.
- (6) Foundry casting lightweight nonferrous metals or electric foundry not producing noxious fumes or odors.
- (7) Bag, carpet, and rug cleaning plants, provided that necessary equipment is used to effectively precipitate or recover dust.

(Code 1977, § 107-41(C); Ord. No. 2000-10, 9-25-2000; Ord. No. 2009-08, 11-24-2008)

Sec. 108-518. - Conditional uses.

The following conditional uses requiring board of appeals' authorization in accordance with sections 108-160 through 108-166 are permitted:

- (1) The following uses when located not less than 300 feet from any R District and not less than 200 feet from any B District:
 - a. Candle manufacturing plant.
 - b. Enameling, lacquering or japanning.
 - c. Flour, feed or grain mill.
 - d. Grain drying.
 - e. Shoddy manufacturing or other textile recycling processes.
 - f. Stone or monument works employing power-driven tools.
 - g. Laboratories: chemical, physical or biological.
 - h. Wastewater treatment facilities. Sludge areas shall not be located on site except by special exception by the board of appeals.
- (2) Any other use determined by the board of appeals to be of the same general character as those specified herein.
- (3) Dwellings above street-level floors where street-level floors are utilized for retail, professional offices or other nonindustrial uses.

(Code 1977, § 107-41(C); Ord. No. 2000-10, 9-25-2000; Ord. No. 2009-10, 7-13-2009)

Sec. 108-519. - Accessory uses.

The following accessory uses are permitted in the M-1 Light Industrial District:

- (1) Accessory uses and structures permitted and as regulated in the B District, except as herein modified.
- (2) Other uses and structures customarily accessory and incidental to a permitted principal or conditional use, except of the type which is permitted only by authorization of the board of appeals in accordance with sections 108-160 through 108-166

(Code 1977, § 107-41(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-520. - Prohibited uses.

The following uses are prohibited in the M-1 Light Industrial District:

- (1) Any use in conflict with any law or ordinance of the town or the state regulating nuisances.
- (2) Any dwelling, recreational vehicle, school, hospital, church, clinic or other institution for human care; provided, however, that any watchman's or caretaker's dwelling which is accessory to a permitted principal use shall be a permitted use, and provided further that any such dwelling, school, hospital, church, clinic or other institution for human care legally existing in the M-1 District at the time of the effective date of the ordinance from which this chapter is derived or any amendment thereto shall not be subject to any of the limitations or other regulations prescribed for nonconforming uses elsewhere in this chapter.
- (3) Any other use not hereinafter mentioned in any district unless authorized by the board of appeals.

(Code 1977, § 107-41(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-521. - Required conditions.

The following conditions are required in the M-1 Light Industrial District:

- (1) The best possible means available for the disposal of reuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, vibration, radiation or similar nuisance and protection against fire and explosives shall be employed.
- (2) All storage yards shall be within completely enclosed buildings or visually screened on all sides from adjacent properties and public rights-of-way by a solid wall or solid fence and shall be landscaped in accordance with section 108-718. No storage shall be located in any required yard setback other than a rear yard.

(Code 1977, § 107-41(F); Ord. No. 2000-10, 9-25-2000)

Sec. 108-522. - Height regulations.

No structure within 200 feet of any R District shall exceed three stories or 50 feet in height, except as provided in section 108-241, and by special exception approved by the board of appeals.

(Code 1977, § 107-41(G); Ord. No. 2000-10, 9-25-2000)

Sec. 108-523. - Yard requirements.

(a) The following requirements shall be observed, subject to the modified requirements contained in article IV of this chapter:

| Use | Front Yard Depth ¹ (feet) | Each Side Yard ¹ (feet) | Rear Yard Depth (feet) |
|---------------|--------------------------------------|------------------------------------|------------------------|
| All buildings | 30 | <u>15</u> , except adjoining | 50 |

| | | | |
|--|--|--|--|
| | | an R District in which case not less than 50 | |
|--|--|--|--|

Notes:

1. Or greater, as may be specified elsewhere in this chapter.

(b) No industrial development shall have an area less than that approved by the planning and zoning commission and determined to be adequate for the proposed development.

(Code 1977, § 107-41(H); Ord. No. 2000-10, 9-25-2000)

Secs. 108-524—108-554. - Reserved.

DIVISION 10. - M-1A INDUSTRIAL DISTRICT

Subdivision I. - In General

Sec. 108-555. - Purpose and intent.

This district is intended to provide for certain types of business and industry, characterized by light manufacturing, warehousing and wholesale distribution which have little or no detrimental impact on neighboring properties or uses and which, with proper design, will not detract from the agricultural, residential or commercial desirability of adjacent properties or uses or from adjacent or nearby transportation corridors. It is intended that such districts be located with immediate access to or from major thoroughfares or other major modes of transportation, depending upon specific demands of the industry being served. Industrial parks are encouraged in this district to provide for industrial uses with common access and infrastructure, as well as the provisions of open space and adequate buffering to adjacent noncompatible uses.

(Code 1977, § 107-42(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-556. - Permitted uses.

The following principal permitted uses and structures shall be permitted and the following regulations and the applicable regulations contained in other articles shall apply in the M-1A Industrial District. All principal permitted uses and conditional uses shall require site plan review in accordance with article V of this chapter, site plan review, and section 108-718, landscaping requirements.

- (1) Agriculture use such as forestry, dairying, pasturage, crop growth, horticulture, and noncommercial grain dryers, but not including such uses as poultry houses and hog houses. No yard requirements shall apply for field, vegetable and nursery crops and grazing pastures.
- (2) Timber growing and harvesting. No lot requirements shall apply.
- (3) Public and private conservation areas including wildlife reservations, arboretums and demonstration forests. Minimum yard requirements shall apply for all buildings.
- (4) Drainage structures and similar works for flood prevention and erosion control. No yard requirements shall apply.

- (5) Planned industrial parks subject to the provisions of sections 108-586 through 108-588
- (6) Professional offices, real estate offices, insurance offices or the like performing services primarily for the residents and visitors of the town.

(Code 1977, § 107-42(B); Ord. No. 2000-10, 9-25-2000; Ord. No. 2005-10, 8-22-2005)

Sec. 108-557. - Conditional uses.

Conditional uses requiring board of appeals authorization in accordance with sections 108-160 through 108-166 and article V of this chapter, site plan review are as follows:

- (1) Commercial grain dryers, feed mills, grain, fertilizer, feed, seed, implement and other agricultural storage and repair and sales facilities. Facilities for the bulk handling of grain, fertilizer and other materials shall be located at least 200 feet from all perimeter property lines and public road rights-of-way.
- (2) Commercial repair of seafood harvesting and agriculture equipment (not including general highway vehicles). All work and storage areas shall be enclosed within a building or screened from public view.
- (3) Storage and processing facilities for seafood, including the sale of seafood processed on site.
- (4) Processing and storage of locally grown vegetables and field crops.
- (5) Livestock purchase and sales yards. All building and yards designed for the concentrated containment of animals shall be located at least 200 feet from any perimeter property line or public road right-of-way.
- (6) Aquaculture packing, canning and processing facilities. Minimum yard requirements shall apply for structures only.
- (7) Sawmills and the manufacturing or processing of wood products. No logs, lumber or by-products shall be stored in any required yard setback, and all power-driven machinery shall be located at least 200 feet from all perimeter property lines and public road rights-of-way.
- (8) Schools subject to all yard requirements in division 2 of article VI of this chapter.
- (9) Concrete and asphalt-mixing plants. No raw materials shall be stored in any required setback and all mixing and power driven machinery shall be located at least 200 feet from all perimeter property lines and public road rights-of-way.
- (10) Commercial riding and boarding stables for three or more animals. Stables shall be located at least 200 feet from any perimeter property line or public road right-of-way, and there shall be an area of one acre per animal stabled.
- (11) Garden centers and single-story garden-center structures offering nursery related products and services for sale. In addition to plants, other items which may be sold at a garden center include gardening equipment, garden tools, gardening supplies and related items necessary and appropriate to gardening activities. No other items may be sold or stored unless otherwise permitted.
- (12) Veterinary clinics and kennels for raising, breeding and boarding of household pets. All pens and runways shall be at least 200 feet from any perimeter property line or public road right-of-way.
- (13) Marine yards for the construction and major repair of watercraft, including marine railways, general marine activities and incidental retail sales of parts and accessories.
- (14)

Structures and storage yards for contractors shops, equipment and material storage yards, such as electrician, carpenter, plumber, heating, sheet metal, sign painting, printing, upholstery, furniture painting or interior decorating, merchandise fabrication and repair. Such structures and storage yards shall be screened on all sides.

- (15) Public utility structures and properties other than essential services including cross country lines and mains of all kinds. The planning and zoning commission may require screening, buffering or landscaping where deemed necessary to protect adjoining properties.
- (16) Storage yards and buildings for storage of watercraft and recreational vehicles.
- (17) Telecommunications, television and radio broadcasting facilities, which consist of antennas, including but not limited to panels, dishes and omnidirectional, mounting hardware and all related equipment necessary to operate various telecommunications systems, including personal communications services (PCS) and cellular transmitting and receiving sites as well as monopoles, freestanding towers, guyed towers and other support and elevational assisting devices, subject to section 108-241
- (18) Any other use which is determined by the board of appeals to be of the same general character as those specified, but not including any first permitted use found in other districts.

(Code 1977, § 107-42(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-558. - Accessory uses.

The following accessory uses are permitted in the M-1A Industrial District:

- (1) Noncommercial private parking garages and areas, other customary outbuildings and structures as regulated in the M-1A District, except as herein modified.
- (2) Buildings for farm animals, provided that they are located 200 feet from any perimeter property line or public road right-of-way.
- (3) Roadside stands offering for sale fresh agricultural products and fresh seafood, operated by the property owner or tenant of the premises upon which such stand is located. Such stands shall be located so as not to create a traffic hazard. Such stands shall be closed as appropriate at the end of the fresh product season. Signs shall be subject to article X of this chapter.
- (4) Other uses and structures customarily accessory and incidental to a permitted principal or conditional use, except of the type which is permitted only by authorization of the board of appeals in accordance with sections 108-160 through 108-166

(Code 1977, § 107-42(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-559. - Prohibited uses.

The following uses are prohibited in the M-1A Industrial District:

- (1) Any use in conflict with any law or ordinance of the town or the state regulating nuisances.
- (2) Any dwelling, recreational vehicle, hospital, church, clinic or other institution for human care; provided, however, that any watchman's or caretaker's dwelling which is accessory to a permitted principal use shall be a permitted use, and provided further that any such dwelling, hospital, church,

clinic or other institution for human care legally existing in the M-1A District at the time of adoption of this chapter or any amendment thereto shall not be subject to any of the limitations or other regulations prescribed for nonconforming uses elsewhere in this chapter.

- (3) Any other use not herein mentioned as a permitted or prohibited use in any other district unless authorized by the board of appeals.

(Code 1977, § 107-42(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-560. - Height regulations.

No structure within 200 feet of an R District or any county district shall exceed three stories or 50 feet in height, except as provided in section 108-241 and by special exception by the board of appeals.

(Code 1977, § 107-42(E)(1); Ord. No. 2000-10, 9-25-2000)

Sec. 108-561. - Yard requirements.

The following requirements shall be observed, subject to the modified requirements contained in article IV of this chapter:

| Use | Front Yard Depth ¹ (feet) | Each Side Yard ¹ (feet) | Rear Yard Depth ¹ (feet) |
|---------------|--------------------------------------|---|--|
| All buildings | 50 | 25, except adjoining an R District or any county district, in which case not less than 50 | 50, except adjoining an R District or any county district, in which case not less than 100 |

Notes:

- 1. Or greater, as may be specified elsewhere in this chapter.

(Code 1977, § 107-42(E)(2); Ord. No. 2000-10, 9-25-2000)

Secs. 108-562—108-585. - Reserved.

Subdivision II. - Planned Industrial Parks (PIP)

Sec. 108-586. - Permitted uses.

The following uses shall be permitted and the following guidelines and design criteria as well as other applicable regulations contained in other articles shall apply in planned industrial parks permitted in the M-1A Industrial District. All principal permitted uses and conditional uses shall require site plan review in accordance with article V of this chapter, site plan review. Principal permitted uses are as follows:

- (1) The manufacturing, assembling, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, music instruments, novelties, electrical appliances, computers or devices, optical or dental goods, printed matter and similar products.
- (2) The manufacturing and repair of electrical signs, advertising structures and light sheet metal products, such as heating and ventilating equipment.
- (3) Wholesale or service establishments.
- (4) Contractor shops, equipment and material storage yards, such as electrical, carpenter, plumbing, roofing, heating, sign painting, printing, upholstery, furniture or interior decorating, merchandise fabrication and repair.
- (5) Public utility structures and other essential services.
- (6) Publicly owned facilities, such as administration buildings or firehouses which serve the needs of the community.
- (7) Agricultural uses, such as forestry, dairying, pasturage, crop growth, horticulture, floriculture and stables when located not less than 200 feet from any residential lot line, grazing pastures, nursery crops, noncommercial maintenance buildings, but not including such uses as poultry houses or hog houses.
- (8) Food service facilities, which primarily serve the needs of the occupants of the industrial park and/or their employees, guests and invitees and not the general public. The use shall not occur in a building wherein the facility would be the sole or primary use. The food service facility shall exclude retail sales of grocery items or alcoholic beverages and shall be conducted wholly within a completely enclosed building.
- (9) Day nursery or preschool care. The use shall be primarily to serve the needs of the employees of the industrial park and shall be located accordingly.
 - a. Building orientation and access to the site shall be directed to interior local industrial streets.
 - b. Site plan design shall minimize vehicular conflicts with nursery/preschool patrons.

(Code 1977, § 107-43(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-587. - Design criteria.

In addition to the standards and provisions contained elsewhere in this chapter, the following shall be applicable to all planned industrial parks and to structures and uses contained therein:

- (1) A PIP shall occupy a minimum of 100 acres.
- (2) A PIP shall have a minimum of 25 percent open space exclusive of the highway open space buffer and individual lot coverage by structures shall not exceed 50 percent of the gross lot area.
- (3) A PIP shall be developed under an approved overall site development comprehensive plan for the entire area and other required comprehensive plans. The following submittal requirements shall be met:
 - a. Site development plan.
 - b. Vehicular and pedestrian circulation plan.
 - c. Phasing plan.

- d. Open space plan.
 - e. Parking plan.
 - f. Stormwater drainage plan.
 - g. Infrastructure plan.
 - h. Landscaping and forest conservation plan.
 - i. Wetlands alteration, restriction and mitigation plan.
- (4) An open space buffer of 75 feet shall be provided within the industrial park where adjacent to properties not within the planned industrial park and a buffer of 150 feet along exterior roadways shall be provided within the industrial park. Such open space shall be landscaped in accordance with the provisions of section 108-718. A service road may be located within the buffer area. This buffer shall consist of a mix of trees and shrubs containing not less than 75 percent native species and planted at such a density as to upon maturity effectively screen adjacent properties and roadways.
 - (5) Roads within the industrial park shall be designed and constructed to town standards and shall be of such design to accommodate the proposed and future industrial traffic.
 - (6) Buildings within the industrial park shall be set back from all adjacent roadways so as to permit adequate sight distance and aesthetic appeal.
 - (7) Any portion of a structure, which faces a public road, approved private road or interparcel connector shall provide a front facade along that side of the structure.
 - (8) Individual structures and uses shall comply with the provisions cited in section 107-42F.
 - (9) Parking shall be located in side and rear yards and shall be prohibited in the front yard.
 - (10) Parking lots shall be covered with an all-weather surface as approved by the planning and zoning commission.
 - (11) All loading facilities shall be located in the rear or side yard and suitably screened or buffered from the adjacent lot.
 - (12) All individual buildings or structures shall be landscaped in accordance to section 108-718
 - (13) Access points shall be designated so as not to impede traffic flow. The planning and zoning commission and other state agencies may require acceleration and deceleration lanes and service roads or other traffic control measures where deemed necessary to ensure safe ingress and egress.
 - (14) All mechanical structures, storage areas, refuse areas and appurtenances shall be screened as approved by the planning and zoning commission.
 - (15) In the event that the development is to be subdivided, no building permit shall be issued until such time as the improvements are completed or that a bond has been posted in the amount of 150 percent of the cost for all proposed improvements.
 - (16) Each phase within a phased PIP development shall meet all code requirements, other than the 100-acre requirement.
 - (17) During site plan review, the planning and zoning commission may establish such additional conditions or require modifications to the proposed project as it deems necessary to implement the full intent of this chapter and to prevent the project from adversely impacting neighboring properties and property value.

(Code 1977, § 107-43(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-588. - Guidelines.

In addition to the standards and provisions contained elsewhere in this chapter, the following standards and guidelines shall be used in the review of the site and building plans. These guidelines are meant to encourage creativity, innovation and aesthetically desirable developments. They apply to all principal buildings, uses, structures, signs and other site features.

- (1) Require the best possible means available for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, vibration, radiation or similar nuisance and protection against fire and explosives shall be employed.
- (2) Require architectural excellence and creative design through aesthetically oriented development standards and deed restrictions to create a definitive character for the industrial park as a whole while allowing individuality.
- (3) Protect adjacent properties through strict development standards while encouraging innovative site planning.
- (4) Promote development in which the exterior architectural design and the arrangement of features and color schemes blends with the existing structures and natural environment. Materials such as reflective metal or glass, plastics and other manmade materials other than those that emulate natural materials should be avoided. Exterior wall and trim colors should blend with the natural environment. All structures and uses should be compatible with the surrounding environment and all designs should blend aesthetically with existing structures and natural conditions.

(Code 1977, § 107-43(C); Ord. No. 2000-10, 9-25-2000)

Secs. 108-589—108-609. - Reserved.

DIVISION 11. - H-1 HISTORIC DISTRICT

Sec. 108-610. - Regulations.

The regulation of property in the H-1 Historic District shall be governed by the provisions of chapter 104, historic preservation, and the following regulations shall apply in the H-1 Historic District:

- (1) The historic district shall be an overlay zone. The requirements of the underlying zoning shall apply in all cases.
- (2) Every property owner shall maintain their store front windows in a neat and clean condition, as may be determined by the planning director free from debris, junk, trash, litter and other offensive items.
- (3) Every property owner of a store front shall maintain the sidewalk free from all debris and in a safe condition.
- (4) The creation of a flag lots or panhandle lots shall be prohibited in any residentially zoned area in the historic district.

(Code 1977, § 107-44; Ord. No. 2005-5, 7-25-2005)

Secs. 108-611—108-638. - Reserved.

DIVISION 12. - PLANNED UNIT DEVELOPMENT (PUD)

Sec. 108-639. - General requirements.

Planned unit developments which provide for compatible mixed uses may be allowed by the planning and zoning commission in any district. No such development permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this division. Compliance with the regulations of this section do not excuse compliance with the applicable requirements of chapter 106, subdivision of land, except as are specifically authorized upon the approval of the application for the planned unit development.

(Code 1977, § 107-52(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-640. - Area.

No planned unit development shall have an area less than that approved by the planning and zoning commission as adequate for the proposed development.

(Code 1977, § 107-52(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-641. - Uses.

A planned unit development which will contain uses not permitted in the zoning district in which it is to be located shall be accompanied by an application for a zoning amendment, except that any residential use shall be considered a permitted use in a planned unit development which allows residential uses and shall be governed by density, design and other requirements of the planned unit development permit.

(Code 1977, § 107-52(C); Ord. No. 2000-10, 9-25-2000)

Sec. 108-642. - Ownership.

The entire development area shall be in single or corporate ownership at the time of application, or the application shall be filed jointly by all owners of the property.

(Code 1977, § 107-52(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-643. - Design.

The planning and zoning commission shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure compatibility within the development and that adjacent properties will not be adversely affected.

- (1) Density of land use intensity shall in no case be more than 25 percent higher than that allowed in the zoning district.
- (2) Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.
- (3) A concept plan is required to articulate land use, traffic flow both pedestrian and vehicular, open space, drainage patterns, buffers and landscaping prior to or concurrently with the review of the detailed site plan and supporting details.
- (4) Specific lot area, width, yard, height, density, setbacks and coverage regulations shall be determined upon approval of the site development plan.

(Code 1977, § 107-52(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-644. - Open space.

Open space and common areas shall be provided and shall comply with sections 108-716 and 108-717.

(Code 1977, § 107-52(F); Ord. No. 2000-10, 9-25-2000)

Sec. 108-645. - Landscaping, fencing and screening.

Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the planning and zoning commission for approval, together with required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed, pursuant to section 108-718. A grading and drainage plan shall also be submitted to the planning and zoning commission with the application.

(Code 1977, § 107-52(G); Ord. No. 2000-10, 9-25-2000)

Sec. 108-646. - Signs.

Signs shall be regulated pursuant to article X of this chapter.

(Code 1977, § 107-52(H); Ord. No. 2000-10, 9-25-2000)

Sec. 108-647. - Site plan review requirements.

All planned unit developments shall comply with site plan review requirements.

(Code 1977, § 107-52(I); Ord. No. 2000-10, 9-25-2000)

Secs. 108-648—108-667. - Reserved.

ARTICLE VII. - NONCONFORMANCES

Sec. 108-668. - Conformance required.

Except as hereinafter specified, no land, building, structure or premises shall hereinafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered, except in conformity with the regulations herein specified for the district in which it is located.

(Code 1977, § 107-11; Ord. No. 2000-10, 9-25-2000)

Sec. 108-669. - Continuation of existing uses.

Except as provided in section 108-670, any lawful use, building or structure existing at the time of the enactment of this chapter, including a seasonal use, may be continued, even though such use, building or structure may not conform with the provisions of this chapter for the district in which it is located.

(Code 1977, § 107-12; Ord. No. 2000-10, 9-25-2000)

Sec. 108-670. - Nonconforming uses.

No existing building or premises devoted to a use not permitted by this chapter in the district in which such building or premises is located, shall be enlarged, extended, substituted or structurally altered unless the use thereof is changed to a use permitted in the district in which such building or premises is located, except as follows:

(1) *Substitution.*

- a. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification.
- b. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted use.
- c. When authorized by the board of appeals according to the provisions of section 108-164, a nonconforming use of land may be changed to another nonconforming use, or a nonconforming use of a building may be changed to one of a less restricted classification.

(2) *Discontinuance.*

- a. No building, structure or premises where a nonconforming use has ceased for one year or more or where the nonconforming use has ceased and changed ownership shall again be utilized as a nonconforming use.
- b. All nonconforming uses of land not involving any building or structure having an assessed value for tax purposes of more than \$2,000.00 at the time of becoming nonconforming, must comply within one year of becoming nonconforming.

(3) *Extensions.*

- a. A building devoted to a nonconforming use may be completed or extended, and other buildings may be erected in addition thereto, for uses necessary and incidental to the continuation of the existing use, provided that such additions and extensions are located on the same premises or on adjoining premises on the date such building became nonconforming, and provided that the floor areas of such additions and extensions shall not exceed, in aggregate, 35 percent of floor area of the existing building devoted to a nonconforming use. Any other extension of a nonconforming building or use of land shall be subject to the board of appeals approval as provided in section 108-164. The extension or completion of a building or the construction of additional buildings as herein provided shall not be deemed to extend or otherwise affect the date when such nonconforming use or building must be changed or removed, if subject to any of the provisions of subsection (2) of this section.
- b. A nonconforming use may be extended throughout those parts of a building which were manifestly designed or arranged for such use prior to the effective date of the ordinance from which this chapter is derived, or any amendments to this chapter, provided that no structural alterations are made except as required by law.
- c. Any dwelling lawfully existing at the time of enactment of this chapter, not located on a lot having frontage on a street as required herein, may be continued and may be enlarged, without increasing the number of dwelling units therein, provided that no such addition shall extend closer to the street than the setback line for the existing building.

(4)

Replacing damaged buildings. Any nonconforming building or structure, or group of related buildings comprising one enterprise or establishment and under one ownership, which may become damaged more than 60 percent of its then-fair-market value, exclusive of the foundation, by accidental fire, flood, explosion, war, riot or act of God, shall not be restored or reconstructed and used as before such happenings, but if less than 60 percent damaged, it may be restored or reconstructed and used as before, provided that this is done within one year.

(Code 1977, § 107-13; Ord. No. 2000-10, 9-25-2000)

Sec. 108-671. - Unsafe buildings.

Nothing in this article shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by proper authority.

(Code 1977, § 107-14; Ord. No. 2000-10, 9-25-2000)

Secs. 108-672—108-700. - Reserved.

ARTICLE VIII. - SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 108-701. - Lot requirements.

Except as otherwise provided by this chapter:

- (1) Every building or group of related buildings shall be located on a lot, as herein defined, having at least the area, width, lot area per family and yards herein prescribed for the district in which such building is located.
- (2) No lot shall be used for dwelling purposes which does not abut for at least 40 feet on a street, as herein defined, except as provided in section 108-240
- (3) Not more than one dwelling structure shall be located on a lot as herein defined, except as provided for in divisions 4 and 5 of article VI of this chapter.

(Code 1977, § 107-16; Ord. No. 2000-10, 9-25-2000)

Sec. 108-702. - Accessory buildings in residence districts.

- (a) No accessory building shall be located in any required court or in any yard other than a rear yard except as provided hereinafter. Accessory buildings shall be distant at least six feet from alley lines and from any other building on the same lot and at least six feet from lot lines of adjoining lots, which are in any R District.
- (b) Accessory buildings, except stables, may be erected as a part of the principal building or, if at least six feet therefrom, may be connected thereto by a breezeway or similar structure, provided that all yard requirements for a principal building are complied with.
- (c) In any R District, where a corner lot adjoins in the rear a lot fronting on the side street and located in an R District, no part of any accessory building on such corner lot shall be nearer the side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot; and in no case shall any part of such accessory building be nearer to the common lot line than the least width of a side yard required for the principal building.

(Code 1977, § 107-17; Ord. No. 2000-10, 9-25-2000)

Sec. 108-703. - Reduction of required yard.

No lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this chapter, and if already less than the minimum required, said yard or open space shall not be further reduced. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this article shall be considered as part of a yard or other open space required under this article for any other building or structure.

(Code 1977, § 107-18; Ord. No. 2000-10, 9-25-2000)

Sec. 108-704. - Off-street parking and loading.

In every district, spaces for off-street parking and for loading or unloading of vehicles shall be provided in accordance with the requirements in divisions 2 and 3 of article IX of this chapter. Off-street parking and loading areas may occupy all or part of any required yard or open space except as specified in sections 108-767 and 108-788.

(Code 1977, § 107-19; Ord. No. 2000-10, 9-25-2000)

Sec. 108-705. - Transitional uses.

In any R-1 or R-2 District, a transitional use shall be permitted on a lot, which adjoins either directly or across an alley, a B or M District. The permitted transitional uses for any such lot shall be of any use permitted in the R-3 District. In such case, the requirements governing lot area per family, off street parking, yards and other open spaces shall be the same as in an R-3 District. Any transitional use shall not extend more than 75 feet from the district boundary line.

(Code 1977, § 107-20; Ord. No. 2000-10, 9-25-2000)

Sec. 108-706. - Measurement of front yard depth.

Each front yard depth or setback specified herein shall be measured at right angles (or radial) from the nearest street right-of-way line, except that where the right-of-way of any existing street is less than 40 feet wide in the case of a minor street, or less than 60 feet wide in the case of a major street, the front yard or setback shall be measured from a line 25 feet or 30 feet, as the case may be, from the center line of the street. The foregoing rules shall apply also to the measurement of a side yard on the street side of a corner lot.

(Code 1977, § 107-21; Ord. No. 2000-10, 9-25-2000)

Sec. 108-707. - Court requirements.

Where a court is provided in any building other than a single-family dwelling, for the purpose of furnishing light and air to rooms in which persons are to live, sleep or work, except storage rooms, such court shall comply with the regulations as specified in the building code, in effect in the town, and all amendments, as may be adopted by the Mayor and Council.

(Code 1977, § 107-22; Ord. No. 2000-10, 9-25-2000)

Sec. 108-708. - Yard requirements along zoning boundary lines.

Along any zoning line, on a lot adjoining such boundary line in the less restricted district, any abutting front yard, side yard, rear yard or court, unless subject to greater restrictions or requirements stipulated by other provisions of this chapter, shall have a minimum width or depth equal to the average of the required

minimum widths or depths for such yards or courts in the two districts on either side of such zoning boundary line. In case the height of a proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum width or depth of the yard or court for such structure shall be determined by increasing the minimum width or depth required for the highest structure permitted in such more restricted district by one foot for each two feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

(Code 1977, § 107-23; Ord. No. 2000-10, 9-25-2000)

Sec. 108-709. - Traffic visibility across corner lots.

In any district on any corner lot, no fence, structure or planting that would interfere with traffic visibility, as determined by the planning director, across the corner shall be erected or maintained within 25 feet of the intersection of the street lines.

(Code 1977, § 107-24; Ord. No. 2000-10, 9-25-2000)

Sec. 108-710. - Conversion of dwellings.

The conversion of a building into a dwelling or the conversion of a dwelling so as to accommodate an increased number of dwelling units or families shall be permitted only within a district in which a new building for similar occupancy would be permitted under this article and only when the resulting occupancy will comply with the requirements governing new construction in such district.

(Code 1977, § 107-25; Ord. No. 2000-10, 9-25-2000)

Sec. 108-711. - Essential services exempted.

Essential services, as defined in section 108-5, shall be permitted in any district, as authorized and regulated by law and ordinances, it being the intention hereof to exempt such essential services from the application of this chapter.

(Code 1977, § 107-26; Ord. No. 2000-10, 9-25-2000)

Sec. 108-712. - Distance requirement.

All uses, buildings or premises for which compliance with the distance requirement in this article is stipulated elsewhere in this chapter shall be at least 200 feet from any lot in any R District.

(Code 1977, § 107-27; Ord. No. 2000-10, 9-25-2000)

Sec. 108-713. - Temporary buildings.

Temporary buildings and structures, including recreational vehicles, for uses incidental to construction work on the premises shall be permitted in any district where such construction is being done by a responsible contractor or builder under a contract having a definite completion date and on condition that such temporary buildings and structures shall be removed upon the completion or discontinuance of construction.

(Code 1977, § 107-28; Ord. No. 2000-10, 9-25-2000)

Sec. 108-714. - House moving requirements.

- (a) The moving of all buildings, structures and dwellings from one location to another within the town, or the moving of buildings from outside the town to a location within the town or from within the town to a location outside the town, is permitted only as a special exception to this chapter, as herein provided in division 5, article II of this chapter, and shall require site plan review in accordance with article V of this chapter.
- (b) Notice of special house moving exceptions shall comply as provided in division 5, article II of this chapter, section 108-191. In addition, all adjacent property owners shall be notified by regular mail.

(Code 1977, § 107-29; Ord. No. 2000-10, 9-25-2000; Ord. No. 2005-1, 3-28-2005)

Sec. 108-715. - Townhouse and multifamily developments.

Townhouse and multifamily developments shall comply with the following requirements, in addition to the other applicable provisions of this chapter:

- (1) Townhouse buildings.
- a. Townhouse buildings shall consist of a group of not less than three and not more than six townhouse dwellings attached to each other by party walls. No more than two adjacent townhouse dwellings in any townhouse building shall have the same back and front setback line. The minimum variation of front and back setback lines shall be four feet.
 - b. The minimum building width shall be 18 feet for each dwelling.
 - c. Minimum horizontal distances.
 1. The minimum horizontal distance between facing walls of any two buildings on one lot or any one building with facing walls shall be as follows:
 - (i) Where two facing walls both contain a window or windows, not less than 35 feet.
 - (ii) Between two facing walls only one of which contains a window or windows, not less than 30 feet.
 - (iii) Between two facing walls neither of which contains a window or windows, not less than 25 feet.
 2. Facing walls are walls opposite to and parallel with one another and/or any opposite walls whose lines, if extended, would intersect at angles of less than 65;deg;.
 - d. Maximum height shall not exceed two stories or 30 feet, except that the basement floor of any dwelling may open to grade at the rear only.
- (2) Multifamily buildings.
- a. Multifamily buildings shall consist of a group of not more than 12 dwelling units.
 - b. No building shall have any wall greater than 100 feet in horizontal length and shall be separated by at least 25 feet from other buildings on the lot.
 - c. The provisions of subsection (1)c of this section, relating to minimum horizontal distances between facing walls, shall also apply to multifamily developments.
- (3) All townhouse and multifamily developments shall provide sidewalks, curbs, and gutters in accordance with the specifications.

(Code 1977, § 107-30; Ord. No. 2000-10, 9-25-2000)

Sec. 108-716. - Open space areas and landscaping.

All nonresidential uses, townhouse and multifamily developments and single-family subdivisions involving three or more dwelling units or lots shall provide open space (see definition of "open space" in section 108-5) in accordance with the following table:

| Zoning District | |
|--------------------------------|-----|
| Minimum Percentage of Lot Area | |
| Required in Open Space | |
| R-1 | 40% |
| R-2 | 35% |
| R-3 | 30% |
| R-4 | 30% |
| B-1 | 10% |
| B-2 | 15% |
| B-3 | 15% |
| M-1 | 25% |
| M-1A | 25% |

(Code 1977, § 107-31; Ord. No. 2000-10, 9-25-2000)

Sec. 108-717. - Common areas in multifamily-unit developments.

In multifamily-unit developments, at least 500 square feet per unit, with a minimum of 5,000 square feet, of the open space per project shall be devoted to usable common area open space. Common area open space may include such areas as playgrounds and landscaped or seating areas. Common open space areas shall be improved by grading, seeding, landscaping and the installation of benches, playground equipment, landscape features or the like as shown on the approved site plan. Such improvements shall be provided and maintained at the sole expense of the developer, subdivision owner or bona fide community association.

(Code 1977, § 107-32; Ord. No. 2000-10, 9-25-2000)

Sec. 108-718. - Landscaping requirements.

- (a) *Purpose.* The purpose of this section is to enhance, maintain, preserve and improve the appearance of the open space, vehicular use areas and property abutting public rights-of-way; to require buffering between noncompliant land uses; to protect, preserve and promote the aesthetic appeal, scenic beauty, character and value of the town, and to promote public health and safety through the reduction of noise pollution, stormwater runoff, air pollution, visual pollution, and artificial light glare.
- (b) *Landscaping plan.* A landscaping plan shall be submitted for all nonresidential uses, townhouse and multifamily developments and single-family subdivisions with three or more dwelling units for review and approval prior to final plat or site plan approval.
- (c) *Landscaping criteria.* Landscape plans shall be in accordance with landscape criteria adopted by the planning and zoning commission.
- (d) *Landscaping to be installed.* Landscaping must be installed and maintained in accordance with the approved landscape plan.
- (e) *Installation of landscaping; bond.* Installation of landscaping shall be complete or bonded in the same manner in which other site improvements are required to be installed or bonded prior to the approval of the subdivision plat or issuance of a zoning certificate or other approval.
- (f) *Maintenance bond.* The planning and zoning commission shall require a maintenance and replacement bond for required landscaping for a period not to exceed two years and in an amount not to exceed 100 percent of the installation cost.

(Code 1977, § 107-33; Ord. No. 2000-10, 9-25-2000)

Secs. 108-719—108-749. - Reserved.

ARTICLE IX. - SPECIAL PROVISIONS

DIVISION 1. - GENERALLY

Secs. 108-750—108-766. - Reserved.

DIVISION 2. - OFF-STREET LOADING

Sec. 108-767. - Requirements.

- (a) In any district, in connection with every building or part thereof hereafter erected, improved, altered or extended, having a gross floor area of 10,000 square feet or more and which is to be occupied by manufacturing storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry-cleaning or other use similarly requiring the receipt or dispatch by vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space, plus one additional such loading space for each 20,000 square feet of gross floor area so used in excess of the first 30,000 square feet.
- (b) Each loading space shall be not less than ten feet in width, 45 feet in length and 14 feet in clear height.
- (c) Such space may occupy all or any part of any required yard or court space, except a front yard or the required side yard on the street side of a corner lot.
- (d) No such space shall be located closer than 50 feet to any lot located in any R District, unless the loading space is wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence not less than six feet in height.

(Code 1977, § 107-45; Ord. No. 2000-10, 9-25-2000)

Secs. 108-768—108-787. - Reserved.

DIVISION 3. - OFF-STREET PARKING

Sec. 108-788. - Requirements.

(a) In all districts, unless otherwise specified, subject to the provisions hereof, every industrial, commercial, business, trade, institution, recreational dwelling and other use, space for parking and storage of vehicles off the streets shall be provided to accommodate its normal parking requirements, as determined by the planning director at the time of application for a zoning certificate, but in no case not less than the following:

- (1) Automobile sales and service garages: 50 percent of floor area.
- (2) Banks, business offices and professional offices: 50 percent of floor area.
- (3) Doctor's offices: 50 percent of floor area.
- (4) Bowling alleys: five spaces for each alley.
- (5) Churches and schools: one space for each four seats in a principal auditorium or one for each ten classroom seats, whichever is greater.
- (6) Dance halls, assembly halls: 200 percent of floor area used for dancing or assembly.
- (7) Dwellings.
 - a. Two spaces for each dwelling unit.
 - b. Limited dwellings: one space per unit.
- (8) Furniture and appliance stores, household equipment or furniture repair shops with over 1,000 square feet of floor area: 100 percent of floor area.
- (9) Funeral homes and mortuaries: four spaces for each parlor or one space for each 50 square feet of floor area, whichever is greater.
- (10) Hospitals: one space for every two beds.
- (11) Hotels, motels and lodginghouses: one space for each bedroom or unit, plus one additional space for each employee.
- (12) Manufacturing plants: one space for each two employees on the maximum working shift or 25 percent of floor area, whichever is the greater.
- (13) Restaurants, beer parlors and nightclubs: 200 percent of floor area.
- (14) Retail stores, supermarkets, etc., under 2,000 square feet of floor area: 200 percent of floor area.
- (15) Retail stores, shops, etc., over 2,000 square feet of floor area: 100 percent of floor area.
- (16) Sports arenas and auditoriums other than in schools: one space for each three seats.
- (17) Theaters and assembly halls with fixed seats: one space for each three seats.
- (18) Commercial or club swimming pools: one space for each three members or each three persons of estimated maximum capacity.
- (19) Wholesale establishments or warehouse: one space for each two employees or ten percent of floor area, whichever is greater.

(b) In the case of any building, structure or premises the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is most nearly similar shall apply.

- (c) Except in the case of dwellings, no parking area provided hereunder shall be less than 1,000 square feet in area exclusive of necessary driveways, aisles or entrances. Each parking space shall be at least nine feet wide and 20 feet deep.
- (d) Every parcel of land hereinafter used as a public or private parking area, including a commercial parking lot, shall be improved and maintained in accordance with the following requirements:
- (1) Whenever possible, parking areas should be located to the rear of the building. Every off-street parking area for more than five vehicles shall be located at least 20 feet from any street line and from every residential lot line. The edges of the parking area shall be curbed or buffered, and the space between the parking area and the street or the lot line shall be landscaped and maintained in a slightly condition. Where adjoining a street, such landscaping shall consist of grass and low shrubs or ornamental trees. Where adjoining a residential lot, it shall include a hedge of sufficient type and height, not less than 30 inches, to protect and screen the adjoining property.
 - (2) For parking areas of three or more vehicles, the area not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt, concrete or other similar material and drained to the satisfaction of the planning director to the extent necessary to prevent dust, erosion excessive water flow across streets or adjoining property. Failure to keep parking areas in satisfactory condition, i.e., free from all holes, shall be considered a violation of this chapter. All off-street parking spaces shall be marked as to indicate their location. Parking areas shall be arranged and marked to provide safe and orderly circulation.
 - (3) Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to direct the light away from adjoining residential premises and from public streets. All lighting, except for security lights, shall be turned off after normal business hours.
 - (4) The board of appeals may authorize, subject to the provisions of sections 108-160 through 108-165, a modification, reduction or waiver of the foregoing requirements if it should find that in the particular case appealed the peculiar nature of the residential, business, trade industrial or other use, or the exceptional shape or size of the property or other exception situation or condition, would justify such modification, reduction or waiver.
 - (5) Joint use. Two or more uses may provide for their respective required parking in a common parking lot. The board of appeals may reduce the total number of spaces that this chapter would require the uses to have if it can be demonstrated to the board of appeals, as either a variance or a conditional use, that the hours and/or days of peak parking need for the uses will justify a reduction in the number of off-street parking spaces in the common parking lot.
 - (6) Mixed uses. Where a permitted use contains or includes more than one of the types of uses identified in subsection (a) of this section, the number of parking spaces required shall be the sum of the computed requirements for the separate types of uses.
 - (7) Location of parking spaces. A principal use's required off-street parking spaces shall be on the same lot or premises as the principal use unless this requirement cannot be met, in which case the required off-street parking shall be located within 300 feet of the principal use. This distance shall be measured from the two lot lines, (one from the principal use's lot and one from the lot on which the off-street parking area is located) that are closest to each other.
 - (8)

Fractional spaces. Where the computation of required parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one.

(Code 1977, § 107-46(A)—(D); Ord. No. 2000-10, 9-25-2000; Ord. No. 2004-6, 6-14-2004)

Sec. 108-789. - B-1 District parking requirements.

In the event of new construction or reconstruction on any parcel in the B-1 District, the owner shall be required to provide parking in accordance with section 108-788 and this section for any new construction, or in the case of reconstruction involving any exterior wall to any building fronting Main Street. In the event sufficient area is not available to provide such parking then the owner shall pay a fee per required space to the Mayor and Council in an amount as from time to time established by resolution of the Mayor and Council, which said fee shall be paid into a separate parking fund, to be utilized by the Mayor and Council for providing and maintaining parking adjacent to or within the B-1 District.

(Code 1977, § 107-46(E); Ord. No. 2000-10, 9-25-2000)

Secs. 108-790—108-816. - Reserved.

DIVISION 4. - FILLING STATIONS, PUBLIC GARAGES AND PARKING LOTS

Sec. 108-817. - Regulations.

- (a) No gasoline filling station, public garage or automobile repair shop shall have an entrance or exit for vehicles within 200 feet along the same side of a street of the premises of any school, public playground, church, hospital, public library or institution for dependents or children, except where such property is in another block or on another street which the lot in question does not abut; but in no case shall any such gasoline filling station, garage or shop be located within 100 feet of any of said public, semipublic or institutional buildings or properties. This regulation shall not be interpreted, however, as prohibiting a parking area accessory to and on the premises of the institution itself.
- (b) No gasoline filling station or public garage shall be permitted where any oil draining pit or visible appliance for any such purpose, other than filling caps, is located within 12 feet of any street lot line or within 25 feet of any R District, except where such appliance or pit is within a building.
- (c) On all corner lots, all vehicular entrances to or exits from any gasoline filling station, or commercial, customer or employee parking lot for more than five motor vehicles, or public garage or automobile repair shop, shall be not less than 25 feet from the corner property lines extended. No such vehicular entrance or exit, whether on a corner lot or not, shall exceed 40 feet in width at the curblineline or 30 feet at the property line.

(Code 1977, § 107-47; Ord. No. 2000-10, 9-25-2000)

Secs. 108-818—108-842. - Reserved.

DIVISION 5. - LODGING FACILITIES

Sec. 108-843. - Motels and hotels.

Every motel shall comply with all sanitary and other requirements prescribed by law or regulation, and in addition:

- (1) All buildings shall be distant not less than ten feet from every property line.

- (2) The buildings shall not occupy in aggregate more than 25 percent of the gross lot area.
- (3) No vehicular entrance to or exit from any motel of more than ten units shall be within 200 feet along streets of a school, public playground, church, hospital, library or institution for dependents or for children, except where such building or property is in another block or fronts on a street on which such motel will have no entrance or exit.

(Code 1977, § 107-48; Ord. No. 2000-10, 9-25-2000)

Sec. 108-844. - Recreational vehicles and recreational vehicle parks.

The parking of a recreational vehicle in any district shall be prohibited, except as provided in section 108-713 and except that one recreational vehicle may be parked or stored in an accessory building or in the rear yard of a principal use, provided that no living quarters shall be maintained or any business conducted in such recreational vehicle while it is parked or stored.

(Code 1977, § 107-49; Ord. No. 2000-10, 9-25-2000)

Secs. 108-845—108-866. - Reserved.

DIVISION 6. - HOME OCCUPATIONS

Sec. 108-867. - Regulations.

- (a) A home occupation shall not exceed 25 percent of the floor area of the primary structure and 50 percent of an accessory building on the premises.
- (b) Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation.
- (c) Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.
- (d) There shall be no exterior display or storage of goods, equipment or vehicles in conjunction with the business, on the premises, except the primary vehicle of the resident owner.
- (e) There shall be no more than one advertising sign displayed on the premises which shall not exceed four square feet in area, the location of which shall be no closer to the street than the street right-of-way line, provided that it does not interfere with traffic visibility on a corner lot as provided in section 108-709
- (f) Home occupations involving auto repair or maintenance shall be prohibited.
- (g) Home occupations involving beauty shops or barbershops shall require conditional use approval from the board of appeals.
- (h) Sales and services shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.
- (i) Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking requirements shall comply with sections 108-788 and 108-789

(Code 1977, § 107-51; Ord. No. 2000-10, 9-25-2000)

Secs. 108-868—108-897. - Reserved.

ARTICLE X. - SIGNS

Sec. 108-898. - Sign permit required; fee.

A sign shall not hereafter be erected, re-erected, constructed, altered or maintained, except as provided by this article, and after a permit has been issued by the appropriate official. A fee shall be charged for all signs requiring a permit adopted by resolution of the Mayor and Council, as may be amended from time to time.

(Code 1977, § 107-50; Ord. No. 2000-10, 9-25-2000)

Sec. 108-899. - Exempt signs.

The following signs shall be exempt from the provisions of this article:

- (1) Official notices authorized by a court, public body or public safety official, community sponsored events authorized by the legislative body.
- (2) Directional, warning or information signs authorized by federal, state or municipal governments.
- (3) Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building structure.
- (4) The flag of a government or a noncommercial institution, such as a school.
- (5) Religious symbols and seasonal decorations within the appropriate public holiday season.

(Code 1977, § 107-50(A); Ord. No. 2000-10, 9-25-2000)

Sec. 108-900. - Signs in R Districts.

The following regulations apply to the R Districts:

- (1) Security signs shall not exceed two square feet.
- (2) An unlighted or indirectly lighted sign not larger than six square feet shall be permitted in connection with such home occupation.
- (3) Identification signs displaying only the name and nature of the premises or the occupancy thereof, or directing the way thereto, and not exceed four square feet.
- (4) Residential developments of four or more dwelling units shall be permitted one development sign (or for each entrance in the case of a subdivision project). Such signs shall be located 25 feet from a street line and shall not exceed 32 square feet in area per face.
- (5) Any conditional use, institutional use, or church shall be permitted one sign not to exceed 32 square feet, which may be indirectly lighted. The height of any freestanding sign for conditionally permitted uses, churches and schools shall not exceed 15 feet.

(Code 1977, § 107-50(B); Ord. No. 2000-10, 9-25-2000)

Sec. 108-901. - Commercial districts.

The following regulations apply to commercial districts:

- (1) All development complexes shall require a master signage plan pursuant to the requirements of this section, and any other requirements within its district, prior to the installation of any signage.
- (2)

Each, enterprise, institution or business shall be permitted wall signs, under-canopy signs, one sidewalk sign and one freestanding sign each, subject to follow maximum size requirements. (Multiple businesses in the same building shall apportion facade, building wall and street frontage such that any maximum is not exceeded for a particular property.)

- a. Maximum signage in aggregate shall not exceed 1½ square feet for each horizontal linear foot of building. No one sign shall exceed the total square feet for each linear front foot for each business. However, no one sign shall exceed 200 square feet.
- b. Maximum freestanding sign area shall not exceed one square foot for each five feet of street frontage, not to exceed 80 square feet in area.
- c. Under-canopy sign area shall not exceed the following:
 1. The maximum allowable sign area shall be one square foot for each linear foot of width of the canopy, awning, marquee or similar structure from which the sign is suspended, as measured perpendicular to the building wall.
 2. The maximum allowable horizontal length of an under-canopy sign shall be equal to the width of the canopy, awning, marquee or similar structure from which the sign is suspended, as measured perpendicular to the building wall.
 3. The minimum vertical clearance between the lower edge of an under-canopy sign and the ground shall be seven feet.
- d. Sidewalk sign. The director of planning and zoning shall issue a sidewalk sign permit if the following conditions are met:
 1. The maximum allowable size shall not exceed two feet in width and three feet in height.
 2. There shall be no more than one sign permitted per business.
 3. The sign shall not expand more than two feet at the base.
 4. The sign is constructed of a wood base.

(Code 1977, § 107-50(C); Ord. No. 2000-10, 9-25-2000; Ord. No. 2004-4, 6-14-2004; Ord. No. 2013-5, 7-22-2013)

Sec. 108-902. - General regulations.

The following general regulations apply to signs:

- (1) *Sign illumination.* All sign illumination shall be from the interior or from floodlight projection shielded to preclude glare visible from public right-of-ways and residential properties.
- (2) *Rotating signs.* Rotating signs are permitted, provided that the outer edge shall not exceed a speed of four revolutions per minute, and the rotating portion of the sign shall be a minimum of eight feet above the adjacent grade. No rotating sign shall extend over public rights-of-way.
- (3) *Roof-mounted signs.* Signs projecting above the point of intersection of the exterior wall of the building with its roof shall be mounted on a parapet or within the same plane as such exterior wall. Sign area for roof-mounted signs shall be calculated the same as and counted as part of the facade signs. Roof-mounted signs shall be allowed only in B and M Districts, excluding the H-1 Historic District and the B-1 Town Center District.
- (4)

Measurement of sign area. The square footage of a sign made up of letters, words or symbols within a frame shall be determined from the outside edge of the frame. The square footage of a sign composed of only letters, words, or symbols shall be determined from an imaginary frame around the entire copy or grouping of such letters, words or symbols. Double-faced signs shall be calculated as the area of one side only. Three dimensional or multi-faced signs shall be calculated as the maximum area visible from any point in time.

- (5) *Condition and maintenance.* All signs shall be of rust-prohibitive material or treatment, and shall be maintained in good condition in the opinion of the code enforcement official. All signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and in a safe state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times.
- (6) *Electronic message signs.* Electronic message signs which display time and temperature or provide changing messages are permitted, provided that such signs do not blink.

(Code 1977, § 107-50(D); Ord. No. 2000-10, 9-25-2000)

Sec. 108-903. - Prohibited signs.

The following signs and locations are specifically prohibited:

- (1) Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
- (2) Except as provided for elsewhere in this chapter, signs encroaching upon or overhanging a public right-of-way. No sign shall be attached to any utility pole, light standard, street tree, or any other public facility located within the public right-of-way.
- (3) Cloth, paper, soft plastic or similar advertising signs or devices other than in rigid frames as provided herein, except those intended as temporary signs, or as provided by subsection (7) of this section.
- (4) Signs which blink, flash or animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.
- (5) Portable signs except as allowed for temporary signs.
- (6) Any sign attached to, or placed on, a vehicle or recreational vehicle parked on public or private property. The prohibition of this subsection does not prohibit the identification of a firm or its principal products on a vehicle operating during the normal course of business or being taken home.
- (7) Pennants, banners and private flags bearing any logo, product name business name or other advertising, and balloons, except those temporarily displayed as part of a special sale or promotion. For the purposes of this subsection, the term "temporary" means no more than 30 days in any calendar year and no more than 15 consecutive days at any given time.
- (8) Billboards in any district.

(Code 1977, § 107-50(E); Ord. No. 2000-10, 9-25-2000)

Sec. 108-904. - Specific sign requirements.

The following height, distance and area requirements shall apply:

- (1) Maximum height from adjacent grade is 25 feet.
- (2) Maximum area is 200 square feet.

- (3) Minimum front yard setback is ten feet.
- (4) Minimum distance from an R District is 100 feet measured along the street line.
- (5) Minimum distance from the street intersection is 50 feet as measured from the right-of-way line.

(Code 1977, § 107-50(F); Ord. No. 2000-10, 9-25-2000)

Sec. 108-905. - Identification/directional signs.

- (a) No more than one directional sign per street entrance shall be permitted for any enterprise, business or institution.
- (b) Such signs shall be for the sole purpose of ensuring safe and convenient access and egress to the use for which they apply.
- (c) No such signs shall exceed four square feet in area in an R District and eight feet in other districts.

(Code 1977, § 107-50(G); Ord. No. 2000-10, 9-25-2000)

Sec. 108-906. - Freestanding signs.

- (a) Freestanding signs shall not be located closer than 50 feet to another freestanding sign located upon another premises, provided that this subsection shall not prohibit the ability to place one freestanding sign upon a premises that would otherwise have a right to such a sign; nor shall this subsection be applied in a manner that would require a setback for such freestanding sign in excess of what would otherwise be required by this chapter.
- (b) Any sign within 15 feet of a property line abutting a street right-of-way shall not be closer than 100 feet from another freestanding sign on the same premises.

(Code 1977, § 107-50(H); Ord. No. 2000-10, 9-25-2000)

Sec. 108-907. - Projecting signs.

Projecting signs may project from a building over a public right-of-way, provided that such signs shall not extend within two feet of a street curblin or the improved shoulder edge of a travelway, or impede free and complete use of the sidewalk for pedestrians. Such signs shall have a clearance of seven feet from top of sidewalk to bottom of sign.

(Code 1977, § 107-50(I); Ord. No. 2000-10, 9-25-2000)

Sec. 108-908. - Temporary signs.

- (a) Political signs shall be permitted in all districts.
 - (1) Such signs shall not exceed eight square feet in area and shall not exceed 42 inches in height.
 - (2) Such signs shall be permitted only for a period of 60 days preceding the election and shall be removed within ten days after the election, provided that the signs promoting successful candidates or ballot propositions in a primary election may remain displayed through the general election.
 - (3) Political signs shall not be placed within any public right-of-way.
 - (4) Political signs established in violation of this subsection may be immediately removed by the code enforcement official.
 - (5) Such signs shall not be required to obtain a permit.
- (b) Portable signs shall not exceed 32 square feet. Such square footage shall be applied and calculated as part of the total square footage permitted for all business signage permitted for the business or property.

- (1) Such signs shall not be displayed for more than 45 days during any single calendar year and no more than 15 consecutive days at any given time.
 - (2) There shall be no more than one portable sign per parcel of property or business, permitted at one time.
- (c) Real estate signs.
- (1) Real estate signs advertising the sale of lots within a subdivision and commercial property shall not exceed 32 square feet in size and shall be set back 25 feet from the street line. Such sign shall not be erected for more than a period of one year.
 - (2) Other such real estate signs advertising no more than one parcel shall not exceed six square feet and 36 inches in height and be 15 feet from every street line.
 - (3) Such signs shall be removed upon the closing of the sale.
 - (4) Such signs shall not require a permit.
- (d) Special sale signs.
- (1) Sale and grand opening signs shall be permitted in all zones, provided that such signs are displayed no more than 15 consecutive days for every three months. Such signs shall be removed immediately upon termination of the sale or event that they advertise.
 - (2) All such signs must be attached to the facade, wall or window of the building occupying or conducting the sale or event, which they advertise.
 - (3) No business shall have more than two such signs for each facade or wall of the building to which they are attached.
 - (4) The total sign size shall not exceed six square feet.

(Code 1977, § 107-50(j)); Ord. No. 2000-10, 9-25-2000)