

## CHAPTER 375. ZONING

[HISTORY: Adopted by the Common Council of the City of Albany 9-9-1993 by Ord. No. 1.12.93. Amendments noted where applicable.]

### GENERAL REFERENCES

Bureau of Buildings — See Ch. [20](#).  
Departments and commissions — See Ch. [42](#).  
Animals — See Ch. [115](#).  
Building construction — See Ch. [133](#).  
Commercial standards — See Ch. [151](#).  
Economic development zone — See Ch. [161](#).  
Environmental quality review — See Ch. [181](#).  
Fire prevention — See Ch. [197](#).  
Freshwater wetlands — See Ch. [203](#).  
Grading and mining — See Ch. [211](#).  
Parks and recreation — See Ch. [251](#).  
Plumbing — See Ch. [261](#).  
Sewers — See Ch. [299](#).  
Sidewalks and outdoor cafes — See Ch. [303](#).  
Signs — See Ch. [307](#).  
Trees and vegetation — See Ch. [345](#).  
Water and waterways — See Ch. [371](#).

### ARTICLE I. Title and Purpose

#### § 375-1. Short title.

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

#### § 375-2. Purpose.

This chapter is adopted to promote the public health, safety and general welfare; lessen congestion in the streets; secure safety from fire, panic and other dangers; provide adequate light and air; avoid undue concentration of population; facilitate the provision of transportation, water, sewerage, schools, parks and other community facilities; and promote, preserve and encourage the aesthetic concept of the development of the City of Albany.

#### § 375-3. Scope.

This chapter divides the area of the City of Albany into several districts within which the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, lots and other open spaces, the density of population and the use of buildings, structures and land for trade, industry, residences and other purposes restricts and regulates land use as is hereinafter provided.

#### **§ 375-4. Amendments.**

The Common Council, by its own motion or upon application, may amend, supplement or repeal the regulations and provisions of this chapter.

### **ARTICLE II. Interpretation, Word Usage and Definitions**

#### **§ 375-5. Interpretation.**

A. The interpretation and application of the provisions of this chapter shall be kept as the minimum requirements for the promotion of the public health, safety, comfort, morals and general welfare, as set forth herein.

B. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling.

#### **§ 375-6. Word usage.**

In the interpretation of this chapter, the provisions and rules herein shall be observed and applied, except when the context clearly requires otherwise.

A. Words used or defined in one tense or form shall include other tenses and derivative forms.

B. Words in the singular number shall include words in the plural number, and words in the plural number shall include the singular number.

C. The masculine gender shall include the feminine, and the feminine shall include the masculine.

D. The word "shall" is mandatory.

E. The word "may" is permissive.

F. The word "person" includes individuals, firms, corporations, associations and other similar entities.

G. The word "City" means the City of Albany, New York.

H. The word "county" means the County of Albany, New York.

I. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

#### **§ 375-7. Definitions.**

A. When used in this chapter as well as throughout the text, the following words shall have these meanings.

B. Where definitions are divided into classifications or categories of activities or uses, each classification or category shall be considered a different activity or use requiring separate application of the provisions of this chapter.

### **ACCESSORY USE OR STRUCTURE**

A structure or use which:

- (1) Is subordinate to and serves a principal building or principal use;
- (2) Is subordinate in area, extent and purpose to the principal structure or principal use served;
- (3) Contributes to the comfort, convenience and/or necessity of the occupants; and
- (4) Is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by provisions stated herein.

### **ADMINISTRATOR**

The Commissioner of Buildings of the City of Albany, New York, or another City official who is designated by law to fulfill the duties of that position.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

### **ADULT ENTERTAINMENT USE**

An establishment consisting of, including or having the characteristics of any or all of the following:

- (1) **ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.
- (2) **ADULT CABARET:**
  - (a) An establishment devoted to adult entertainment either with or without a liquor license, presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.
  - (b) A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators or similar entertainers for observation by patrons.

**(3) ADULT MINI-MOTION-PICTURE THEATER** — An enclosed building with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

**(4) ADULT MOTION-PICTURE THEATER** — An enclosed building with a capacity for 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

**AERIAL**

See "antenna."

**AGENT OF OWNER**

Any person exhibiting written proof to act as an authority for the property owner; for example, power of attorney.

**ALCOHOL ABUSE REHABILITATION CENTERS**

See "community residence."

**ALLEY**

A public or private thoroughfare less than 20 feet wide affording only secondary means of access to abutting property.

**ALTERATION**

A modification of or addition to a structure other than normal maintenance or repairs.

**ANCILLARY PARKING**

Parking which is helping or accessory to a main use; not a principal use itself.

**ANIMAL HOSPITAL**

A clinic where animals are given medical or surgical care from licensed veterinarians, and may provide short-term boarding facilities.

**ANTENNA**

Any apparatus outside of a structure for sending and/or receiving electromagnetic waves.

**APARTMENT**

See "dwelling unit."

**APARTMENT BUILDING**

A building designed for four or more dwelling units that share a common access and other facilities.

**APPURTENANCE**

See "rooftop appurtenance."

**AREA VARIANCE**

See "variance."

**ARENA**

See "stadium."

**ARTERIAL STREET OR ROAD**

A roadway used primarily for through traffic.

**ATTACHED DWELLING**

See "dwelling."

**ATTIC**

That portion of a building between the ceiling of the top full story and the roof and not used for living purposes.

**AUTOMOBILE OR TRAILER SALES AREA**

Any open area used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done; limit: two axles.

**AUTOMOBILE REPAIR, MAJOR**

General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, such as collision services, body repair and frame straightening, painting and upholstering, vehicle steam cleaning and undercoating.

**AUTOMOBILE REPAIR, MINOR**

Minor repairs, incidental replacement of parts and motor services to passenger automobiles and trucks not to exceed one and one-half (1 1/2) tons' capacity, but not to include any operation included in the definition of "automobile repair, major," as defined above.

**AUTOMOBILE SERVICE, FILLING OR GAS STATION**

A building or place of business where gasoline, oil and grease, batteries, tires and automotive accessories are supplied and dispensed directly to the motor vehicle trade at retail and where the following general repairs are performed:

- (1) Sale and servicing of spark plugs and batteries.
- (2) Tire repair and servicing but not recapping.
- (3) Replacement of mufflers, tailpipes, water hoses, fan belts, brake and transmission fluids, light bulbs, floor mats, seat covers (where this is not the principal use), windshield wipers, grease retainers and wheel bearings.
- (4) Radiator cleaning and flushing.
- (5) Greasing and lubrication.
- (6) Installation of fuel pumps and fuel lines.
- (7) Minor servicing and replacement of carburetors.
- (8) Emergency wiring repairs.
- (9) Tuning engines, not to include the grinding of valves, cleaning carbon or removing the head of engines and/or crankcase.
- (10) Adjustment and installation of brakes.
- (11) Washing and polishing, not to include mechanical and/or automatic car wash establishments, body repair and/or painting.

(12) Any similar minor service or repair not listed above under "automobile repair, major."

**AUTOMOBILE WRECKING**

The dismantling or disassembly of used motor vehicles or trailers, or the storage, sales or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

**AUTO WASH**

Any building or premises, or portion thereof, the use of which is devoted to the business of washing automobiles for a fee, whether by automated or manual means.

**AWNING**

A cloth or vinyl rooflike cover extending over or in front of a place as a shelter.

**BACK YARD**

See "yard, rear."

**BAKERY**

A place where baked goods are produced on the premises.

**BAR**

See "tavern."

**BARBERSHOP**

An establishment for the cutting and styling of men's or women's hair.

**BASE FLOOD**

The highest level achieved by a flood in a one-hundred-year floodplain map. Such levels are listed throughout the City in the most current publications of the United States Department of Housing and Urban Development FIRM, Flood Insurance Rate Map, published April 15, 1980.

**BASEMENT**

That space of a building which is partly below grade (ground level), which has more than half of its average height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building. (See "cellar.")

**BEAUTY PARLOR**

An establishment for the cutting and care of hair or fingernails, tanning, facial makeup, waxing, one or any combination of the above and other beauty-related services.

**BED AND BREAKFAST**

A residential lodging facility in an owner-occupied dwelling offering from one to seven bedrooms without a kitchen, but may include kitchen privileges, and housing transient guests for periods not to exceed 14 consecutive days, serving breakfast and providing one paved, off-street parking space per available bedroom.

**BOARD**

The Board of Zoning Appeals of the City of Albany, New York.

**BUILDING**

See "structure."

**BUILDING, ACCESSORY**

See "accessory use or structure."

**BUILDING CODE**

The current New York State Uniform Fire Prevention and Building Code.

**BUILDING HEIGHT**

The vertical distance measured from the mean level of the ground surrounding the building to the highest point of the roof, but not including chimneys, spires, towers, elevator penthouses, tanks and similar projections, provided that such projections do not account for more than 10% of the total roof area.

**BUILDING, PRINCIPAL**

A building containing the principal use of the lot.

**BUSINESS SERVICE**

An establishment that provides such support services for businesses and individuals as copying (either self-service or full-service), specialized mechanical reproduction processes; design, printing and binding of documents, presentations, etc.; desktop publishing, packaging and mailing, etc. Business supplies may be sold as an incidental part of the business occupying no more than 25% of the gross floor area of the establishment.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

**CELLAR**

That space of a building which is partly or entirely below grade, which has more than half its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building. (See "basement.")

**CHANGE OF USE**

A change in occupancy, including type or intensity, of all or a portion of a building, structure or lot.

**CHARITABLE OR RELIGIOUS INSTITUTION**

The headquarters, offices or facility from which a not-for-profit charitable or religious organization conducts its business in service to the community.

**CHURCH**

See "house of worship."

**CLINIC**

An establishment where clients are examined or treated by one or more doctors or other medical professionals practicing together, providing outpatient services only, and with no overnight care facilities.

**CLUB, PRIVATE**

A facility operated by a corporation, association or group of people for the social, educational or recreational intent of the dues-paying members and their guests, but not primarily for profit nor to render a service which customarily is carried on as a business.

**CLUSTER DEVELOPMENT**

A planned development in which lots are plotted which have less than the minimum lot size and setback requirements but which have access to common open space that is part of the overall development plan approved by the Planning Board. However, not more than the maximum density of dwelling units permitted by this chapter shall be allowed.

**COMMISSIONER**

The Commissioner of Buildings of the City of Albany, New York.

**COMMUNITY GARDEN**

A parcel of land used jointly by residents in the vicinity to grow flowers and vegetables.

**COMMUNITY RESIDENCE**

A residence for a disabled population, sponsored by a charitable, religious or social service agency, providing a homelike environment and/or supervision for the housing and care of no more than 14 disabled persons within a setting that is integrated within the community. It shall be established similar to a single-family residence with shared living area, kitchen and bathroom facilities.

**CONDOMINIUM**

A building project of single-dwelling units or commercial offices which may consist of one or more buildings wherein the real property title and ownership are vested in an owner having an interest with others in the common usage areas and facilities which serve the project. Administration and maintenance of common usage areas and facilities must be provided for.

**CONTRACTOR'S YARD**

A lot or piece of land on which vehicles, tools and equipment used in construction by contractors are parked and/or stored. This term also includes contractor's office and storage buildings located on site.

**CONVENIENCE STORE**

A grocery retail outlet less than 5,000 square feet, limited to one floor, intended to serve primarily persons living or working in the immediate vicinity.

**CONVERSION**

The change in the occupancy of a residential building from one-family to two-family occupancy.

**CORNER STORE**

See "convenience store."

**COVERAGE**

See "maximum coverage."

**CULTURAL ENTERTAINMENT FACILITY**

A building, room or area with the capacity to hold 100 or more persons and designed or utilized primarily for the presentation to the general public of live theater, dance performance, music, cinema, exhibits of various art forms or exhibits of cultural, academic or scientific material.

**DANCE CLUB**

An establishment that provides an opportunity for dancing, with a dance floor larger than 120 square feet and accompanied by either recorded or live music. Food and beverage may also be served.

**DAY-CARE, ADULT**

A residence or facility providing supervised care and activities for three or more adults suffering with temporary or long-term dementia or debilitating illnesses for more than three but less than 24 hours per day by an individual, association, corporation, institution or agency, whether or not for compensation or reward.

**DAY-CARE CENTER**

A facility providing day care outside a family home to three or more children for more than three hours a day. Any facility providing day care for three or more children must be licensed by the New York State Office of Children and Family Services.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**



**DAY-CARE HOME**

A program providing day care to no more than the maximum number of children allowed under the New York State Social Services Law in a family home occupied as a residence. The day-care provider is not required to reside in the house, as long as someone occupies it as a dwelling. Any day-care program to which this definition does not apply in every respect shall be considered a day-care center. Any facility providing day care for three or more children must be licensed by or registered with the New York State Office of Children and Family Services.

[Amended 3-15-1999 by Ord. No. 62.121.98]

**DAY NURSERY**

See "day-care."

**DELIVERY RESTAURANT**

A restaurant serving ready-to-eat foods supplying delivery services to customers via company and/or employee vehicles.

**DELIVERY SERVICE**

Any business supplying delivery service via company or employee vehicles.

**DENSITY**

Number of dwelling units per acre, abbreviated "du/a."

**DEPARTMENT STORE**

A retail institution over 5,000 square feet that offers a variety of goods for sale under one roof.

**DEPTH OF LOT/LOT DEPTH**

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

**DEVELOPMENT PLAN**

Any plan adopted by the City Council (after notice and public hearing) for the development or redevelopment of an area with specific geographic boundaries, which clearly identifies the purpose(s) of the development or redevelopment and involves one or more elements of land acquisition, site clearance, rehabilitation or construction of buildings, construction or reconstruction of public improvements and land disposition. It shall be specifically designated a "development plan" for the purposes of this chapter.

This definition shall include urban renewal plans.

**DIRECTOR**

The Director of Planning of the City of Albany or another City official who is designated by law to fulfill the duties of that position.

[Amended 3-15-1999 by Ord. No. 62.121.98]

**DISTRICT**

A portion of the City of Albany within which certain regulations and requirements apply under the provisions of this chapter.

**DORMITORY**

A facility operated by an educational institution as a residence for its students.

**DOUGHNUT SHOP**

See "restaurant."

**DRIVE-IN ESTABLISHMENT**

A use which, by design of facilities or procedures, encourages or permits customers to receive service, obtain products or be entertained while remaining in their vehicle.

**DRIVE-THROUGH**

A portion of an establishment or service which allows a customer to receive a product or service without leaving his or her vehicle.

**DWELLING**

Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons.

(1) **DWELLING, ONE-FAMILY** — A detached building, designated for or occupied exclusively by one family and containing not more than one dwelling unit.

(2) **DWELLING, TWO-FAMILY** — A detached or semidetached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common hallway or cellar. A "two-family dwelling" includes a flat, a single structure containing two semidetached units. Side-by-side is considered a "two-family dwelling," regardless of individual ownership of either half of its structure, provided that they are on the same zoned lot of record.

(3) **DWELLING, ROW, ROW HOUSE OR TOWNHOUSE** — A row of three or more attached single-family or multiple dwellings not more than two and one-half (2 1/2) stories in height.

(4) **DWELLING, MULTIFAMILY** — A building containing three dwelling units or more.

(5) **DWELLING, GARDEN APARTMENT** — An building containing not more than three floors of dwelling units and providing required off-street parking and open space areas.

**DWELLING UNIT**

One or more rooms, including a kitchen or kitchenette, and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one family for living and sleeping purposes.

**DWELLING UNIT, EFFICIENCY**

A dwelling unit consisting of not more than one habitable room with kitchen or kitchenette and sanitary facilities commonly found in an SRO.

**ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the

furnishing of adequate service by such entities or for the public health or safety or general welfare, but not including buildings.

**EXTENSION**

An increase in the amount of existing floor area used, either by an alteration of the existing floor area or by an addition to the existing structure.

**EXTERIOR WALL**

Any wall which defines the exterior boundaries of a building or structure.

**FAMILY**

(1) Shall mean:

(a) One, two or three persons occupying a dwelling unit; or

(b) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

(2) It shall be presumptive evidence that four or more unrelated persons living in a single dwelling unit do not constitute the functional equivalent of a traditional "family."

**FARM**

A property over two acres used for agricultural activities.

**FILLING STATION**

See "automobile service."

**FINISHED GRADE**

The natural surface of the ground or the ground's surface after completion of any change in contour.

**FLOOR AREA**

The total gross area of all stories of a structure, as defined by the exterior walls.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

**FRATERNAL ORGANIZATION**

Any social, service or community organization. Examples are Elks, VFW, Kiwanis, Junior League, Masonic Lodge, Rotary and University Club.

**FRATERNITY OR SORORITY HOUSES**

A place of residence other than a hotel, rooming or boarding house or dormitory that is operated by a nationally chartered membership organization or a local chartered organization and used, occupied and maintained for persons enrolled in a college, university or other educational institution and which is recognized and subject to controls by such educational institution.

**FRONTAGE**

The limiting front property line on a street, or on a corner lot in which case frontage is along both streets.

**FUNERAL HOME**

A building used by a professional licensed mortician for burial preparation or where funeral services are held.

**GARAGE, COMMERCIAL**

A structure or part of a building used for storage of vehicles for a fee.

**GARAGE, PRIVATE PARKING**

A detached accessory building or a portion of the principal building used only for the storage of automobiles by the families resident on the premises.

**GARAGE SALE**

A garage, porch, lawn or estate sale herein is defined as the sale(s) of new and/or used goods open to the public either by announcement, invitation or roadside advertisement.

**GARDEN APARTMENT BUILDING**

See "dwelling, garden apartment."

**GARDEN APARTMENT COMPLEX**

A development of two or more garden apartment buildings on one lot of record. The lot area shall meet or exceed the minimum area requirements based on the number of structures in the development.

**GAS STATION**

Any retail establishment no larger than 5,000 square feet which also sells gasoline and petroleum products and where no auto repair is performed.

**GRADE**

(1) For buildings and structures more than five feet from any street line, the average level of the finished surface adjacent to the building or structure.

(2) For buildings or structures, any portion of which is located within five feet of a street line or lines, the curb level or the average of the curb levels, or their equivalent established ground surface, adjacent to such street line or lines.

**GROCERY STORE**

A retail outlet selling foodstuffs and daily essential items, which may include but not be limited to canned goods, vegetables, meats, dairy products, condiments and paper goods.

**GROUP HOMES**

See "community residence."

**HAIR SALON**

See "beauty parlor" or "barbershop."

**HALFWAY HOUSE**

See "community residence."

**HEALTH CLUB**

An establishment that offers, on a membership basis, facilities, equipment and programs for exercise, weight loss and body development. Food items may be offered to members only and not open to the general public.

**HEAVY EQUIPMENT**

Large vehicles used in construction, farming or for industrial purposes; e.g., tractors, bulldozers, cherry pickers, steamrollers, farm equipment, etc.

**HEAVY MANUFACTURING**

Establishments engaged in the transformation of materials into new products in a process which may involve potentially dangerous, offensive or hazardous methods and materials.

**HIGH-RISE APARTMENT**

Any multiple-family dwelling more than three stories in height.

**HISTORIC DISTRICT**

An area with defined boundaries so designated by the Common Council and subject to the additional rules and regulation set out in the Historic Resources Ordinance. *Editor's Note: See Ch. 42, Departments and Commissions, Part 4, Historic Resources Commission.*

"Historic districts" are an overlay of the Zoning Map and as such are subject to the rules and regulations applying to the underlying zoning district.

**HOME OCCUPATION**

A business, profession, occupation or trade conducted by the occupant of a dwelling unit or accessory structure and which is incidental and secondary to the use of the dwelling unit.

**HOTEL**

A building designed for occupancy as a temporary residence of individuals who are lodged with or without meals and in which no provision is made for cooking in any individual room or suite.

**HOUSE OF WORSHIP**

A structure or part of a structure used for worship or religious ceremonies.

**INDOOR RECREATION**

Any completely enclosed recreational use, such as a bowling alley, pool parlor, slot-car-racing, indoor rock climbing, etc.

**JUNKYARD**

A premises or lot used for the storage or handling of scrap or recyclable materials.

**KENNELS**

Any building or lot on which five or more domesticated animals (dogs and cats), more than six months of age, are housed, groomed, bred, boarded, trained or sold.

*Editor's Note: The former definition of "light industry," which immediately followed this definition, was repealed 3-15-1999 by Ord. No. 62.121.98.*

**LIGHT MANUFACTURING**

Establishments engaged in the transformation of materials into new products in a process generally considered to be free of potentially dangerous, offensive or hazardous methods and materials.

**LOT AREA**

The area contained within the perimeter of the lot.

**LOT, CORNER**

A lot abutting two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135°.

The point of intersection of the street lot lines is the corner. Each yard abutting a street shall be deemed a front yard.

**LOT COVERAGE**

See "maximum coverage."

**LOT DEPTH**

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

**LOT LINE, FRONT**

A line separating the lot from a street.

**LOT LINE, REAR**

The lot line opposite and most distant from a street shall be considered the rear lot line.

**LOT LINES**

The property lines bounding the lot.

**LOT LINE, SIDE**

Any lot line other than a front or rear lot line.

**LOT OF RECORD**

Any lot or parcel of land which exists as a lot in a subdivision plat, recorded in the office of the Albany County Clerk at the time of the adoption of this chapter.

**LOT WIDTH**

The lot measured at its minimum front yard setback line.

**[Amended 8-1-1994]**

**LOT or ZONE LOT**

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, having frontage on a public street, and which meets the area requirements of the zoning district in which it is located.

**MAJOR AUTOMOBILE REPAIR**

See "automobile repair, major."

**MAXIMUM COVERAGE**

The maximum allowable percentage of ground area on a lot which may be covered by structures, both principal and accessory, pursuant to this chapter. Paved areas are not to be included with structures in the calculation of lot coverage.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

**MINOR AUTOMOBILE REPAIR**

See "automobile repair, minor."

**MOSQUE**

See "house of worship."

**MOTELS, MOTOR COURTS and MOTOR HOTELS**

A series of attached or semidetached dwelling structures designed to provide sleeping accommodations for overnight guests.

**NEIGHBORHOOD GROCERY STORE**

See "convenience store."

**NIGHTCLUB**

An establishment where alcoholic beverages may be sold and consumed on the premises and where live entertainment and/or centrally controlled recorded performances take place and which may contain a stage, staging area and/or dance floor.

**NONALCOHOLIC DANCE CLUB**

An establishment where no alcohol is served or consumed on the premises and where live entertainment and/or centrally controlled recorded performances take place and which may contain a stage, staging area and/or dance floor.

**NONCONFORMING LOT**

Any lot of record which does not conform to the minimum area and/or dimensions required in the zoning district.

**NONCONFORMING STRUCTURE**

A structure that does not conform to the area regulations of the zoning district in which it is located.

**NONCONFORMING USE**

A use of a lot or a structure which was lawful at the time it was established or at the time of the adoption of this chapter, or an amendment thereto, but which does not conform to the current zoning regulations of the district in which it is located. NOTE: A "nonconforming use" shall terminate if discontinued or vacated for more than 180 days.

**[Amended 1-23-2006 by Ord. No. 01.11.06]**

**NURSERY SCHOOL**

See "day-care center."

**NURSING HOME**

Any establishment licensed by the State of New York which provides twenty-four-hour skilled nursing services to elderly and handicapped residents.

**OFFICE**

Any space used in a primarily clerical or professional nature, such as but not limited to an insurance, government, real estate, legal, medical or architectural use.

**PARKING AREA, PRIVATE**

See "garage, private parking."

**PARKING AREA, PUBLIC**

An open off-street area, used for the parking of automobiles and available to the public.

**PERSONAL SERVICE OUTLET**

Any business which primarily performs a service for the individual, such as a shoe repair shop, dry-cleaning establishment, laundromat, barber shop or beauty parlor.

**PET GROOMER**

A person or persons who attend to the care and grooming of dogs and/or cats. No overnight boarding of the animals is permitted.

**PLANNED UNIT DEVELOPMENT**

A structure or group of structures designed to be maintained and operated as a unit under single ownership or control of an individual, partnership, cooperative or corporation which has certain facilities in common such as yards, open space, recreation areas, garages and parking areas.

**PLANNING BOARD**

The Planning Board of the City of Albany.

**PREMISES**

A lot, plot or parcel of land, including any structure thereon.

**PRINCIPAL RESIDENCE**

A person's place of legal residence for more than six months of the year; home.

**PRINCIPAL STRUCTURE**

See "building, principal."

**PRIVATE CLUB**

See "club, private."

**PUBLIC WAY**

Any right-of-way open to the public for vehicular or pedestrian access.

**RECREATION**

(1) **RECREATION, COMMERCIAL** — Recreation facilities operated as a business and open to the general public for a fee.

(2) **RECREATION, PRIVATE** — Clubs or recreation facilities operated by a nonprofit or private organization and open only to members and their guests.

(3) **RECREATION, PUBLIC** — Recreation facilities operated by a governmental entity or any nonprofit organization and open to the general public.

**RELIGIOUS INSTITUTION**

See "charitable institution."

**RESEARCH LABORATORY**

A facility that conducts scientific experiments or studies for academic purposes.

**RESTAURANT**

Any establishment which prepares and serves meals for consumption on premises or to take away.

**RESTAURANT, SIT-DOWN**

A restaurant serving customers who are seated principally at tables and are waited on when seated, for both food and beverages, and where a variety of meals are offered; further, where any bar area is secondary and incidental to food service, containing not more than one seat for every five table seats, and where the bar does not remain open for extended periods of time for alcohol consumption after the normal menu food service has closed, nor allows seated patrons to acquire beverages except by waiter or waitress.

**RESTAURANT, TAKE-OUT/CARRY-OUT**

A restaurant with ready-to-eat foods with customers ordering their food at a counter as opposed to menued table services. A restaurant shall be considered "take-out" even if some seating capacity exists as long as food is served in a take-out manner.

**[Amended 8-1-1994]**

**RETAIL SALES**

Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**RETAIL VARIETY STORE**

A retail institution over 5,000 square feet that offers a variety of goods for sale under one roof.

**ROOFTOP APPURTENANCE**

A device or equipment, other than a vent or chimney, attached to the roof, i.e., satellite antenna, air conditioner, solar collector, etc.

**ROOMING HOUSE**

A building containing a single dwelling unit and rooms for the rooming and/or boarding of at least three persons, but not more than 25 persons, by prearrangement for definite periods of not less than one week.

**ROW HOUSE**

See "dwelling."



**SCREENING**

A strip of land running the perimeter of a lot or part thereof, in which shrubs or trees are planted that form a dense year-round growth designed to protect the views of adjoining properties. Alternatively, "screening" may be a solid wall or barrier, wood, concrete, brick or other material, or a combination of fencing and/or planting.

**SELF-STORAGE WAREHOUSE**

An establishment which permits customers to store their own materials in private, commercially available warehousing space.

**SETBACK**

The distance from the property line to the nearest part of the structure measured at right angles to the property line.

**SIGN**

Any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any business or persons when the same is placed in view of the general public.

**SINGLE-FAMILY DWELLING**

See "dwelling, one-family."

**STADIUM**

An open or enclosed area where sporting events or contests are held and provides seating for more than 100 spectators.

**STORAGE SHED**

An accessory structure used for storage of personal items, which shed shall be no longer than 200 square feet in area and not taller than 10 feet.

**STORY**

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

(1) **STORY, HALF** — 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 for residence purposes, other than for a janitor or caretaker and his family, shall be deemed a "full story."

(2) **STORY, FIRST** — The lowest story or the ground story of any building, the floor of which is not more than 12 inches below the average contact ground level at the exterior walls of the building; except that any basement or cellar used for residence purposes, other than for a janitor or caretaker and his family, shall be deemed the "first story."

**STREET**

See "public way."

**STRUCTURE**

An assembly of materials forming a construction of component parts for occupancy or use, including buildings.

**SUBDIVISION**

The division of any parcel of land into two or more lots, blocks or sites, with or without streets or highways, and includes resubdivision and the combination of existing parcels.

**SUPERMARKET**

A grocery retail outlet of more than 5,000 square feet which may offer many nonfood items for sale in addition to groceries.

**SUPERVISED LIVING FACILITY**

A community residence providing long-term residence to persons unlikely to attain the ability to live independently, providing supervisory staff on-site, 24 hours a day. (See "community residence.")

**SUPPORTIVE LIVING FACILITY**

A community residence providing practice in independent living under supervision but not providing staff on-site on a twenty-four-hour-a-day basis. (See "community residence.")

**SYNAGOGUE**

See "house of worship."

**TAKE-OUT RESTAURANT**

See "restaurant, take-out."

**TANNING PARLOR**

See "beauty parlor."

**TAVERN**

An establishment where alcoholic beverages are sold to be consumed on the premises. Food may also be served, but it is secondary and incidental to the business. A bar, grill, saloon, pub, public house, beer garden or similar establishment is considered to be a "tavern."

**THEATER**

A structure or part of a structure devoted to the showing of motion pictures or live productions.

**TRADE SCHOOL**

A private or public institution that teaches students a trade or job skill rather than the broad curriculum offered by a college or university. Examples are welding, auto repair, barber/beauty, secretarial/office skills, computer programming, etc.

**TREATMENT CENTERS**

See "community residence."

**TRUCK SALES**

Land and buildings used for the sale of trucks.

**TWO-FAMILY DWELLING**

See "dwelling, two-family."

**UNIFORM CODE**

The New York State Uniform Fire Prevention and Building Code (NYCRR).

**URBAN RENEWAL PLAN**

See "development plan."

**USE**

The purpose for which a structure or premises, or part thereof, is occupied, designed or arranged.

**VARIANCE**

The Board's authorized departure from the terms of this chapter in direct regard to conditions peculiar to an individual lot in accordance with the procedures set forth thereto in this chapter.

(1) **AREA VARIANCE** — The authorization by the Board for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable regulations of this chapter.

(2) **USE VARIANCE** — The authorization by the Board for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable regulations of this chapter.

#### **VIDEO RENTALS**

An establishment where video cassettes and video player/recorders are offered for rent. This shall not include video booths for short-term previewing of videos.

#### **WAREHOUSE**

An establishment for the storage of goods and/or merchandise. See "self-storage warehouse."

#### **WHOLESALE ESTABLISHMENT**

A business engaged in the sale of commodities in quantity to retailers, other businesses, industries or institutions.

#### **YARD**

The open space, which lies between the principal building or group of buildings and the nearest lot line, and is unoccupied and unobstructed except where accessory structures are permitted under this chapter.

(1) **YARD, FRONT** — A yard extending the full width of the lot between a building and the front lot line.

(2) **YARD, REAR** — A yard extending the full width of the lot between a building and the rear lot line.

(3) **YARD, SIDE** — A yard extending from the front yard to the rear yard between a building and the nearest side lot line.

#### **ZONING DISTRICTS**

Parts of the City for which the regulations governing the use of and occupation of property are the same.

#### **ZONING MAP**

The Zoning Map or Maps of the City of Albany, New York, together with all amendments thereto subsequently adopted.

### **ARTICLE III. Enforcement and Administration**

#### **§ 375-8. Commissioner of Buildings.**

The Commissioner of Buildings is hereby given the duty, power and authority to administer and enforce the provisions of this chapter. The Commissioner or a designee shall:

- A. Issue permits for proposed projects that are found to comply with all applicable ordinances and codes.
- B. Inspect approved projects during construction and upon completion to ensure compliance with this chapter and other applicable ordinances and codes.

**§ 375-9. Zoning and building permits.**

A. Permit required. No person shall construct, alter, add to or convert any structure or part thereof nor change the use of any land or property without a valid zoning and building permit issued by the Commissioner.

B. Application. The applicant and the Commissioner shall follow the procedures specified for the issuance of permits in Chapter [133](#), Building Construction, of the Code of the City of Albany. An application shall include all forms, information and documentation required by the Commissioner or by Chapter [133](#), Building Construction.

C. Issuance of permit. A zoning and building permit shall be issued in duplicate, and one copy shall be kept on the premises affected whenever construction work is being performed thereon. A sign indicating that a permit has been issued shall be posted prominently on the site of the work. A copy of each permit issued shall become a public record and shall be kept on file in the Department of Buildings.

D. Denial of permit. When an application does not meet the requirements of this chapter, the Commissioner shall refuse to issue a permit, stating the reasons for denial. The applicant may then amend the application or, in the alternative, appeal to the Board for a reversal of the Commissioner's decision as provided in § [375-15](#), Appeals procedure for applicant.

E. Revocation or suspension of permit. If it appears at any time that a permit application is in any material respect false or misleading or that work is being done that differs materially from that described in a permit application, the Commissioner may revoke or suspend the permit. All copies of the permit shall then be surrendered to the Commissioner. Before issuing a new permit or reinstating a suspended permit, the Commissioner may require the applicant to file a surety in favor of the City of Albany in a sum sufficient to cover the cost of removing the structure or alterations if not constructed in compliance with this chapter. No further construction may be performed after notification that a permit has been revoked or suspended, except as may be deemed essential to public health, safety or welfare by the Commissioner.

**§ 375-10. Complaints of violations; penalties for offenses.**

A. Complaints and determinations of violation. Any person alleging violation of this chapter may file a complaint in writing with the Commissioner, who shall investigate the same and prepare a report thereon. If reasonable evidence of a violation exists, the Commissioner may

then revoke or suspend the permit or issue a notice of violation and an order to cease and desist.

B. Penalties. Any convictions of violating or assisting in the violation of this chapter shall be punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed 15, days, or both, for each offense. Each day that a violation is continued uncorrected or resumed, after the violator is notified, shall constitute a separate offense.

**[Amended 5-4-1998 by Ord. No. 28.42.98]**

## **ARTICLE IV. Board of Zoning Appeals**

### **§ 375-11. Establishment and membership.**

Pursuant to § 81 of the General City Law of the State of New York, there is hereby established a Board of Zoning Appeals consisting of seven members appointed by the Mayor. The members of the Board serving at the time this chapter is passed shall continue in office as members of the Board hereby established. The Mayor shall choose two of these members to serve one-year terms, two to serve two-year terms and three to serve three-year terms. The one-year terms shall expire at 12:00 midnight on December 31 of the year following the year during which this chapter is passed.

### **§ 375-12. Terms of office; vacancies; compensation.**

The Mayor shall appoint subsequent Board members to three-year terms. Terms shall begin January 1 and expire at 12:00 midnight on December 31. A member shall continue to serve until a successor is appointed. An appointment to fill a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. Board members may be compensated at a rate determined by the Board of Equalization and Assessment.

### **§ 375-13. Meetings; quorum; records.**

A. Meetings of the Board shall be held twice a month on a regular schedule established by the Board members, with additional meetings to be held at the call of the Chair if determined to be necessary. All Board meetings shall be open to the public.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

B. The presence of four members shall constitute a quorum of the Board. The concurring vote of four members shall be required to carry out any action of the Board, except as may be statutorily required.

C. The Board shall keep minutes of its proceedings and shall keep records of all votes taken and all official actions. All Board records shall be part of the public record and shall be kept on file in the office of the Director.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

**§ 375-14. Powers and duties.**

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

The Board shall have the following powers and duties:

A. To hear and decide appeals from any orders, requirements, decisions or determinations made by the Administrator or as otherwise provided by law. The Board may:

- (1) Interpret the provisions of this chapter.
- (2) Grant or deny variances, as herein provided.
- (3) Grant or deny special use permits, as herein provided.
- (4) Grant or deny parking lot permits, as herein provided.

B. To determine if a use not specifically listed is consistent with the enumerated uses in one or more specified districts.

**§ 375-15. Appeals procedure for applicant.**

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

A party wishing to appeal must do so within 30 days from the date of the Administrator's denial or approval of a building permit or issuance of a notice of violation. An appeal shall be initiated by submitting a complete application to the Director, pursuant to § [375-18](#), Hearing application procedure. Such application shall:

- A. Refer to the specific property;
- B. Specify the exact relief sought; and
- C. State the grounds on which it is claimed the relief should be granted.

**§ 375-16. Appeals procedure for Director.**

The Director shall review the appeal application for completeness. Each complete application shall be transmitted to the Board for hearing and consideration.

**§ 375-17. Stay of proceedings.**

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. When such certificate is filed, proceedings shall not be stayed unless a restraining order is issued by the Supreme Court. Such order may be issued on application, on notice to the official from whom the appeal is taken and on due cause being shown.

**§ 375-18. Hearing application procedure; instances of pending an application.**

**[Amended 3-15-1999 by Ord. No. 62.121.98; 12-17-2007 by Ord. No. 75.112.07]**

A. The applicant must submit a complete application to the Director to be granted a hearing by the Board. A complete application shall include the following:

- (1) Appropriate standard forms, fully and accurately completed and signed, as required by other provisions of this chapter or by the rules and regulations adopted by the Board for the conduct of its business.
- (2) Other information or documentation, as required by this chapter or by the rules and regulations of the Board.
- (3) Payment of the applicable fee.
- (4) The name, residence and nature and extent of the interest of any state officer or any officer or employee of the City or County of Albany in the applicant or in the subject property, to the extent such interest is known to the applicant, as required by § 809 of the General Municipal Law of the State of New York.

B. Notwithstanding Subsection [A](#) of this section, a hearing shall not be granted in instances where the applicant, or the owner of property which is the subject of the application, is an owner, part-owner or has an ownership interest in a building or buildings subject to the standards of Article XI (Maintenance of Vacant Buildings) or Article XIA (Vacant Building Registry) of Chapter [133](#) of this Code and such buildings are not in compliance thereto. In such instances, an application which is otherwise complete in accordance with Subsection [A](#) of this section shall be held pending the resolution of issues related to compliance with such articles and payment of any penalties if applicable.

**§ 375-19. Hearing.**

The Board shall hold a public hearing on each application.

A. Notice.

- (1) The Board shall give notice of public hearing, as follows:

(a) By publication in the official City publication or newspaper of general circulation not fewer than 10 days prior to the hearing date;

(b) By mail to the applicant or a representative that the applicant has designated in writing on the application; and

(c) To the Administrator or other official, as appropriate.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(2) The Board shall attempt to notify involved neighborhood associations, whose contact person and boundary description shall be provided to the City Clerk and the office of the Director by the associations.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(3) The Board shall attempt to notify nearby property owners of the public hearing by mail.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(4) Such notice shall include:

(a) The location of the subject property.

(b) The applicant's name.

(c) The nature of the relief sought.

(d) The date, time and place of the hearing.

B. Public posting. The applicant is required to post one or more signs (provided by the Board), as determined by the Department of Development and Planning, in/on visually conspicuous locations of the parcel(s) in question at least seven days prior to the hearing to be conducted on the application. A corner parcel must be posted in at least two directions. It is assumed that the applicant will make a reasonable effort to replace postings that are either removed or substantially damaged. The Board may postpone the hearing if adequate evidence exists that the requirements for public posting have not been met. Said signs are to be removed by the applicant after the final public hearing on the application.

**[Added 2-24-2000 by Res. No. 31.112.99 Editor's Note: This resolution also redesignated former Subsection B as Subsection C. ]**

C. Appearance at hearing. At a hearing, the applicant shall appear in person or be represented by an attorney or authorized agent. Any other party also may attend or be represented at a hearing by an attorney or other agent. Any person attending a hearing shall be given an opportunity to be heard, subject to the rules and regulations of the Board.



## **§ 375-20. Decision.**

The Board shall render a decision within 30 days of the final hearing on an application.

### **§ 375-20.1. Failure to comply with decision.**

Editor's Note: This section was adopted as § 375-a, but was renumbered as § [375-20.1](#) to preserve the numbering style of the Code.

**[Added 5-4-1998 by Ord. No. 28.42.98]**

The failure to comply with the terms and conditions of any decision rendered pursuant to § [375-20](#) of this chapter shall constitute a violation of this chapter.

## **§ 375-21. Records.**

**[Amended 11-18-1996 by Ord. No. 22.82.96; 3-15-1999 by Ord. No. 62.121.98]**

The written record of each Board decision shall include all findings of fact on which the decision is based. The decision shall become part of the official record and shall be filed in the City Clerk's office and in the office of the Director. Copies of the decision shall be mailed to the applicant or designated representative and any civic organization requesting, in writing, a copy of all decisions of the Board.

## **§ 375-22. Expiration of variances and special use permits.**

Variances and special use permits approved by the Board shall expire six months from the date of the decision unless a zoning and building permit has been issued for the project approved.

## **§ 375-23. Rehearing and reapplication.**

The Board shall reserve the right to amend, rescind or otherwise change its decision if a reapplication reveals relevant facts, information or circumstances not available to the Board prior to an initial decision. The Board shall reserve the right to deny a reapplication without a public hearing on a finding that no additional information exists which warrants a reconsideration of the case.

## **§ 375-24. Fees; exemption.**

**[Amended 7-15-1996 by Ord. No. 12.61.96; 11-25-2002 by Ord. No. 42.112.02]**

A. No application for a permit, certificate, appeal, amendment or other zoning purpose will be processed nor shall any action be taken unless the various charges for expenses or fees are paid in accordance with the schedule which is set forth below:

**[Amended 5-19-2008 by Ord. No. 25.42.08]**

(1) Board of Appeals.

Type	Fees	
	Residential	Commercial
Use variance	\$150	\$225
Area variance	\$125	\$150
Special use permit	\$150	\$225
Interpretation	\$150	\$225
Parking lot permit	\$150	\$225
Other (administrative appeal)	\$150	\$225

(2) Zoning change/amendment.

Type	Fees	
	Residential	Commercial
Base fee	\$350	\$500
For each acre of the lot size		\$35 per acre

(3) State environmental quality review (SEQR).

(a) Draft environmental impact review and notice: \$350.

(b) Final environmental impact review and notice: \$350.

B. Applications generated by the City of Albany and in connection with and furtherance of the governmental purpose and objective shall be exempt from such fees.

**§ 375-25. Powers of the Board to interpret provisions.**

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

Upon appeal of a decision of the Administrator, the Board may interpret any provision of this chapter. Matters interpreted by the Board shall include but not be limited to the following:

- A. The exact location of any district boundary.
- B. Whether a specific use is permitted in a district.
- C. Whether a use qualifies as a legal nonconforming use.
- D. Whether a proposed use may replace a nonconforming use.

E. Whether a proposed use that is not specifically listed as a permitted home occupation shall be permitted as such.

F. Whether a use not specified as permitted in the Schedule of Use, Area and Height Controls  
*Editor's Note: The Schedule of Use, Area and Height Controls is included at the end of this chapter.* is permitted.

## **§ 375-26. Variances.**

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

A. The Board, upon an appeal from a decision or determination of the Administrator, may grant or deny requests for variances of two types: area variance and use variance as defined in this chapter.

B. The Board shall follow the following procedures in its review of variance requests:

(1) Area variances.

(a) In making its determination regarding a request for an area variance, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

[1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

[2] Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.

[3] Whether the requested area variance is substantial.

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance.

(b) The Board, when granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate to alleviate the difficulty shown by the applicant and that also will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(2) Use variances.

(a) When considering a request for a use variance, the Board shall require a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

[1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

[2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or the neighborhood.

[3] The requested use variance, if granted, will not alter the essential character of the neighborhood.

[4] The alleged hardship has not been self-created.

(b) The Board, when granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and that also will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### C. Board action on a variance request.

(1) The Board may reverse or affirm (wholly or in part) or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Administrator. To this end, the Board shall have all the powers of the Administrator.

(2) The Board shall, in the granting of both area and use variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or the community.

(3) In rendering its decision on an application for an area or use variance, the Board shall state the relevant considerations and any conditions to be imposed.

#### **§ 375-27. Special use permits.**

**[Amended 3-15-1999 by Ord. No. 62.121.98; 1-18-2001 by Ord. No. 24.61.00]**

Special uses are those uses that have some special impact or unique form which require a careful case-by-case review of their location, design, configuration and impact to determine, against fixed standards, the desirability of permitting their establishment on any particular site.

A. Application. Upon finding that a proposed use is permitted only as a special use, the Administrator shall advise the applicant of the need to make an application to the Board. In addition to the requirements of § [375-18](#), Hearing application procedure, an application for a special use permit shall include:

- (1) A general description of the proposed use.
- (2) A written statement specifically addressing the compliance of the proposed use with each of the standards set forth in Subsection [B](#) of this section.
- (3) A site plan of sufficient scale and detail to allow a thorough evaluation of the compliance of the proposed use with all standards and requirements of this chapter.

B. Standards.

- (1) The Board may approve a special use permit only if the proposed use:
  - (a) Is listed as a permitted special use in the appropriate zoning district.
  - (b) Will conform to the standards and conditions specified in this chapter for that use.
  - (c) Will not have an undue adverse effect upon adjacent property, the character of the neighborhood and surrounding areas, traffic conditions, parking, utility facilities or other matters affecting the public health, safety, welfare or convenience.
  - (d) Operations in connection with the proposed use will be not more objectionable to nearby properties by reason of noise, fumes, vibration, illumination, etc., than the operations of any permitted use not requiring a special use permit.
  - (e) Will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such additional services as the Board deems appropriate.
  - (f) Complies with all additional requirements imposed on it by the provisions of this chapter.
  - (g) Will be in harmony with the applicable zoning district and will not adversely affect the neighborhood and the surrounding areas.
- (2) The Board may impose additional conditions as may be necessary, including durational limits and provisions for periodic review, to ensure that the proposed use, and its operation, is conducted in a manner compatible with the surrounding neighborhood and will not constitute a threat to the public health, safety, welfare or convenience, and to prevent or minimize adverse effects therefrom.

C. General considerations. As part of its review of a special use permit application, the Board shall consider the following in addition to compliance with the standards described in the previous subsection:

- (1) Whether, and to what extent, the proposed use is necessary or desirable to provide a service or facility which is in the interest of the public convenience or will contribute to the general welfare of the surrounding neighborhood or community.
- (2) To what extent the applicant has attempted to minimize any adverse effects of the proposed use on its surroundings.

D. Decision and issuance of certificate.

- (1) In rendering its decision or approval on an application for a special use permit, the Board shall state that the proposed use will comply with the standards set forth in Subsection [B](#) of this section. The written decision shall include any additional conditions imposed on the proposed use by the Board to prevent or minimize possible adverse impacts on adjacent properties or the surrounding neighborhood.
- (2) Upon approval of a special use permit, the Board shall issue a certificate of special use setting forth any conditions or limitations and hours of operation, if applicable, which may have been imposed upon the proposed use. In the case of a commercial establishment, such certificate shall be posted and maintained by the applicant, or any successor thereto, in a manner visible to the public.
- (3) A special use permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of 180 consecutive days or more.

**[Amended 1-23-2006 by Ord. No. 01.11.06]**

E. Effect of approval. The approval of a special use permit shall authorize the applicant to seek and obtain all other necessary municipal permits and approval for the projects.

F. Expansion or alteration of special use permit.

- (1) A new special use permit shall be required for any expansion or alteration of a use already authorized by a special use permit. A request for such a permit shall be subject to the application and review procedures provided for in this section.
- (2) The Board may suspend, revoke or limit a special use permit issued in accordance with this section if the Board finds that the special use is being conducted or operated in violation of any conditions which may have been imposed upon such use in accordance with this section. Such action shall be on the basis of a public hearing, appropriately noticed in accordance with the provisions of this chapter.

## **ARTICLE V. Amendments to Zoning Map**

### **§ 375-28. Application.**

Any person(s) or City agency may apply to the Common Council for a zoning amendment by submitting an application to the Director. A complete application shall include the following:

- A. Appropriate standard forms, fully and accurately completed and signed, as required by the Common Council.
- B. Maps showing the affected and adjoining properties.
- C. Any additional information or documentation pertinent to the proposal or requested by the Director.
- D. Payment of the application fee.
- E. The name, residence and nature and extent of the interest of any state officer or any officer or employee of the City or County of Albany in the applicant or in the subject property, to the extent such interest is known to the applicant.

### **§ 375-29. Initial review.**

The Director shall review each application for a zoning amendment for completeness and accuracy. The Director shall transmit each complete application to the Common Council with recommendations. The application may be referred to other City officials or agencies for comments prior to consideration by the Common Council.

### **§ 375-30. Hearing.**

**[Amended 4-24-1997 by Ord. No. 10.31.97]**

- A. Upon introduction of the proposed zoning amendment at a scheduled Common Council meeting, a public hearing on the proposal shall be scheduled.
- B. The Common Council shall give 20 days' notice of a public hearing, as follows:
  - (1) By publication in the City Record once each week for two consecutive weeks;
  - (2) By mail to the owners of all property to be rezoned; and
  - (3) By mail to property owners as currently identified by the City Assessor's office within 200 feet of the rezoned area.
- C. Such notice shall include:

- (1) The date, time and place of the hearing.
- (2) A description of the property that is the subject of the proposed amendment.
- (3) The current and proposed zoning designations of the subject property.

D. The applicant shall give notice by posting the parcel(s) in question as follows:

(1) Any vacant parcel(s) of one acre or more shall require at least one four-foot-by-six-foot weather-resistant zoning sign, provided by the Office of Planning and Neighborhood Development, which informs the public that a zoning procedure is in progress and includes a City phone number to call. The zoning sign shall be erected by the applicant at least 20 days prior to the public hearing. A deposit will be required which is refundable upon return of the sign in good condition.

(a) Additional signs shall be required, depending upon the configuration of the parcel(s) and at the discretion of the Office of Planning and Neighborhood Development.

(b) Placement of any and all signs shall be determined by the Office of Planning and Neighborhood Development.

(c) The applicant must make a reasonable effort to replace any posting that is either removed or substantially damaged. Failure to do so can result in the postponement of the application until such requirements are met.

(2) Other parcel(s) may require posting in a lesser manner as determined by the Member of the Common Council in whose ward the zoning change is being requested and by the Office of Planning and Neighborhood Development.

(3) Any posting shall remain in place until all zoning action has been completed by the Common Council.

(4) The Director of the Office of Planning and Neighborhood and Development is hereby authorized to promulgate rules and regulations pertaining to the implementation of these requirements.

E. Conduct of hearing. At a public hearing, an opportunity to speak shall be granted to any person, subject to the rules and regulations of the Common Council. A written record shall be made of the proceedings, and a copy thereof shall be filed with the City Clerk.

### **§ 375-31. Voting.**

Passage of an amendment shall require the affirmative vote of a majority of the Common Council. However, an affirmative vote of three-fourths (3/4) of the Council shall be required whenever a petition protesting an amendment is signed by the owners of 20% or more of the area of:



- A. The property included in the proposed change; or
- B. The property immediately adjacent to and within 100 feet of the subject area.

## **ARTICLE VI. Site Plan Review**

**[Amended 7-15-1996 by Ord. No. 12.61.96; 11-25-2002 by Ord. No. 42.112.02; 3-15-2004 by Ord. No. 24.62.03]**

### **§ 375-32. Scope and purpose.**

The purpose of site plan review is to promote the health, safety and general welfare of the community through the site plan review process, pursuant to § 30-a of the General City Law, Editor's Note: Section 30-a was repealed by L.1993, c. 211; see now § 27-a of the General City Law. and is intended to ensure that:

- A. Development proposed within the City will be compatible with the appropriate and orderly development of the immediate neighborhood and surrounding areas.
- B. Proposed development will be planned so as not to discourage the appropriate development or lessen the value of other parcels of land in the vicinity.
- C. Development proposed for environmentally sensitive areas of the City will reflect and consider the same.
- D. Development proposed for archaeologically sensitive or potentially archaeologically sensitive areas will reflect and consider the same, and all review of such shall be conducted in accordance with the City of Albany Policy Concerning the Treatment and Protection of Archaeological Resources as promulgated by the City Archaeologist and kept on file in the City Clerk's Office.

### **§ 375-33. Uses to be regulated.**

Uses to be regulated are as follows:

- A. All new commercial, industrial and institutional development.
- B. All new residential development which contains four or more dwelling units within a single lot or parcel.
- C. New residential development containing four or more units in non-single-family structures on contiguous or adjacent lots that have previously been subdivided.
- D. All expansions of existing commercial, industrial or multifamily properties which increase the ground floor area by at least 1,000 square feet or 25% of the existing ground floor area.

E. Any conversions of an existing residential structure to a nonresidential or institutional use (excepting the establishment of a home occupation).

F. All conversions of an existing nonresidential structure to a residential use containing at least three dwelling units.

G. Any change of use in the C-2 Highway Commercial Zoning District on a lot of 10,000 square feet or more.

H. Any change of use in the C-1 Neighborhood Commercial Zoning District on a lot of 5,000 square feet or more.

I. All new development adjacent to the Normanskill.

J. All parcels in excess of one acre where more than 50% of the existing trees or vegetation are proposed for cutting or removal.

#### **§ 375-34. Application.**

A. The formal process for site plan review begins with an application for a zoning and building permit at the Building Department. This application will be reviewed by the Building Inspector and, where applicable, the Building Inspector will inform the applicant in writing that the proposal is subject to site plan review by the Planning Board. A copy of that letter must accompany the site plan application. Copies of the site plan application form can be obtained in the City Planning Office.

B. The applicant shall have the option to make an informal pre-submission presentation to the Planning Board or its designated representative at which time the submission requirements can be reviewed. A conceptual plan should be employed to indicate the nature of the proposal.

#### **§ 375-35. Submission requirements.**

The site plan application form and an environmental assessment form must be completed and returned to the Planning Office, accompanied by four copies of the site plan illustrating the following:

A. Legal data.

(1) The name and address of the owner of record.

(2) The name and address of the person, firm or organization preparing the map.

(3) Date, North arrow and written and graphic scale of one inch to 50 feet or less.

(4) Names of owners of adjoining properties.

B. Natural features.

- (1) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Planning Board.
- (2) Approximate boundaries of any areas subject to flooding or stormwater overflows.
- (3) Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more, measured three feet above the base of the trunk, and any other significant existing natural features.

C. Existing structures and utilities.

- (1) Outlines of all structures and location of all uses not requiring structures.
- (2) Paved areas, walkways and vehicular access between the site and public streets.
- (3) Locations, dimensions, grades and flow direction of existing sewers, culverts and water lines, as well as other underground and aboveground utilities within and adjacent to the property.
- (4) Other existing development, including fences, landscaping and screening.
- (5) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be level to the nearest 10 seconds or closer.
- (6) The locations and owners of all adjoining lands as shown on the latest tax records.
- (7) The locations, names and existing widths of adjacent streets and curblines.
- (8) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property.
- (9) A complete outline of existing deed restrictions or covenants applying to the property.
- (10) Existing zoning.

D. Proposed development.

- (1) The location of proposed buildings or structural improvements.
- (2) The location and design of all uses not requiring structures such as off-street parking, loading and storage areas.

(3) The location, direction, power and time of use for any proposed outdoor lighting or public address system.

(4) The location and plans for any outdoor signs, proposed means of access and egress, including walkways, driveways or other paved areas. Profiles indicating grading and cross sections, showing location and width of roadway, and walkways, proposed direct pedestrian connection to public parking lots or structures will also be shown.

(5) Proposed screening and other landscaping, including a planting plan prepared by a qualified landscape person.

(6) The location, size, direction of flow and connection to City facilities of all proposed water lines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment facilities.

(7) Location of gas and electric meters.

(8) An outline of any proposed easement, deed restrictions or covenants and a notation of any areas to be dedicated to a public agency.

(9) Any public improvements on or adjoining the property contemplated by the developer.

(10) Any proposed new guides, indicating clearly how such grades will meet existing grades of adjacent properties or the street.

(11) Elevations of all proposed principal or accessory structures.

(12) If the site plan only indicates a first phase, a supplementary phase or phases shall be indicated on the plan.

(13) Any other information deemed by the Planning Board to be necessary to determine conformity of the site plan with the spirit and intent of this chapter.

E. Fees. The application submitted to the Planning Board shall be accompanied by a check made out to the Treasurer, City of Albany. The dollar amount of this fee shall be determined by the following schedule:

**[Amended 5-19-2008 by Ord. No. 25.42.08]**

(1) Site plan review.

Lot Size (acres)	Fee	
	Residential	Commercial
0 to .25	\$125	\$200
.25 to 1	\$200	\$250

Lot Size (acres)	Fee	
	Residential	Commercial
1 to 5	\$250	\$375
5 plus	\$375	\$500

(2) Residential subdivisions: \$125 base fee, plus:

- (a) One-family: \$35 per lot.
- (b) Two-family: \$50 per lot.
- (c) Multifamily: \$65 per lot.

**§ 375-36. Standards specific to certain areas.**

A. Standards specific to proposals within the Pine Bush Site Plan Review District.

(1) The land mass contained within the City of Albany, west of Springsteen Road, constitutes that portion of the Pine Bush within the City of Albany. The unique and sensitive nature of the Pine Bush environment requires that special development controls be established to protect and preserve the environmental integrity of the Pine Bush, to the greatest extent possible, while still allowing for appropriate development to occur. To achieve this objective, an overlay zoning district to be known as the "Pine Bush Site Plan Review District" is hereby created. This district shall include all portions of the City of Albany west of the center line of Springsteen Road.

(2) The following requirements are hereby established within the Pine Bush Site Plan Review District:

- (a) There shall be an open space/landscaped area of at least 40% of the total lot area.
- (b) No office building shall be within 100 feet of a residential property line.
- (c) No paved area, driveway or parking lot, situate within a commercial district, shall be within 50 feet of a residential property line.
- (d) There shall be a buffer zone of trees and shrubs between residences and offices of at least 50 feet. Where this buffer is insufficient, the developer will supplement it with indigenous species, primarily oak and pitch pines. A planting schedule shall be included.
- (e) Native species will be used to landscape new office buildings. New landscaping shall not consist of introduced species. A list of native species shall be made available at the developer's request.

(f) Sufficient open space shall be donated to the City to protect ravines, major dunes or to connect other preservation islands. All development proposals will be designed in such a way as to ensure the proper management of the open space lands.

(g) Where practical, parking shall be provided by several small lots as opposed to one large one.

(h) There will be no general leveling and clearing of any site. Construction will follow the contour of the land and not destroy trees or natural features except where necessary for the building of foundations and approved parking and paved areas.

(i) Parking lot and security lighting should not be offensive to adjacent properties. Timers should be installed to conserve energy. Dumpsters should be secure from wildlife.

(j) All lighting fixtures used to provide exterior security or parking lot lighting shall utilize sodium vapor lights as opposed to mercury vapor or other lighting fixtures. The use of excessive dusk-to-dawn exterior lighting shall be discouraged.

B. Standards specific to proposed development located adjacent to the Normanskill Creek.

(1) That portion of the Normanskill extending from its mouth on the Hudson River upstream for a distance of approximately two miles to a falls located just downstream from the New York State Thruway (Interstate 87) has been designated by the New York State Secretary of State as a significant coastal fish and wildlife habitat. Activities located along the habitat, as well as upstream of it, which could adversely affect the fisheries resources of the habitat shall be avoided.

(2) Specific examples of activities which would likely result in adverse effects on the fisheries resources include, but are not limited to, those which would:

(a) Substantially degrade water quality.

(b) Increase turbidity or sedimentation.

(c) Reduce stream flows.

(d) Increase water temperatures.

(e) Create a barrier to fish migration.

(f) Significantly disturb the stream bed.

C. Standards specific to proposed development in areas designated as archaeologically sensitive or potentially archaeologically sensitive.

(1) For proposed development in areas designated as archaeologically sensitive or potentially archaeologically sensitive, the applicant must submit with his or her site plan submission any necessary cultural resource investigation reports.

(2) Cultural resource investigations shall, consistent with the Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State promulgated by the New York Archaeological Council, be prepared by a professional archaeologist. The applicant or the authorized agent thereof shall confer with the City Archaeologist prior to preparing any submission to define and agree upon guidelines for such cultural resource investigation. Such cultural resource investigation shall include detailed evaluation of the archaeological significance of the site plan area, including but not limited to reasonable measures for historic research, archaeological surveys and test excavations. In addition, it shall include reasonable measures for the study and preservation of archaeological resources found within the site plan area, including but not limited to test and full-scale excavations, site construction monitoring, field recording, photography, laboratory analysis, conservation of organic and metal artifacts, curation of the collection (e.g., artifacts, notes, photographs), and preparation of reports in accordance with the Standards for Work and Reports set forth in Section 5 of the City's Archaeological Policy. Lastly, it shall also provide reasonable measures for further archaeological study, restoration, reconstruction, disposition of recovered artifacts to an appropriate public or institutional collection or museum, and in situ preservation of archaeological resources found within the site plan area.

(3) Cultural resource investigations will be reviewed by the City Archaeologist using the following criteria:

(a) Research Value: the extent to which the archaeological data that might be contained on the property would contribute to the expansion of knowledge.

(b) Rarity: the degree of uniqueness a property's resources possess and their potential for providing archaeological information about a person, structure, event, or historical process, for which there are very few examples in the City of Albany.

(c) Public value: the level of importance a property has to the community as a location associated with a significant person, structure, event, or historical process.

(d) Site integrity: the extent to which soil stratigraphy and original placement and condition of archaeological resources on a property have not been disturbed or altered in a manner which appreciably reduces their research or public value.

(e) Presence of materials: the extent to which archaeological resources or evidence of historic structures are present on a property.

(f) Impact on resources: the extent to which any proposed ground-disturbing activities will alter or destroy resources which the City Archaeologist and/or the Historic Resources

Commission has determined to have substantial archaeological significance under the preliminary archaeological assessment criteria in Subsection [C\(3\)\(a\)](#) through [\(e\)](#) above.

(4) If, after reviewing the applicant's cultural resource investigation reports, the City Archaeologist determines that the site plan area has no substantial archaeological significance or that the proposed action will not have a substantial adverse impact on any known or potential archaeological resources, the City Archaeologist shall so certify in a report to the Director of Planning and the Historic Resources Commission, recommend that a certificate of appropriateness be issued by the Director of Planning, and no further review under this section shall be required. If after reviewing the applicant's Phase IA Cultural Resource Investigation, the City Archaeologist determines that the site plan area has potential archaeological significance and/or that the proposed action will have a substantial adverse impact on any known or potential archaeological resources, the applicant must submit to the City Archaeologist a plan for additional cultural resource investigation as part of the applicant's site plan approval submission. The City Archaeologist will review the additional cultural resource investigation and, where appropriate, make suggestions and recommendations thereon. When the City Archaeologist determines that the plan submitted by the applicant is satisfactory, he shall so certify in a report to the Director of Planning and the Historic Resources Commission and recommend that the applicant's proposed actions may proceed.

#### **§ 375-37. Waivers.**

A. An applicant may request, in writing, a waiver or modification of any of the site plan review standards. The Planning Board reserves the right to waive or otherwise modify such standards upon a finding that such action is necessary to eliminate practical difficulties associated with strict interpretation of these provisions and that the result will not violate the spirit and intent of these provisions. Such request shall set forth the specific relief sought and the reasons the same are necessary.

B. Projects that have obtained site plan approval under § [375-33F](#) and [G](#) of this article may submit a written request for exemption from the Director who shall determine whether said application should be granted.

#### **§ 375-37.1. Standards specific to proposed new development in PSPDOD.**

**[Added 7-17-2006 by Ord. No. 51.42.06]**

A. In addition to consideration and application of the Park South Urban Renewal Plan and criteria set forth in this article, the Planning Board shall consider:

- (1) The existing character of the neighborhood in which the use would be located.
- (2) Applicable design standards for the project as referenced in the Park South Urban Renewal Plan, as amended from time to time.



- (3) Consistency with the Park South Urban Renewal Plan, as amended from time to time.
- (4) The location of principal and accessory buildings on the site plan in relation to one another.
- (5) The pedestrian circulation and open space in relation to structures.
- (6) The traffic circulation features within the site and area roadways and the amount, location and access to automobile parking areas.
- (7) The height and bulk of buildings and their relation to other structures in the vicinity.
- (8) The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
- (9) Adequacy of landscaping, drainage, water supply and sewage disposal facilities and utility supply.

B. The Planning Board may require such changes to the site plan as are necessary to meet the requirements of this chapter. The Planning Board may also make such additional requirements as deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the City.

C. The Planning Board may waive any application, plan or approval requirements set forth in this article for site plan approval. Any such waiver may be subject to appropriate conditions and may be exercised in the event any such requirements are found not to be requisite in the interest of public health, safety or welfare.

### **§ 375-38. Planning Board decision.**

Within 45 days of receipt of the application for site plan approval or, if a public hearing is held, within 45 days of the public hearing, the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and Planning Board.

#### **A. Approval.**

- (1) Upon approval of the site plan and payment by the applicant of all fees due the City, the Planning Board shall prepare a written statement of its approval.
- (2) This decision shall be filed with the City Clerk's office and a copy mailed or delivered to the applicant.
- (3) The Planning Board shall also endorse its approval on four copies of the approved site plan which will be distributed as follows:

- (a) One copy will be returned to the applicant or his representative.
- (b) One copy will be retained on file in the City Planning Office.
- (c) One copy will be referred to the Building Commissioner.
- (d) One copy will be referred to the City Engineer.

(4) Such approval shall be valid for a period of one year. If a building permit is not issued within this one-year period, the site plan approval shall automatically expire.

**B. Approval with modifications.**

(1) The Planning Board may conditionally approve a site plan. It shall prepare a written statement which lists all conditions of approval. A copy of this decision shall be filed in the City Clerk's office, and a copy mailed or delivered to the applicant. After adequate demonstration to the Planning Board that all conditions have been met, the Planning Board shall endorse four copies of the approved site plan, which will be distributed as noted above.

(2) Such approval shall be valid for a period of one year. If a building permit is not issued within this one-year period, the site plan approval shall automatically expire.

**C. Disapproval.** Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the City Clerk, and a copy mailed to the applicant along with the Planning Board's reason for disapproval.

**§ 375-39. Penalties for offenses.**

Any person, corporation, partnership, association or other legal entity who or which shall violate any of the provisions of this chapter shall be subject to all penalties as described in § [375-10](#) of this chapter.

**§ 375-40. Demolition review.**

**[Added 11-16-2009 by Ord. No. 68.102.09]**

As per § [133-20](#) of the Code of the City of Albany and in order to provide for better oversight of demolitions of buildings or structures and to provide for site plan review for lots where buildings or structures have been demolished, the Planning Board has been designated as the agency responsible for implementing the following demolition review procedure, with the powers and duties described herein:

**A. Purpose.**

(1) The quality and feel of the City of Albany are heavily shaped by the attributes, integrity, historical and neighborhood character and design and scale of existing residential and nonresidential neighborhoods and areas. The preservation, enhancement and continued use of structures with historic, architectural, economic, cultural and/or aesthetic importance are essential in retaining this community and neighborhood character.

(2) The process of demolition alters the characteristics of the site and, whether or not redevelopment is proposed, can significantly impact the natural, social, and economic character of the neighborhood.

(3) The City of Albany Planning Board should decide whether a structure may be removed from the City's urban fabric.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ADMINISTRATOR**

The Director of Buildings of the City of Albany, New York, or another City official who is designated by law to fulfill the duties of that position.

**BOARD**

The Planning Board for the City of Albany, New York.

**CHIEF**

The Chief of the Department of Fire, Emergency & Building Services or his or her designee.

**DEMOLITION**

Any act of pulling down, destroying, removing or razing a building or structure or commencing the work of total or substantial destruction with the intent of completing the same.

**DEMOLITION PERMIT**

A permit issued by the Administrator for the demolition of a building or structure.

**EMERGENCY DEMOLITION**

A demolition authorized when, after inspection, it is determined by the Chief that a building or structure poses an imminent threat to the public health or safety of the community.

C. Permit requirements. No person shall demolish any building, structure or any portion thereof without a valid demolition permit as issued by the Division of Building & Codes and as prescribed in § [133-20](#).

D. Application review. Upon receipt of any application for a demolition permit involving a building or structure which is located outside of any historic district or designated urban renewal area, the Division of Building & Codes shall refer the applicant to the Planning Board for submittal of a demolition review application.

E. Application. The applicant must submit a complete application to the Division of Building & Codes in order to be granted a hearing by the Board. A complete application shall include the following:

(1) Appropriate standard forms, fully and accurately completed and signed, as required by other provisions of this chapter or by the rules and regulations adopted by the Board for the conduct of its business.

(2) Other information or documentation, as required by this chapter or by the rules and regulations of the Board.

(3) Payment of the applicable fee.

#### F. Redevelopment and restoration plans.

(1) In addition to the requisite application forms, the applicant shall submit:

(a) A redevelopment plan for the site that provides for a replacement or rebuilt structure for the structure being demolished or relocated, indicating in sufficient detail the nature, appearance and location of all replacement or rebuilt structures; or

(b) For lots to remain vacant, a restoration plan for the property following demolition and/or redevelopment, including a description of materials, grading, landscaping, and maintenance procedures to be utilized to ensure that the restoration conforms to the approved plan and that landscaping survives in a healthy condition.

(c) A treatment plan for any walls of adjacent buildings exposed as a result of demolition.

(2) Applications involving more than a single building or structure shall be comprehensively submitted based upon the nature and specifics of the proposed redevelopment or restoration plan and, where determined appropriate by the Board, may be incorporated into the traditional site plan review process. The Board may choose to evaluate individual buildings or structures referenced in the application on a case-by case basis.

G. Zoning compliance. Prior to any public hearing on an application, the Administrator shall certify that the proposed redevelopment and/or restoration plan meets all requirements, standards and specifications as set forth in Chapter [375](#) and that any necessary approvals for variances, special use permits or parking lot permits have been granted prior to the demolition review.

#### H. Review criteria.

(1) The following criteria shall be evaluated by the Board in its review process, any or all of which may be used by the Board in making its determination to approve or deny an application for a demolition permit:

(a) Whether the demolition and/or proposed redevelopment plan is consistent with the City of Albany Comprehensive Plan, neighborhood or district plans, and/or City or regional planning objectives.

(b) Whether the proposed redevelopment project is consistent with the applicable zoning requirements and, in the case that it is not, whether any approvals for a variance, special use permit or parking lot permit have been granted.

(c) Whether the structure has significant historical, architectural, aesthetic or cultural value in its present or restored condition and whether the loss of the building would be detrimental to the historical or architectural heritage of the City.

(d) The relationship of the building to the character of the neighborhood as an established and definable area, the streetscape and its environs, or any adjacent or attached buildings.

(e) The architectural merits of the proposed new construction, as compared to the building or structure proposed to be demolished and as related to the character of surrounding neighborhood or district.

(f) The details of the site plan and proposed use, and the time frame within which the applicant intends to commence the proposed redevelopment of the site.

(2) In making its determination, the Board may also consider:

(a) Whether realistic alternatives, including adaptive uses, are likely based upon the nature or cost of work necessary to preserve the structure.

(b) The condition of the structure(s) and the economic viability of rehabilitation and whether the building or structure can be rehabilitated or reused.

(c) Whether the hardship is self-created or whether the building or structure proposed for demolition is structurally unsound despite efforts by the owner to properly maintain it.

(d) Whether some portion of the building, such as a façade or distinctive architectural details, can or should be retained or reused in the new construction.

(e) Evidence or testimony presented by any established City board, committee or department, community organization, neighborhood association, elected official or member of the general public.

I. Decision and findings. Upon consideration of the application submitted and evidence presented, the Planning Board, in a reasonable time, shall approve, conditionally approve, or deny any application presented for demolition review.

J. Conditions. The Board shall, in the granting any approval, have the authority to impose such reasonable conditions and restrictions necessary.

K. Complaints of violations; penalties for offenses.

(1) Violation. Any owner of a building and/or structure subject to this section who knowingly acts to demolish said building and/or structure, or damage a portion of a building or structure in a way which increases its likelihood of total failure, without first obtaining a building permit for demolition in accordance with the provisions of this section, or who likewise by causative action contributes to the deterioration of said building or structure during the demolition review period, shall be in violation of this section.

(2) Complaints and determinations of violation. Any person alleging violation of this chapter may file a complaint in writing with the Administrator, who shall investigate the same and prepare a report thereon. If reasonable evidence of a violation exists, the Administrator may then revoke or suspend the permit or issue a notice of violation and an order to cease and desist.

(3) Penalties. Any convictions of violating or assisting in the violation of this chapter or the terms and conditions of any certificate of appropriateness shall be punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed 15 days, or both, for each offense. Each day that a violation is continued uncorrected or resumed, after the violator is notified, shall constitute a separate offense.

(4) Permits withheld. No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this section for a period of two years from the date of the completion of such demolition.

(5) Violators may also be subject to the penalties prescribed in § [133A-3](#) of Chapter [133A](#) of the City Code, if applicable.

L. Limitation of powers; internal review procedure. This article shall in no way affect, supersede or abridge any emergency powers or any other powers of the Chief as to public safety, health and welfare.

M. Demolition diversion requirements. A minimum of 25% of construction and demolition debris generated from applicable construction, remodeling, or demolition projects shall be diverted from disposal to landfills through recycling, reuse and diversion programs. Separate calculations, plans and reports are required for the construction portion and demolition portion of projects.

N. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

## **ARTICLE VII. Traditional Neighborhood Design Overlay District**

### **§ 375-41. Purpose and intent.**

A. The Common Council finds and determines that there is a rich diversity of architectural styles and traditional neighborhood development patterns that contribute to the quality of life in the City of Albany. Many of Albany's neighborhoods built between the turn of the century and World War II have substantial concentrations of structures with architectural detailing, design features and craftsmanship rarely employed in more contemporary construction. Yet these neighborhoods may not be old enough or of such architectural or historical significance to qualify for formal historic district designation. An overlay district will serve to protect the character and special qualities of various neighborhoods by helping to maintain the design and architectural quality of individual properties within the context of these neighborhoods. The district shall be established in such neighborhoods that possess a high degree of original design integrity, that have a strong neighborhood cohesiveness and that are outside of formally designated historic districts where design is regulated under provisions of the Historic Resources Commission Ordinance. *Editor's Note: See Ch. 42, Departments and Commissions, Part 4, Historic Resources Commission.*

B. These characteristics are also found in many of the neighborhood-oriented commercial districts that are typically designated C-1 Neighborhood Commercial. More importantly, these commercial districts are frequently immediately adjacent to residences, and their size, scale and overall compatibility should enhance the neighborhood, not overwhelm it. Therefore, these C-1 Zoning Districts shall be included in the overlay district.

#### **§ 375-42. Traditional Neighborhood Overlay District boundary.**

A. The eastern boundary of the residential district shall be Lark Street from Dana Avenue to Myrtle Avenue then west along Myrtle Avenue to South Lake Avenue, south on South Lake Avenue to New Scotland Avenue. Then west to Academy Road, then south to Bethlehem Avenue, then west to Forest Avenue, then north to Helderberg Avenue, then west to Ramsey Place, then south to Hackett Boulevard, then west to Weis Road, then north to New Scotland Avenue, then west on New Scotland Avenue to Lenox Avenue, then north on Lenox Avenue to the imaginary intersection of Linden Road, then east across to Linden Road to Marion Avenue, then north on Marion Avenue to Woodlawn Avenue, then west to and north on Marion Avenue to Cortland Street, then west to Holmesdale Avenue, then north on Holmesdale Avenue to Western Avenue, then west to Brevator Street. Then north to Washington Avenue, then west to Jermain Street, then north to Westland Hills Park, then east to Verplanck Street, then south to Lincoln Avenue, then east to West Lawrence Street, then south to Manning Boulevard, then east to North Main Avenue, then north to Central Avenue, then east to Manning Boulevard, then southwest to Kent Street, then east to West Street, then east to North Lake Avenue, then south to the rear property line of the south side of Madison Avenue, then east to Dana Avenue and east to Lark Street.

B. The commercial districts shall be any property located in a C-1 Neighborhood Commercial Zoning District.

C. The map at the end of this chapter displays the Residential Overlay District. It may be similarly displayed on the Official Zoning Map of the City of Albany.

### **§ 375-43. Building permit requirements.**

No building permit for exterior repair, alteration, new construction or signage, that will be visible from a public right-of-way, shall be issued by the Commissioner of Buildings until a review of the proposed work has been completed by the Planning Office staff as per the provisions of §§ [375-44](#), [375-45](#) and [375-46](#).

### **§ 375-44. Review procedures.**

The Planning Office shall review any building permit application referred to it under this section based on the design guidelines outlined in §§ [375-45](#) and [375-46](#). If the permit is deemed to be in compliance with these guidelines, then the Planning Office staff shall recommend approval of the permit by the Building Commissioner. If the proposed work is not consistent with these guidelines, the Planning Staff may either:

- A. Recommend conditions of approval that may be incorporated into the building permit, prior to approval by the Commissioner; or
- B. Recommend denial, which may result in the denial of the permit by the Commissioner.

### **§ 375-45. Design guidelines for residential properties.**

A. New construction. Infill construction shall be designed so as to be compatible with the general character of residences on the street frontage. The setback, height, bulk, gable and pitch of roofs, use of porches, shutters and other exterior design elements should result in an overall design that complements the existing character of the streetscape.

B. Porches. All porches should be retained in their original style with appropriate supports, balusters, railings and framed latticework. All pressure-treated lumber must be painted within six months of installation. Where appropriate, applicants will be encouraged to replace missing porches.

C. Fences. All fences shall be painted or finished with a solid color or stain within six months of installation.

D. Wooden staircases. Where houses are on raised sites and detached, wooden stairs are employed in front yards, they should be painted or stained to complement the colors of the house.

E. Fenestration. Original window and door arrangements shall be maintained. Window replacements shall match, to the greatest extent practical, existing window size, style and configuration.

F. Siding and trimwork. Original architectural trimwork and detailing shall be preserved. All new siding shall be appropriate to the style of architecture and installed in a manner that would



preserve original trimwork, such as window crowns, dentils, modillions, brackets, ornamental cornices or other design features of distinction.

G. Additions/expansions. Additions and expansions shall be designed so that the bulk, design, dimensions and materials used are compatible with the character of the existing structure.

### **§ 375-46. C-1 District design standards.**

**[Amended 8-2-2001 by Ord. No. 38.92.00]**

#### A. Purpose.

(1) The C-1 Neighborhood Commercial District is intended to provide a choice of business locations for small-scale commercial uses in or near residential neighborhoods. Permitted retail and service uses are intended to serve the needs of neighborhood residents and, to a limited extent, other nearby businesses, industries and institutions. Uses are restricted in size to promote a neighborhood scale and to limit adverse impacts on nearby residential areas.

(2) The design standards contained in this chapter are intended to assist business and other property owners in promoting development which is human in scale, and compatible in size and scope with the surrounding neighborhood. Parking standards are intended to further promote the district's pedestrian orientation. Through good design, C-1 Districts will become more attractive and inviting places to walk and to shop, which is ultimately good for business and the quality of life in the district and surrounding neighborhood.

#### B. Applicability.

(1) These standards shall apply to new construction, exterior reconstruction or remodeling and demolition in the C-1 Districts and all other nonresidential properties within the Traditional Neighborhood Overlay Design District. (Note: Any reference to C-1 Districts shall include nonresidential properties within the Traditional Neighborhood Overlay Design District.)

(2) To ensure compliance, a building permit shall be required before any of this work is undertaken. Similarly, a building permit shall be required when any material change in the appearance of such property or its windows, light fixtures, signs, awnings, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley is proposed. All standards shall apply to new construction, while only those sections related to the alterations proposed shall apply to reconstruction and remodeling.

C. Conflicts. The standards contained in this section shall be in addition to the regulations of the underlying zoning districts. Where the provisions of this section conflict with those of the underlying zoning district, Article [XIX](#) (Off-Street Parking and Loading) of the Zoning Ordinance, *Editor's Note: See Ch. [307](#), Signs.* or the Sign Ordinance, the provisions of this

Section shall prevail except within historic districts. Within historic districts the development standards established in Chapter [42](#), Part 4, shall apply.

D. Site design. The intent of this section is to create a pedestrian-friendly environment within the neighborhood commercial districts. Front setback standards are intended to reinforce the building edge along a street while creating continuity in the streetscape. The parking standards are intended to minimize the dominance of vehicular areas to help reinforce the desired pedestrian orientation. Site lighting standards are intended to create a safe and inviting environment and to highlight and complement structural and landscape elements.

(1) Front setbacks.

(a) New buildings and in-fill structures shall have a zero to twelve-foot front yard setback consistent with the setbacks of appropriate neighboring properties.

(b) Setback areas shall be used for landscaping and small commercial uses designed primarily to cater to pedestrians, including, but not limited to, vendors, newsstands and cafes. Continuity in the street wall shall be achieved through the use of architectural features (such as colonnades or porticos), landscaping, trees, walls, brick piers and/or fences. Traditional low brick or masonry walls or fences no more than four feet in height and no more than 60 percent solid, preferably backed by trees or fronted by landscaping, shall be used to define pedestrian areas. The introduction of large trees, landscaping or other features which block views to the street shall be prohibited.

(c) Chain link fences in front yards shall be prohibited.

(2) Off-street parking and circulation areas. Uses in the C-1 Districts are subject to the following standards in addition to the regulations set forth in Article [XIX](#) (Off-Street Parking and Loading Requirements):

(a) Off-street parking and vehicle maneuvering areas shall be provided at the rear of new or rehabilitated buildings or in side lots no wider than a double-loaded circulation lane (60 feet). Parking shall not be provided between the building facade and the street.

(b) Vehicular entry points to parking lots shall be a maximum width of 12 feet for a single-lane curb cut and 24 feet for a double-lane curb cut. The portion of driveway within the City right-of-way shall be constructed to match the abutting sidewalk.

(c) Parking lots and service areas adjacent to sidewalks shall be screened with structural elements such as low brick or masonry walls or wrought-iron fencing, and/or a minimum four-foot landscaped buffer, whichever is deemed more appropriate for site conditions.

(d) In any C-1 District, the amount of off-street parking required may be reduced by the Board of Zoning Appeals, in consultation with the Division of Traffic Safety. Factors to be considered shall include, but are not limited to:

- [1] Availability of on-street parking.
- [2] Pedestrian traffic and accessibility.
- [3] Availability of transit service.
- [4] Availability of other public parking.
- [5] Hours of operation.
- [6] Shared parking arrangements.

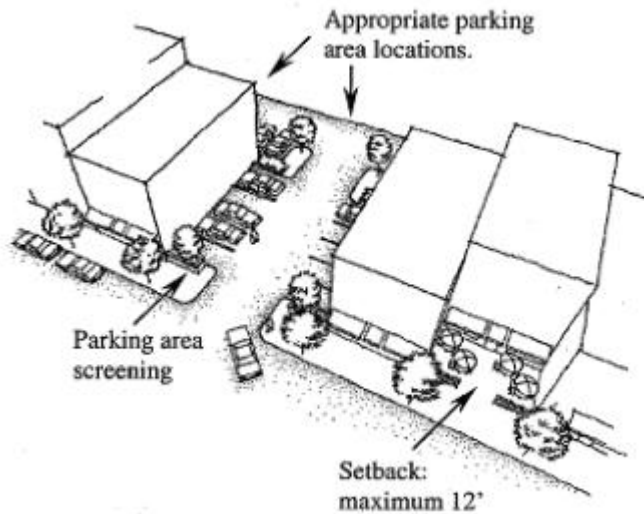
(3) Shared parking. Joint use of required parking spaces should occur where two or more uses on the same or separate sites can share the same parking spaces because their parking demands occur at different times. The following documentation shall be submitted in writing as part of an application for a building permit or land use review:

- (a) The names and addresses of the uses and of the owners or tenants who are sharing the parking;
- (b) The location and number of parking spaces that are being shared;
- (c) An analysis showing that the peak parking demands of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and
- (d) A legal instrument, such as an easement or deed restriction, which guarantees access to the parking for both uses.

(4) Site lighting.

- (a) Lighting for off-street parking areas shall be a maximum average of one footcandle in brightness.
- (b) Lighting for parking lots shall be a maximum of four footcandles horizontal illuminance at pavement with a uniformity ratio (average: minimum) of 4:1, and a vertical illuminance at 42 inches above the pavement of 0.50 footcandle. All fixtures should be Underwriters' Laboratories (UL) approved and photocell controlled to assure that they will be on when conditions warrant, and not require constant seasonal adjustment.
- (c) Lights that produce as white a light as possible are preferable, such as metal halide lights.
- (d) To minimize light pollution, a shield, baffle, or cut-off optics shall be used to keep lighting from projecting upwards.

**Figure 1. Site Design**



E. Building design. The intent of this section is to ensure that the design of new construction is compatible with existing buildings and that any exterior work on an existing structure respects the original architecture of the building and maintains or enhances its distinguishing qualities. This section also is intended to promote the inclusion of building features which enhance the pedestrian environment.

(1) Building orientation. Primary ground floor commercial building entrances shall front on public streets. Secondary entries from the interior of a block or parking lot shall be allowed.

(2) Rear entrances. Rear entrances should be developed as necessary to provide access to C-1 businesses and maintained to support the overall appearance and convenience of the district.

(3) Building height.

(a) Building height shall fall within the range of heights found on the immediate block.

(b) Single-story commercial buildings should have a parapet to raise the height of the facade. The parapet should be detailed to create an attractive, balanced facade.

(4) Roofs.

(a) Rooflines shall be designed in proportion to the overall height and mass of the proposed building, creating a distinction between the top of the building and the lower floors. Rooflines shall relate to existing adjoining buildings.

(b) Distinctive roof forms, profiles and cornices shall be maintained. Structural alterations, which are neither consistent with the original design nor significant in their own right, shall be removed.

(c) The top of the facade shall be terminated in a way that complements and enhances the character of the building and the surrounding C-1 district. Flat roofs shall include a parapet.

(d) False mansard-style roofs shall be prohibited.

(5) Building facades.

(a) Long, uninterrupted surfaces should be avoided. Building facades should be articulated with architectural features. Piers or other vertical visual elements shall be located 15 feet to 35 feet apart to express the traditional building rhythms and lot widths of a C-1 District in the building's structure. This is especially important when several lots have been assembled into a single property.

(b) The street-level facade should be distinguished from the upper floors through architectural treatments and materials selection to create a visual base for the building and an intimate scale for pedestrians.

(c) Window and cornice alignments should relate to those of adjacent buildings, as should window size and spacing. Windows should complement the rhythm of traditional and adjacent buildings.

(d) Doorways should be recessed whenever possible to prevent opening onto a City right-of-way.

(e) A minimum of 70% of the area of entrance doors shall be of clear glass.

(f) Original window and door arrangements shall be maintained. Window replacements shall match, to the greatest extent practical, original window size, style and configuration.

(g) For upper-story windows, necessary repair or replacement work shall match the original window in material and style, sash configurations and size.

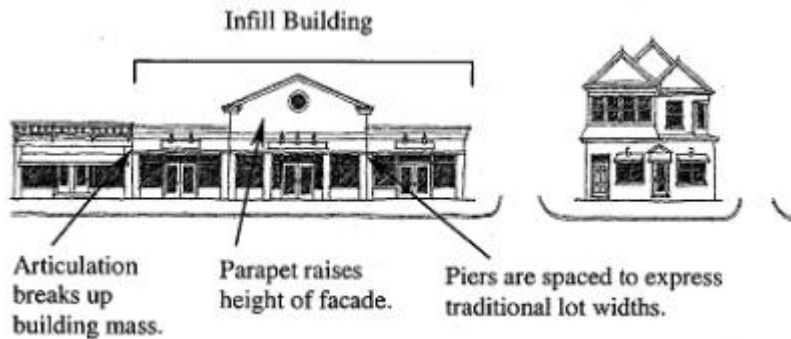
(h) Windows and doors shall not be blocked or boarded up.

(i) Alterations that are neither consistent with the original design nor significant in their own right should be removed.

**Figure 2. Building Design (Traditional)**



**Figure 3. Building Design (Nontraditional)**



(6) Storefronts.

- (a) A storefront should reflect the storefront rhythms and proportions found throughout the C-1 District in which it is located.
- (b) A storefront shall be designed to fit inside its original opening and not extend beyond it.
- (c) Fifty percent to 70% of the storefront or other retail street-level facade shall be transparent through the use of glass windows and doors.
- (d) Only clear glass shall be used for display windows, but colored or decorative glass may be used to provide decorative detail in transom windows.
- (e) For storefronts at the sidewalk level, storefront windowsills shall be located at a maximum of 30 inches above the finished grade at the building line.
- (f) Plexiglas shall be prohibited.

(g) Original storefront elements that still exist should be uncovered and/or retained. These include entryways and paving, doors, transoms and display windows, hardware glazing, frames and other historic materials.

(h) Alterations that are neither consistent with the original design nor significant in their own right should be removed.

(i) New storefronts and alterations shall be compatible with the character of other appropriate facades in the district in terms of colors, quality and type of materials, details and door locations.

(j) Transom windows should be retained or replaced in existing buildings and promoted in new construction, where appropriate.

(k) Storefront entrances shall be clearly distinguished from entrances to lobbies or upper floors through architectural treatments and materials selection.

#### (7) Building materials.

(a) Original materials shall be retained, maintained, repaired or uncovered, wherever possible. If unable to do so, replacement materials shall match or exceed the quality of the original.

(b) New buildings and alterations shall be composed of materials that complement adjacent facades and are equal to or exceed the quality and appearance of traditional materials.

(c) Durability shall be a major factor in the choice of materials to be used, so that all elements will endure the use to which they are likely to be subjected.

#### (8) Building lighting.

(a) Lighting shall be integrated into and complement the architectural character of the building both in terms of illumination and fixtures.

(b) Building lights shall be located and angled to highlight main signs, window displays and architectural features of the building. They shall not point toward the pedestrian or cause distracting reflections on the storefront window or adjacent properties.

(c) Building lighting, when combined with existing street lighting, shall be a maximum of five footcandles on adjacent walkways and/or driveways.

(d) Lamps that produce as white a light as possible shall be used. In certain instances, colored neon may be appropriate.

(e) Burned-out lamps shall be replaced as soon as possible.

(f) Interior storefront overhead lighting shall be encouraged to illuminate interior window displays.

(9) Awnings and canopies.

(a) An awning is a projecting element consisting of a flexible covering supported by a rigid frame attached to the building facade, or by posts anchored to the sidewalk. A canopy is a flat element, usually made of rigid materials, projecting from a building facade. Although generally supported from above by cables or chains anchored into the building wall, canopies can also be supported from below by posts or cantilevered out from the face of the building.

(b) Traditionally, awnings and canopies are placed within the frame formed by the storefront cornice or sign panel above and by vertical piers or columns on either side. Alternatively, they may be mounted between the transom and the display windows to allow light into the business where this is appropriate. This is true not only for small businesses that occupy only one storefront but also for larger stores occupying several bays in a single building or a number of adjacent buildings.

(c) Awnings and canopies may be used to reinforce the design characteristics of traditional commercial architecture and to add color and vitality to the streetscape. They may also serve practical functions. They shelter pedestrians and outdoor spaces from the elements. They also keep merchandise in display windows from fading and prevent other damage caused by heat and sunlight.

(d) Standards.

[1] Ground-floor awnings and canopies shall be installed above storefronts in designs, proportions and colors that are harmonious with the building and the character of the district.

[2] Ground-floor awnings and canopies should project a minimum of four feet from the face of the building.

[3] The frame of a ground-floor awning or canopy shall be a minimum of seven feet, six inches above the pavement. The bottom of a ground-floor awning or canopy valance shall be a minimum of seven feet above the pavement.

[4] Ground-floor awning or canopy valances shall be a maximum of 12 inches high.

[5] Ground-floor canopies shall have thin visual profiles so as to obscure as little of the building and storefront as possible.

[6] Awnings in upper-story windows shall extend at least one-third the height of the windows. Their color and style should complement any ground-floor awnings.



[7] Backlit awnings shall be prohibited. However, downward projecting light fixtures located under awnings shall be permitted to illuminate the sidewalk and storefront.

[8] Vinyl and rigid materials (such as fiberglass panels) shall be prohibited as covering materials for awnings, since they generally detract from the character of neighborhood commercial districts.

(10) Security devices.

(a) Security gates shall be of a grate or lattice type, with a minimum transparent area of 80%.

(b) Concealing the operating and housing elements of security gates shall be considered whenever a storefront in which gates are present is being renovated or when designing a new storefront incorporating gates.

(c) Security gates shall be recessed behind the storefront display; a minimum depth of 24 inches is recommended.

(d) All gates and the accompanying hardware shall be of suitable materials and maintained in a state of good repair.

(e) Solid shutters, solid roll-down security gates or similar devices shall be prohibited.

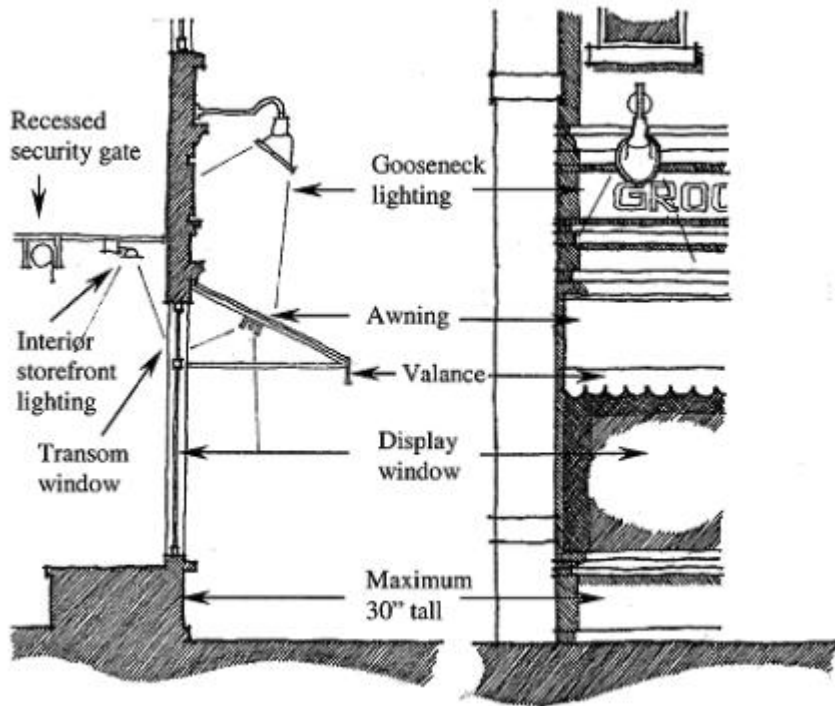
(f) Any security device not in conformance with the provisions of this section shall be brought into conformance within 12 months of adoption of this section.

(11) Air conditioners.

(a) Air conditioners shall not project beyond the wall of the facade over the entrance or sidewalk.

(b) Space shall be provided for recessed air conditioners, as necessary.

**Figure 4. Storefront**



F. Signs. Signs present an opportunity to add character, vitality and style to a business. They should embody an image of excellence, quality craftsmanship and creativity, and should reinforce the best aspects and distinctive character of the C-1 District in which they are located. Signs should be designed and placed so as to complement the building, neighboring signs and buildings and the overall neighborhood. Sign copy should generally be kept to the minimum needed to convey the required message. All signs should be professionally designed and fabricated, using high-quality materials.

(1) General standards.

- (a) Sign copy shall be limited to the name, address, function and logo of the establishment.
- (b) A letter style should be chosen that is easy to read and that reflects the image of the business it represents.
- (c) Sign colors should complement the colors of the building.
- (d) The design of a building often suggests one or more logical locations for signs. These locations always should be considered first when placing a sign.
- (e) Signs shall be placed on or by a building so as not to obscure architectural features and detail.
- (f) Signs shall be mounted so as to cause as little damage to the building as possible.

(g) Sign design and permit approval should be obtained prior to fabrication and installation of the sign.

(h) Temporary signs shall be limited to 16 square feet, contain high-quality graphics and include the date installed. They shall be removed within 30 days of the posted date, unless otherwise specified in the Sign Ordinance. *Editor's Note: See Ch. [307](#), Signs.*

(2) Sign types.

(a) Awning and canopy signs. Awning and canopy signs are visual messages incorporated into the valance of these projections.

[1] Signs on awnings shall be restricted to the valance. The same generally is true for canopies, although it may be appropriate to locate letters above the top edge of some canopies.

[2] A maximum of eight-inch letters shall be provided on the valance.

[3] Copy shall be limited to the name of the establishment, the building number and possibly a small logo.

(b) Freestanding signs. Freestanding signs are not attached to or part of any building but separate and permanently affixed in or upon the ground. Included are pole signs, pylon signs and monument signs. Freestanding signs are generally considered inappropriate for C-1 Districts.

(c) Portable signs. Portable signs are designed to be movable. They are not structurally attached to the ground, a building, a structure or another sign. Portable signs include sidewalk signs, A-frame signs and menu and sandwich-board signs.

[1] Portable signs shall be a maximum of two feet wide and four feet tall.

[2] Portable signs shall be placed between the facade of the storefront to which they apply and the street. They shall not impede pedestrian or vehicular traffic.

[3] Portable signs shall not be attached to anything and shall be removed when the premise advertised is closed.

(d) Projecting signs. Projecting signs extend horizontally more than nine inches from the face of a building. Projecting signs should be used to complement or replace the principal wall sign. Incorporating symbols or icons on projecting signs is encouraged to add visual interest to the street.

[1] On multistory buildings, projecting signs shall be located above storefront display windows and below second-story windowsills. On one-story buildings, projecting signs shall be located above storefront display windows and below the roofline.

[2] A projecting sign shall be mounted a minimum of seven feet, six inches above the sidewalk and shall extend from the building face a maximum of five feet or 1/3 the width of the sidewalk, whichever is less.

[3] The size and location of a projecting sign shall complement neighboring signs.

[4] The design of mounting hardware (such as poles, brackets, etc.) shall be considered as part of the overall sign design. It should be structurally and stylistically appropriate to the sign and the building.

(e) Wall signs. Wall signs are painted on or attached flush to the outside wall of a building and extend a maximum of nine inches from the face of such wall.

[1] Wall signs shall be located within a sign band when one exists.

[2] Where a sign band does not exist, wall signs shall be located between the top of first-floor openings and the second floor windowsills or below the roofline on a one-story building.

[3] In multiple-storefront buildings, signs of similar size, proportion and materials shall be used for each business. The color of individual signs should vary within a coordinated range.

[4] A wall sign may extend the width of the storefront but shall be a maximum of two feet, six inches high.

[5] Lettering on wall signs shall be a maximum of 18 inches high and occupy about 65% of the sign.

[6] Directory signs alongside a door which list upstairs businesses shall not exceed four square feet.

(f) Window signs. Window signs are painted or affixed on glass or other window material, or displayed within the first four feet inside the storefront window. They should be used to provide more detailed or changeable information about the business such as the phone number, hours of operation or services offered. Window signs should complement the window display.

[1] Window signs shall occupy as little as possible of the window, but no more than 25% of the window surface.

[2] Window signs should not obscure the display area.

[3] Small stenciled letters, addresses or logos should be used for window signs affixed to the glass. The color of the letters should contrast with the display background and complement the overall facade, the storefront and other signs for the business.

[4] Mounting hardware and equipment for signs hung in a window shall be concealed from view.

(g) Sign lighting.

[1] Individual lighting fixtures shall be selected so that the style and type of light is compatible with the sign, the building and the surroundings, and shall be positioned to provide even lighting.

[2] Lights that produce as white a light as possible are preferable, such as metal halide lights.

[3] To minimize light pollution, a shield, baffle or cut-off optics shall be used to keep lighting from projecting upwards.

[4] Internally illuminated box signs shall be prohibited.

[5] Lighting a sign with exposed outdoor sockets or bare spotlights shall be prohibited.

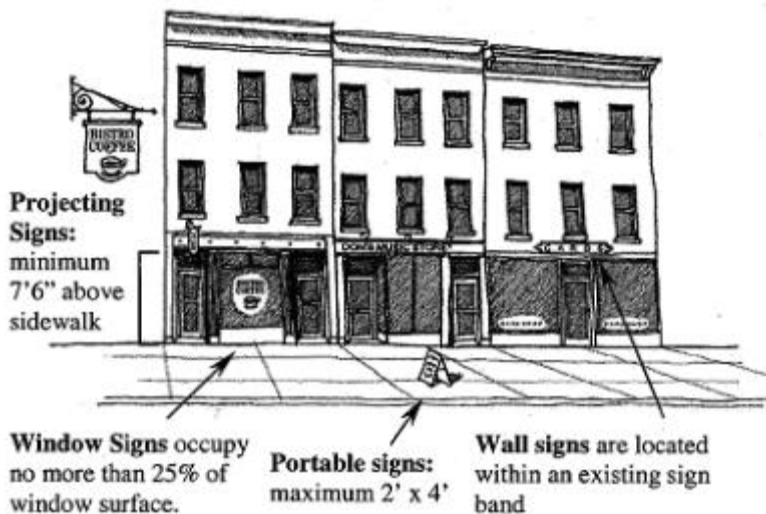
[6] Electrical conduits and transformers shall not be visible from the public right-of-way.

(h) Sign maintenance.

[1] Signs shall be maintained regularly.

[2] Unused sign elements such as boxes and supports shall be removed.

**Figure 5. Signs**



G. Drive-through banks and ATM windows. Drive-through banks and ATM windows shall be allowed as a special permitted use only in accordance with the following design standards, which are in addition to all sections of this chapter:

- (1) Drive-through structures shall be attached to the building.
- (2) Drive-through windows and services shall be accessed only at the rear or side of the building.
- (3) Queued traffic shall not interfere with on-site and off-site traffic and pedestrian flow.

**§ 375-46.1. Property maintenance standards.**

**[Added 9-17-2001 by L.L. No. 2-2001]**

All buildings, lots, plots, or parcels of land located within a C-1 Zoning District shall be maintained in accordance with the following standards to safeguard the safety, health and welfare of the occupants and users thereof and to preserve, promote and protect the neighborhood quality and characteristics of the C-1 Zoning District:

- A. Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.
- B. Exterior stairs, porches, entrance platforms, awnings and canopies, and the railings thereon, shall be maintained in a safe and sound condition.
- C. Exterior doors and windows shall be maintained in good, working order.
- D. Adequate sanitary facilities and methods shall be used for the collection, storage, handling, and disposal of garbage and refuse.
- E. Electrical fixtures, devices and systems shall be maintained in safe working condition.
- F. Vacant lots shall be kept in a neat condition and free of hazards, debris and overgrowth of vegetation.
- G. Steps, walks, driveways, and parking spaces shall be maintained to afford safe and convenient use and passage.
- H. Fences, walls and other minor construction shall be maintained in a safe, good, and sound condition.

**§ 375-47. Appeals.**

The Board of Zoning Appeals shall have jurisdiction to decide any appeal of a building permit denial brought by an aggrieved applicant in accordance with § [375-15](#) of this chapter.

**§ 375-47.1. Park South Planned Development Overlay District (PSPDOD).**

**[Added 7-17-2006 by Ord. No. 51.42.06]**

A. Legislative intent. The Common Council of the City of Albany hereby determines that it is in the best interest of the public health, safety and welfare of the citizens of the City of Albany to establish regulations for the Park South Planned Development Overlay District to facilitate the Park South Urban Renewal Plan (the "plan"). Establishing such regulations for the PSPDOD will allow the proper mix of single- and two-family residential, row house residential, retail, commercial and office uses in conformance with the plan, something which could not be accomplished under the four existing zone designations without use variances, area variances and special use permits for most projects contemplated under the plan.

B. Boundaries: nine contiguous city blocks in an area bounded by the following streets: Madison Avenue on the north, Myrtle Avenue on the south, Robin Street on the west, and Lark Street on the east.

C. Applicability. Any plan project, defined as new development, included on the PSURP Map A-xi, as amended from time to time in accordance with the plan, shall be subject to all standards, review procedures, and other requirements as specified in the plan. Provisions set forth in the plan shall supersede those in the City of Albany Zoning Ordinance. Any other activity or land use regulation, not identified on the PSURP Map, for which a zoning and building permit would normally be required is subject to the provisions of the Zoning Ordinance.

D. Permits. To ensure the integrity of the plan, no permit for change of use, exterior repair, alteration, new construction, demolition or signs on property located within the project area shall be issued by the Commissioner of Buildings until the review of the project, as specified below, by the Albany Community Development Agency (ACDA) or designated staff, has been completed in accordance with § 503 (h) of the General Municipal Law. All applications for such permits shall be referred to the ACDA.

E. Review procedures.

(1) If an application for a building permit reveals that the application is for work that is not part of a plan project, the permit application shall be returned to the Division of Building and Codes to undergo the review and processing required under the Zoning Ordinance, Historic Resources Commission Ordinance, and any other applicable codes and statutes.

(2) If an application for a building permit reveals that the application is for work that is part of a plan project, review by the City Planning Board, as specified in the plan, shall be required. This review shall determine compliance of the proposed work with the plan. The Planning Board shall apply the standards herein and the plan in consideration of all aspects of the proposed project, such as use, area and bulk characteristics; provision of off-street parking; limitations on operations; specifics of design; and other development features as set forth in the plan, as may be amended from time to time in accordance with the plan.

## **ARTICLE VIII. Establishment of Zoning Districts**

### **§ 375-48. Establishment of districts.**

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

The City of Albany is hereby divided into the following zoning districts:

- R-1LL Single-Family Large Lot Residential District
- R-1A Single-Family Low-Density Residential District
- R-1B Single-Family Medium-Density Residential District
- R-2A One- and Two-Family Residential District
- R-2B One- and Two-Family Medium-Density Residential District
- R-2C One- and Two-Family Row House Residential District
- R-3A Multifamily Low-Density Residential District
- R-3B Multifamily Medium-Density Residential District
- R-4 Multifamily High-Rise Residential District
- R-O Residential Office
- C-O Commercial Office
- C-1 Neighborhood Commercial
- C-2 Highway Commercial
- C-3 Central Business District
- C-PB Commercial Pine Bush
- C-M Light Industrial
- M-1 General Industrial
- LC Land Conservation District
- WF-1 Waterfront Residential/Commercial District
- WF-2 Waterfront Recreational District
- C-SWM Commercial Solid Waste Management

### **§ 375-49. Zoning Map.**

Said districts are bounded as shown on the Zoning Map of the City of Albany, which by action of the City Council will be made a part of this chapter. The Zoning Map shall be in the custody of the Planning Director, hereinafter referred to as the "Director," who shall keep the Zoning Map up-to-date as changes and amendments are made.

### **§ 375-50. Interpretation of district boundaries.**

The Commissioner shall interpret the location of district boundary lines with respect to specific properties. The Commissioner's interpretation may be appealed to the Board of Zoning Appeals, hereinafter referred to as the "Board," pursuant to § [375-25](#).



**§ 375-51. Street or highway lines.**

Where district boundaries are indicated following the center line of streets or highways, street lines or highway right-of-way lines, such lines shall be construed to be boundaries.

**§ 375-52. Lot lines.**

Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries. The Zoning Map is deemed to run along the property line.

**§ 375-53. Lines parallel to streets and highways.**

Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or right-of-way lines of highways, such district boundaries shall be construed as being on the center line.

**§ 375-54. Railroad lines.**

Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

**§ 375-55. Stream or other waterway for district boundaries.**

Where the boundary of a district follows a stream, lake or other body of water bordering the City, said boundary line shall be deemed to be at the limit of the jurisdiction of the City of Albany unless otherwise indicated.

**§ 375-56. Classification of annexed lands.**

Any land hereafter annexed to or consolidated with the City of Albany shall be deemed to be zoned R-1B until said land is reclassified by an amendment to this chapter.

**§ 375-57. Historic site areas.**

No work that will affect the exterior of a landmark or a property within a historic district (as designated by the Common Council) shall be carried out unless a certificate of appropriateness is obtained first from the Historic Resources Commission. See Historic Resources Ordinance.

Editor's Note: See Ch. [42](#), Departments and Commissions, Part 4, Historic Resources Commission.

**ARTICLE IX. General District Regulations**

**§ 375-58. (Reserved)**

Editor's Note: Former § 375-58, Schedule of zoning regulations, was repealed 3-15-1999 by Ord. No. 62.121.98.

## **§ 375-59. Schedule of Use, Area and Height Controls.**

Editor's Note: The Schedule of Use, Area and Height Controls is included at the end of this chapter.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

The Schedule of Use, Area and Height Controls comprises a list of permitted principal, accessory and special uses as well as bulk and coverage requirements, including minimum and permitted lot and yard dimensions, building height and coverage.

## **§ 375-60. Application of regulations.**

A. Except as provided, no building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with the regulations specified for the district in which it is located.

B. No building shall be erected or altered to exceed the height, accommodate or house a greater number of families, occupy a greater percentage of lot area or have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such building is located.

C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of the yard or other open space similarly required for another building.

## **ARTICLE X. Residential District Regulations**

### **§ 375-61. R-1LL Single-Family Large Lot Residential District.**

A. Principal permitted uses shall be as follows:

- (1) Single-family detached dwellings.
- (2) Houses of worship.

B. Accessory uses shall be as follows:

- (1) Detached garages.
- (2) Swimming pools.
- (3) Tennis courts.
- (4) Saunas and bathhouses.
- (5) Storage sheds.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(6) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Parks or playgrounds.

(2) Private schools.

(3) Nursing homes.

(4) Day-care centers.

(5) Bed-and-breakfast.

(6) Satellite dish antennas. Editor's Note: Former Subsection C(7), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

(1) Minimum total lot area: 40,000 square feet.

(2) Minimum lot width: 160 feet.

(3) Minimum lot depth: 250 feet.

(4) Minimum front yard setback: 50 feet.

(5) Minimum side yard: no side yard less than 30 feet on one side; both must total 80 feet.

(6) Minimum rear yard: 100 feet.

(7) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

(8) Maximum lot coverage, including accessory buildings: 20%.

**§ 375-62. R-1A Single-Family Low-Density Residential District.**

A. Principal permitted uses shall be as follows:

(1) Single-family detached dwellings.

(2) Houses of worship.

B. Accessory uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(1) Detached garages.

(2) Storage sheds.

(3) Swimming pools.

(4) Tennis courts.

(5) Saunas and bathhouses.

(6) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Private schools (excluding trade or professional schools).

(2) Nursing homes.

(3) Day-care centers.

(4) Bed-and-breakfast.

(5) Satellite dish antennas. Editor's Note: Former Subsection C(6), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

(1) Minimum total lot area: 15,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum lot depth: 150 feet.

- (4) Minimum front yard setback: 30 feet.
- (5) Minimum side yard: no side yard less than 15 feet; total width of side yards must equal 40 feet.
- (6) Minimum rear yard: 70 feet.
- (7) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
- (8) Maximum lot coverage, including accessory buildings: 20%.

**§ 375-63. R-1B Single-Family Medium-Density Residential District.**

A. Principal permitted uses shall be as follows:

- (1) Single-family detached dwellings.
- (2) Houses of worship.

B. Accessory uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (1) Detached garages.
- (2) Storage sheds.
- (3) Swimming pools.
- (4) Tennis courts.
- (5) Saunas and bathhouses.
- (6) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

- (1) Day-care centers.
- (2) Colleges or universities, including dormitories.
- (3) Bed-and-breakfast.
- (4) Nursing homes.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(5) Private schools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(6) Satellite dish antennas. Editor's Note: Former Subsection C(7), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) Minimum total lot area: 6,000 square feet.
- (2) Minimum lot width: 60 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Minimum front yard: 25 feet.
- (5) Minimum side yard: no side yard less than eight feet; total width must equal 20 feet.
- (6) Minimum rear yard: 25 feet.
- (7) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
- (8) Maximum lot coverage, including accessory buildings: 30%.

**§ 375-64. R-2A One- and Two-Family Residential District.**

A. Principal permitted uses shall be as follows:

- (1) Single-family detached dwellings.
- (2) Two-family detached dwellings.
- (3) Houses of worship.

B. Accessory uses shall be as follows:

- (1) Detached garages.
- (2) Home occupations.

(3) Storage sheds.

(4) Swimming pools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Conversions of single-family homes.

(2) Private schools.

(3) Colleges or universities, including dormitories.

(4) Nursing homes.

(5) Day-care centers.

(6) Charitable or religious institutions.

(7) Bed-and-breakfast.

(8) Satellite dish antennas. Editor's Note: Former Subsection C(9), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

(1) Minimum total lot area, one-family: 4,000 square feet.

(2) Minimum total lot area, two-family: 5,000 square feet.

(3) Minimum lot width, one-family: 40 feet.

(4) Minimum lot depth, one-family: 100 feet.

(5) Minimum lot width, two-family: 50 feet.

(6) Minimum lot depth, two-family: 100 feet.

- (7) Minimum front yard setback: 20 feet.
- (8) Minimum side yard: five feet for one side; 16 feet total.
- (9) Minimum rear yard: 25 feet.
- (10) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
- (11) Maximum lot coverage, including accessory buildings: 35%.

**§ 375-65. R-2B One- and Two-Family Medium-Density Residential District.**

A. Principal permitted uses shall be as follows:

- (1) Single-family detached dwellings.
- (2) Two-family detached dwellings.
- (3) Semidetached dwellings.
- (4) Single-family row dwellings.
- (5) Two-family row dwellings.
- (6) Houses of worship.

B. Accessory uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (1) Home occupations.
- (2) Detached garages.
- (3) Storage sheds.
- (4) Swimming pools.
- (5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**



- (1) Conversions of single-family homes.
- (2) Private schools.
- (3) Colleges or universities, including dormitories.
- (4) Nursing homes.
- (5) Day-care centers.
- (6) Charitable or religious institutions.
- (7) Bed-and-breakfast.
- (8) Community residences.
- (9) Satellite dish antennas. Editor's Note: Former Subsection C(10), Solar collection equipment, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) Row houses.
  - (a) Minimum total lot area: 2,000 square feet.
  - (b) Minimum land area per dwelling unit: 1,000 square feet.

**[Added 3-15-1999 by Ord. No. 62.121.98** Editor's Note: This ordinance also provided for the renumbering of former Subsection D(1)(b) through (h) as Subsection [D\(1\)\(c\)](#) through [\(i\)](#), respectively, and repealed former Subsection D(1)(i), Maximum number of dwelling units per floor. ]

- (c) Minimum lot width: 20 feet.
- (d) Minimum lot depth: 100 feet.
- (e) Minimum front yard: five feet, unless previously built on lot line.
- (f) Minimum side yard: zero feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (g) Minimum rear yard: 25 feet.

(h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

(i) Maximum lot coverage, including accessory buildings: 50%. Editor's Note: The two subsections which formerly followed this subsection, which set the number of houses in a row at three and eight, were deleted 3-20-1995 by L.L. No. 3-1995.

(2) Detached housing.

(a) Minimum total lot area: 3,000 square feet.

(b) Land area per dwelling unit: 1,500 square feet.

(c) Minimum lot width: 30 feet.

(d) Minimum lot depth: 100 feet.

(e) Minimum front yard: see § [375-132](#).

(f) Minimum side yard: a minimum distance between buildings of four feet; eight total.

(g) Minimum rear yard: 25 feet.

(h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

**[Added 3-15-1999 by Ord. No. 62.121.98** Editor's Note: This ordinance also provided for the renumbering of former Subsection D(2)(h) as Subsection [D\(2\)\(i\)](#). ]

(i) Maximum lot coverage, including accessory buildings: 45%.

**§ 375-66. R-2C One- and Two-Family Row House Residential District.**

A. Principal permitted uses shall be as follows:

(1) Row house dwellings for one to two families.

(2) Houses of worship and their administrative or office uses.

B. Accessory uses shall be as follows:

(1) Detached garages.

(2) Home occupations.

(3) Storage sheds.

(4) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Planned unit developments.

(2) Nursing homes.

(3) Day-care centers.

(4) Charitable or religious institutions.

(5) Bed-and-breakfast.

(6) Day-care, adult.

(7) (Reserved) Editor's Note: Former Subsection C(7), Day-care home, was repealed 3-15-1999 by Ord. No. 62.121.98.

(8) Community residences.

(9) Conversions of single-family homes.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(10) Private schools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(11) Satellite dish antennas. Editor's Note: Former Subsection C(10), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

(1) One-family row housing:

(a) Minimum lot size: 1,260 square feet.

(b) Land area per dwelling unit: 1,260 square feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(c) Minimum lot width: 18 feet.

- (d) Minimum lot depth: 70 feet.
- (e) Minimum front yard: see § [375-132](#).
- (f) Minimum side yard: zero feet.
- (g) Minimum rear yard: 25 feet.
- (h) Maximum lot coverage, including accessory buildings: 65%.
- (i) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

(2) Two-family row housing:

- (a) Minimum lot size: 1,440 square feet.
- (b) Land area per dwelling unit: 720 square feet.
- (c) Minimum lot width: 18 feet.
- (d) Minimum lot depth: 80 feet.
- (e) Minimum front yard: see § [375-132](#).
- (f) Minimum side yard: zero feet.
- (g) Minimum rear yard: 25 feet.
- (h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (i) Maximum lot coverage, including accessory buildings: 50%.

**§ 375-67. R-3A Multifamily Low-Density Residential District.**

A. Principal permitted uses shall be as follows:

- (1) Single-family detached dwellings.
- (2) Two-family detached dwellings.
- (3) Garden apartments.
- (4) Houses of worship.

B. Accessory uses shall be as follows:

- (1) Home occupations.
- (2) Detached garages.
- (3) Storage sheds.
- (4) Swimming pools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

- (5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

- (1) Private schools.
- (2) Colleges or universities, including dormitories.
- (3) Hospitals.
- (4) Nursing homes.
- (5) Day-care centers.
- (6) Charitable or religious institutions.
- (7) Bed-and-breakfasts.
- (8) Community residences.

(9) Satellite dish antennas. Editor's Note: Former Subsection C(10), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) Single-family and two-family detached dwellings.
  - (a) Minimum total lot area: 4,000 square feet.

- (b) Land area per dwelling unit: 2,000 square feet.
- (c) Minimum lot width: 40 feet.
- (d) Minimum lot depth: 100 feet.
- (e) Minimum front yard: 20 feet, unless previously built on the lot line.
- (f) Minimum side yard: four feet on one side; total of eight feet for both sides.
- (g) Minimum rear yard: 25 feet.
- (h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
- (i) Maximum lot coverage, including accessory buildings: 50%.

(2) Garden apartments.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (a) Minimum total lot area: 12,000 square feet.
- (b) Land area per dwelling unit: 2,000 square feet.
- (c) Minimum lot width: 120 feet.
- (d) Minimum lot depth: 100 feet.
- (e) Minimum front yard: 20 feet.
- (f) Minimum side yards: minimum of 10 feet on one side; minimum total of 40 feet on both sides.
- (g) Minimum rear yard: 25 feet.
- (h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
- (i) Maximum lot coverage, including accessory buildings: 35%.

**§ 375-68. R-3B Multifamily Medium-Density Residential District.**

A. Principal permitted uses shall be as follows:

- (1) One- and two-family detached dwellings.
- (2) One- and two-family row dwellings.

(3) Houses of worship.

(4) Apartment buildings.

B. Accessory uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(1) Home occupations.

(2) Detached garages.

(3) Storage sheds.

(4) Swimming pools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Private schools.

(2) Colleges or universities, including dormitories.

(3) Hospitals.

(4) Nursing homes.

(5) Day-care centers.

(6) Charitable or religious institutions.

(7) Bed-and-breakfasts.

(8) Rooming houses/SRO.

(9) Community residences.

(10) Satellite dish antennas. Editor's Note: Former Subsection C(11), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

(1) One-family row housing.

(a) Minimum total lot area: 1,400 square feet.

(b) Land area per dwelling unit: 1,400 square feet.

(c) Minimum lot width: 20 feet.

(d) Minimum lot depth: 70 feet.

(e) Minimum front yard: See § [375-132](#).

(f) Minimum side yard: zero feet.

(g) Minimum rear yard: 25 feet.

(h) (Reserved) Editor's Note: Former Subsection D(1)(h), Maximum number of houses in a row, was repealed 3-15-1999 by Ord. No. 62.121.98.

(i) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

(j) Maximum lot coverage, including accessory buildings: 50%.

(2) Two-family row housing.

(a) Minimum lot area: 1,600 square feet.

(b) Land area per dwelling unit: 800 square feet.

(c) Minimum lot width: 20 feet.

(d) Minimum lot depth: 80 feet.

(e) Minimum front yard: See § [375-132](#).

(f) Minimum side yard: zero feet.

(g) Minimum rear yard: 25 feet.

(h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

(i) Maximum lot coverage, including accessory buildings: 50%.



(3) One- or two-family detached.

- (a) Minimum total lot area: 2,400 square feet.
- (b) Land area per dwelling unit: 1,200 square feet.
- (c) Minimum lot width: 30 feet.
- (d) Minimum lot depth: 80 feet.
- (e) Minimum front yard: See § [375-132](#).
- (f) Minimum side yard: four feet on one side; total of eight feet on both sides.
- (g) Minimum rear yard: 25 feet.
- (h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
- (i) Maximum lot coverage, including accessory buildings: 50%.

(4) Apartments.

- (a) Minimum total lot area: 6,000 square feet.
- (b) Land area per dwelling unit: 1,000 square feet.
- (c) Minimum lot width: 60 feet.
- (d) Minimum lot depth: 100 feet.
- (e) Minimum front yard: See § [375-132](#).
- (f) Minimum side yard: five feet on one side; 10 feet total.
- (g) Minimum rear yard: 25 feet.
- (h) Maximum building height: three stories or 40 feet, whichever is less.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (i) Maximum lot coverage, including accessory buildings: 50%.

**§ 375-69. R-4 Multifamily High-Rise Residential District.**

A. Principal permitted uses shall be as follows:

(1) Multifamily dwellings/high-rise (elevator apartments).

(2) Garden apartments.

(3) Two-family row houses.

B. Accessory uses shall be as follows:

(1) Detached garages.

(2) Storage sheds.

(3) Home occupations.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(4) Swimming pools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Private schools.

(2) Nursing homes.

(3) Colleges or universities, including dormitories.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(4) Hospitals.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(5) Day-care centers.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(6) Charitable or religious institutions.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(7) Bed-and-breakfasts.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(8) Rooming houses/single-room occupancy (SRO).

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(9) Community residences.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(10) Satellite dish antennas. *Editor's Note: Former Subsection C(11), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.*

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements and parking shall be as follows:

(1) High rise.

- (a) Minimum lot size: 20,000 square feet.
- (b) Minimum lot width: 100 feet.
- (c) Minimum lot depth: 200 feet.
- (d) Minimum front yard: 20 feet.
- (e) Minimum side yard: 15 feet on one side; 40 feet total.
- (f) Minimum rear yard: 40 feet.
- (g) Maximum height: 85 feet.
- (h) Maximum lot coverage: 33%.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(2) Two-family row house.

- (a) Minimum lot size: 2,000 square feet.
- (b) Land area per dwelling unit: 1,000 square feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (c) Minimum lot width: 20 feet.
  - (d) Minimum lot depth: 100 feet.
  - (e) Minimum front yard: zero feet.
  - (f) Minimum side yard: zero feet.
  - (g) Minimum rear yard: 25 feet.
  - (h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
  - (i) Maximum lot coverage, including accessory buildings: 50%.
- (3) Garden apartments.
- (a) Minimum total lot area: 8,000 square feet.
  - (b) Land area per dwelling unit: 2,000 square feet.
  - (c) Minimum lot width: 80 feet.
  - (d) Minimum lot depth: 100 feet.
  - (e) Minimum front yard setback: 20 feet.
  - (f) Minimum side yards: minimum of 15 feet on one side; minimum total of 35 feet on both sides.
  - (g) Minimum rear yard: 40 feet.
  - (h) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.
  - (i) Maximum lot coverage, including accessory buildings: 35%.

**§ 375-70. R-O Residential Office District.**

A. Principal permitted uses shall be as follows:

- (1) Offices (first floor and basement only).
- (2) One-family dwelling.
- (3) Two-family dwelling.

(4) Houses of worship.

B. Accessory uses shall be as follows:

(1) Home occupations.

(2) Detached garages.

(3) Storage sheds.

(4) Swimming pools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Day-care centers.

(2) Nursing homes.

(3) Hospitals.

(4) Community residences.

(5) Conversions of single-family homes.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(6) Private schools.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(7) Colleges or universities, including dormitories.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(8) Charitable or religious institutions.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(9) Bed-and-breakfasts.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(10) Satellite dish antennas. Editor's Note: Former Subsection C(11), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) Minimum total lot area: 5,000 square feet.
- (2) Minimum lot width: 50 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Minimum front yard setback: 20 feet.
- (5) Minimum side yard: eight feet on one side; 20 feet total.
- (6) Minimum rear yard: 25 feet.
- (7) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (8) Maximum lot coverage, including accessory buildings: 50%.

**ARTICLE XI. Nonresidential District Regulations (Commercial Regulations)**

**§ 375-71. C-1 Neighborhood Commercial District.**

A. Principal permitted uses shall be as follows (NOTE: Commercial spaces established after 1993 are limited to the basement and first floor; also, any business in a C-1 Zoning District that is open between the hours of 11:00 p.m. and 6:00 a.m. shall be required to obtain a special use permit.):

- (1) Bakeries, not to exceed 5,000 square feet. (Note: In historic districts, the square-foot maximum is 2,500 square feet.)

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (2) Banks, not to exceed 5,000 square feet. (Note: In historic districts, the square-foot maximum is 2,500 square feet.)
- (3) Charitable or religious institutions.

(4) Drugstores, not to exceed 5,000 square feet. (Note: In historic districts, the square-foot maximum is 2,500 square feet.)

(5) Fraternal organizations.

(6) (Reserved) Editor's Note: Former Subsection A(6), Groceries, was repealed 10-17-1994 by Ord. No. 40.72.94. See now § 375-71B(9).

(7) Houses of worship.

(8) Ice cream and yogurt shops.

(9) Personal service outlets.

(10) Restaurants without alcoholic beverages.

(11) Retail outlets, not to exceed 5,000 square feet. (In historic districts, the square foot maximum is 2,500 square feet.)

(12) Residential uses; the minimum size of dwelling units shall be 600 square feet.

(13) Art galleries.

(14) Business services.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

B. Accessory uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(1) Home occupations.

(2) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

**[Amended 10-17-1994 by Ord. No. 40.72.94; 3-15-1999 by Ord. No. 62.121.98]**

(1) Any business in a C-1 Zoning District that is open between the hours of 11:00 p.m. and 6:00 a.m. shall be required to obtain a special use permit.

(2) Adult day-care.

- (3) Automobile service stations.
- (4) Day care.
- (5) Theaters.
- (6) Drive-in banks (Note: Not permitted in Historic Districts.) or ATM windows.
- (7) Funeral homes.
- (8) (Reserved)
- (9) Groceries, not to exceed 5,000 square feet. (Note: In historic districts, the square foot maximum is 2,500 square feet.)
- (10) Health clubs.
- (11) Indoor recreation.
- (12) Offices.
- (13) Take-out and delivery restaurants.
- (14) Taverns.
- (15) Restaurants serving alcohol.
- (16) Satellite dish antennas. Editor's Note: Former Subsection C(17), Solar collection equipment, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

D. Yard requirements shall be as follows:

- (1) Minimum lot area: 3,200 square feet.
- (2) Minimum lot width: 40 feet.
- (3) Minimum lot depth: 80 feet.
- (4) Maximum lot coverage: 50%.
- (5) Minimum front and side yards: zero feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (6) Minimum rear yard: 20 feet.



**[Added 3-15-1999 by Ord. No. 62.121.98** Editor's Note: This ordinance also provided for the renumbering of former Subsection D(6) and (7) as Subsection [D\(7\)](#) and [\(8\)](#), respectively. ]

(7) Maximum building height: 35 feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(8) Maximum front yard setback: 12 feet.

**§ 375-72. C-O Commercial Office District.**

A. Permitted uses shall be as follows:

- (1) Auditoria.
- (2) Banks.
- (3) Colleges.
- (4) Hospitals.
- (5) Houses of worship.
- (6) Museums and art galleries.
- (7) Nursing homes.
- (8) Offices.
- (9) Funeral homes.
- (10) Business services.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

B. Accessory uses shall be as follows:

- (1) Day-care centers and nursery schools within a principal use.
- (2) Parking garages.
- (3) Parking lots.
- (4) Residences: The minimum size of a dwelling unit shall be 600 square feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (5) Retail outlets, not more than 5,000 square feet.
- (6) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

- (1) Adult day care.
- (2) Health clubs.
- (3) Laboratories.
- (4) Personal service outlets.
- (5) Restaurants.
- (6) Rooming house/SRO.
- (7) Taverns.
- (8) Trade schools.

(9) Satellite dish antennas. Editor's Note: Former Subsection C(10), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) Minimum total lot area: 8,000 square feet.
- (2) Editor's Note: Former Subsection D(2), Minimum lot area per dwelling unit, was repealed 3-15-1999 by Ord. No. 62.121.98. This ordinance also provided for the renumbering of former Subsection D(3) through (9) as Subsection [D\(2\)](#) through [\(8\)](#), respectively. Minimum lot width: 80 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Minimum front yard setback: 20 feet.
- (5) Minimum side yard: four feet on one side; total of 16 feet on both.
- (6) Minimum rear yard: 25 feet.

(7) Maximum building height: 85 feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(8) Maximum lot coverage: 60% (not to include paved areas).

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

**§ 375-73. C-2 Highway Commercial District.**

A. Principal permitted uses shall be as follows:

(1) All C-1 principal permitted uses without square foot maximums.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(2) Auctioneers and antique dealers.

(3) Automobile dealers.

(4) Automobile service stations.

(5) Car, truck and trailer rentals.

(6) Cultural entertainment facilities.

(7) Dairies and ice-cream manufacturers.

(8) Day-care centers.

(9) Department stores.

(10) Driving ranges, miniature golf and archery.

(11) Funeral homes.

(12) Furniture stores.

(13) Gas stations.

(14) Greenhouses.

(15) Groceries.

**[Added 10-17-1994 by Ord. No. 40.72.94 Editor's Note: Due to the inclusion of this ordinance, former Subsection A(15) through (26) were renumbered as A(16) through (27), respectively. ]**

- (16) Health clubs.
- (17) Hotels and motels.
- (18) Lumber and building supplies.
- (19) Marine supplies.
- (20) Motorcycles, off-road vehicles and snowmobiles.
- (21) Nurserymen, landscape gardeners and tree surgeons.
- (22) Nursery schools.
- (23) Radio and television stations.
- (24) Recording studios.
- (25) Trade, dancing and driving schools.
- (26) Used vehicle sales.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (27) Veterinarians.
- (28) Business services.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

- (29) Offices.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

- (30) Restaurants serving alcohol.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

B. Accessory uses shall be as follows:

- (1) Home occupations.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (2) Parking garages.

- (3) Parking lots.
- (4) Residential uses.
- (5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

- (1) Adult day care.
- (2) Car washes.
- (3) Carry-out restaurants.
- (4) Drive-in and drive-through restaurants.
- (5) Drive-in banks.
- (6) Game rooms.
- (7) Nightclubs.
- (8) Rooming house/SRO.
- (9) Taverns.
- (10) Fraternities and sororities.
- (11) Automobile repair, major.
- (12) Satellite dish antennas. Editor's Note: Former Subsection C(13), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard regulations shall be as follows:

- (1) Minimum total lot area: 3,200 square feet.
- (2) Minimum lot width: 40 feet (east of King Avenue); all other areas: 80 feet.
- (3) Minimum lot depth: 80 feet (east of King Avenue); all other areas: 120 feet.

(4) Minimum front yard setback:

(a) Central Avenue, east of King Avenue: zero feet.

(b) Central Avenue, west of King Avenue: 40 feet.

(c) All other C-2 areas: minimum of 20 feet, with a minimum ten-foot landscaped area.

(5) Minimum side yard: none.

(6) Minimum rear yard: 30 feet.

(7) Maximum building height: 35 feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(8) Maximum lot coverage: 50%.

**§ 375-74. C-3 Central Business District.**

A. Principal permitted uses shall be as follows:

(1) All C-1 principal permitted uses (without square foot maximums).

(2) Apartment buildings.

(3) (Reserved) Editor's Note: Former Subsection A(3), Auditoria and arenas, was repealed 3-15-1999 by Ord. No. 62.121.98.

(4) Business services.

(5) Cultural entertainment facilities.

(6) Dance schools.

(7) Department stores.

(8) Flower shops.

(9) Health clubs.

(10) Furniture stores.

(11) Groceries.

**[Added 10-17-1994 by Ord. No. 40.72.94** Editor's Note: Due to the inclusion of this ordinance, former Subsections A(11) through (24) were renumbered as A(12) through (25), respectively. ]

- (12) Hotels and motels.
- (13) Museums.
- (14) Offices.
- (15) Parking garages.
- (16) Parking lots.
- (17) Pawnbrokers.
- (18) Radio and television stations.
- (19) Railway and passenger stations.
- (20) Recording studios.
- (21) Taverns.
- (22) Telegraph and express offices.
- (23) Theaters.
- (24) Trade schools.
- (25) Travel agencies.
- (26) Restaurants serving alcohol.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

B. Accessory uses shall be as follows:

- (1) Day-care centers.
- (2) Gasoline pumps accessory to parking garages.
- (3) Nursery schools.
- (4) Residential uses.
- (5) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

- (1) Drive-in banks.
- (2) Funeral homes.
- (3) Game rooms (not to include gambling).
- (4) Gas stations.
- (5) Marinas.
- (6) Rooming house/SRO.
- (7) Stadiums, arenas and auditoriums.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(8) Fraternities and sororities.

(9) Nightclubs. *Editor's Note: Former Subsection C(10), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.*

D. Yard regulations shall be as follows:

- (1) Commercial uses.
  - (a) Minimum front yard setback: none.
  - (b) Minimum side yard: none.
  - (c) Minimum rear yard: none.
  - (d) Minimum total lot area: 3,200 square feet.
  - (e) Minimum lot width: 40 feet.
  - (f) Minimum lot depth: 80 feet.
  - (g) Maximum lot coverage: 100%.
  - (h) Maximum building height: 85 feet.



(2) Residential uses.

(a) Minimum total lot area: 3,200 square feet.

(b) Minimum lot width: 40 feet.

(c) Minimum lot depth: 80 feet.

(d) Minimum front yard setback: none.

(e) Minimum side yard: none.

(f) Minimum rear yard: 25 feet.

(g) Maximum building height: 85 feet.

(h) Maximum lot coverage: 75%.

**§ 375-75. C-M Light Industrial District.**

A. Permitted uses shall be as follows:

(1) Auctioneers.

(2) Bottling plants.

(3) Building materials supply.

(4) Business machine repair.

(5) Car, truck and trailer rentals.

(6) Carpet and rug cleaners.

(7) Caterers.

(8) Coal and fuel oil dealers.

(9) Commercial bakeries.

(10) Commercial laundries (including linen, towel and diapers).

(11) Dairies and ice-cream manufacturers.

(12) Display, neon and sign services.

(13) Dry-cleaning plants.

(14) Electrical, heating, painting, air-conditioning, roofing and plumbing contractors, including punching of material 1/8 inch or less in thickness, but not to include punching presses over 20 tons' rated capacity, drop-forging and other such noise-producing machine-operated tools.

(15) Electroplating and mirror silvering.

(16) Exterminators.

(17) File storage.

(18) Freight offices.

(19) Frozen food lockers.

(20) Gas stations.

(21) Glass cutting.

(22) Houses of worship.

(23) Laboratories (analytical, chemical and research), provided that all lab animals be kept indoors, within a completely enclosed, soundproofed building at all times if within 1,000 feet of any residence.

(24) Machinery rentals.

(25) Newspaper plants.

(26) Printing, blueprinting and photostating.

(27) Repair garages.

(28) Self-storage warehouses.

(29) Upholsterers.

(30) Utility storage.

(31) Vending machine services.

(32) Warehousing.

(33) Wholesaling.

(34) Business services.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(35) Light manufacturing.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(36) Parking lots.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(37) Used vehicle sales.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

B. Accessory uses shall be as follows:

(1) Caretaker's residence.

(2) Facilities and shops for employees; must have no openings to the street so as to accommodate walk-in traffic.

(3) Gasoline pumps accessory to principal permitted uses.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(4) (Reserved) Editor's Note: Former Subsection B(4), Parking, was repealed 3-15-1999 by Ord. No. 62.121.98.

(5) Refuse containers.

(6) Storage incidental to a permitted use.

(7) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) (Reserved) Editor's Note: Former Subsection C(1), Adult entertainment establishments, was repealed 10-18-1999 by Ord. No. 23.91.99.

(2) Car washes.

(3) Stadiums, arenas and auditoriums.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(4) Satellite dish antennas. Editor's Note: Former Subsection C(5), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) Minimum total lot area: 10,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Minimum front yard: 20 feet.
- (5) Minimum side yard: 10 feet on one side; minimum of 30 feet on both sides.
- (6) Minimum rear yard: 20 feet.
- (7) Maximum building height: 55 feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (8) Maximum lot coverage: 50%.

**§ 375-76. M-1 General Industrial District.**

A. Principal permitted uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (1) All C-M District principal permitted uses.
- (2) Car washes.
- (3) Heavy manufacturing.
- (4) Used vehicle sales.
- (5) Adult entertainment establishments.

**[Added 10-18-1999 by Ord. No. 23.91.99]**

B. Accessory uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (1) Docks.
- (2) Offices.
- (3) Propane tank installations.
- (4) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) (Reserved) Editor's Note: Former Subsection C(1), Adult entertainment establishments, was repealed 10-18-1999 by Ord. No. 23.91.99.

(2) Animal crematorium.

(3) (Reserved) Editor's Note: Former Subsection C(3), regarding the storage of volatile liquids, gases or solids, was repealed 3-15-1999 by Ord. No. 62.121.98.

(4) Composting.

(5) Drive-in theaters.

(6) Gas manufacture.

(7) Incinerators/waste-burning facilities.

(8) Junkyards, subject to the following additional standards:

(a) Location: not less than 200 feet from any residential district or C-O, C-1 or C-2 Commercial District.

(b) Enclosures: A fully enclosed building or buildings shall be provided for the housing and treatment of all paper, rags, cloth and other fibers.

(c) Fencing: All junkyard material and activities not within fully enclosed buildings shall be surrounded by a solid stable fence or wall of acceptable design to be at least eight feet in height, surfaced so as to be resistant to damage from the elements and from stored materials and erected and maintained in such a manner so as to provide effective screening of the premises. Any gate in such fence shall be similarly constructed and maintained, except that a viewing hole may be left in each gate for the purpose of safety

and shall be kept locked at all times when the junkyard is not in operation. Additional screening may be required in the granting of special use permits.

(9) Petroleum refining.

(10) Sewage treatment.

(11) Solid waste management facilities.

(12) Stadiums, arenas and auditoriums.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(13) Recycling facilities.

(14) Satellite dish antennas. Editor's Note: Former Subsection C(15), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

(1) Minimum total lot area: 20,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum lot depth: 200 feet.

(4) Minimum front yard: 20 feet.

(5) Minimum side yard: 15 feet on one side; total of 40 feet for both.

(6) Minimum rear yard: 40 feet.

(7) Maximum building height: 55 feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(8) Maximum lot coverage: 50%.

## **ARTICLE XII. Special Districts**

### **§ 375-77. C-PB Commercial Pine Bush District.**

A. Permitted uses: offices.

B. Accessory uses:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(1) Satellite dish antennas.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

**[Added 3-15-1999 by Ord. No. 62.121.98]**

(1) Satellite dish antennas. *Editor's Note: Former Subsection C(2), Solar collection equipment, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.*

D. Yard requirements: to be determined by site plan review.

E. Density, yard and bulk requirements: to be determined by site plan review.

F. Maximum building height shall be as follows: 30 feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

G. Parking and loading requirements: to be determined by site plan review.

H. Signs: to be determined by site plan review.

I. Prohibited uses: to be determined by site plan review.

**§ 375-78. WF-1 Waterfront Residential/Commercial District.**

A. Principal permitted uses shall be as follows:

(1) Multifamily dwellings.

(2) Single-family row house dwellings.

(3) Two-family row house dwellings.

B. Accessory uses shall be as follows:

(1) Docks or boats.

(2) Esplanades.

(3) Launches.

(4) (Reserved) Editor's Note: Former Subsection B(4), Parking lots, was repealed 3-15-1999 by Ord. No. 62.121.98.

(5) Recreational facilities (parks, playgrounds and tennis courts).

(6) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

(1) Marinas.

(2) Planned unit developments.

(3) Restaurants, not including drive-in.

(4) Retail stores (intended to support and enhance residential use).

(5) Taverns.

(6) Satellite dish antennas. Editor's Note: Former Subsection C(7), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

(1) Row house dwellings.

(a) Minimum total lot area: 2,000 square feet.

(b) Minimum lot width: 20 feet.

(c) Minimum lot depth: 100 feet.

(d) Minimum front yard: none.

(e) Minimum side yard: zero feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(f) Minimum rear yard: 25 feet.

(g) Maximum building height: 2 1/2 stories or 35 feet, whichever is less.



**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(h) Maximum lot coverage: 60%.

(2) Multifamily dwellings.

(a) Minimum total lot area: 15,000 square feet.

(b) Minimum lot width: 100 feet.

(c) Minimum lot depth: 150 feet.

(d) Minimum front yard: 20 feet.

(e) Minimum side yard: 15 feet on one side; total of 40 feet for both.

(f) Minimum rear yard: 25 feet.

(g) Maximum building height: four stories or 55 feet, whichever is less.

(h) Maximum lot coverage: 40%.

(3) All other uses.

(a) Minimum total lot area: 5,000 square feet.

(b) Minimum lot width: 50 feet.

(c) Minimum lot depth: 100 feet.

(d) Minimum front yard: none.

(e) Minimum side yard: none.

(f) Minimum rear yard: 25 feet.

(g) Maximum building height: 55 feet.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

(h) Maximum lot coverage: 60%.

**§ 375-79. WF-2 Waterfront Recreational District.**

A. Principal permitted uses shall be as follows:

- (1) Band shells.
- (2) Botanical gardens.
- (3) Docks or boat launches.
- (4) Marinas and aquariums.
- (5) Natural preserves.
- (6) Outdoor theaters (not including drive-in theaters).
- (7) Parks and playgrounds.
- (8) Public outdoor recreational facilities.
- (9) Wildlife refuges.

B. Accessory uses shall be as follows:

- (1) (Reserved) *Editor's Note: Former Subsection B(1), Parking lots, was repealed 3-15-1999 by Ord. No. 62.121.98.*
- (2) Structures necessary for administration, maintenance or operation of principal permitted uses (not including commercial uses).
- (3) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

- (1) Commercial uses that are complementary to the operation of principal permitted uses.
- (2) Restaurants.
- (3) Satellite dish antennas. *Editor's Note: Former Subsection C(4), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.*

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) All yard requirements to be determined at site plan review.

**§ 375-80. LC Land Conservation District.**

A. Principal permitted uses shall be as follows:

- (1) Natural preserves.
- (2) Parks and playgrounds.
- (3) Public outdoor recreational facilities.
- (4) Wildlife refuges.

B. Accessory uses shall be as follows:

**[Added 3-15-1999 by Ord. No. 62.121.98** Editor's Note: This ordinance also provided for the renumbering of former Subsections B and C as Subsections C and D, respectively. ]

- (1) Structures necessary for administration, maintenance or operation of principal permitted uses (not including commercial uses).
- (2) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

- (1) Cemeteries.
- (2) Commercial uses that are complementary to the operation of principal permitted uses.
- (3) Cultural or educational facilities.
- (4) Outdoor theaters (not including drive-in theaters).
- (5) Satellite dish antennas. Editor's Note: Former Subsection C(6), Solar collection equipment, added 3-15-1999 by Ord. No. 62.121.98, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

**[Added 3-15-1999 by Ord. No. 62.121.98]**

D. Yard requirements shall be as follows:

- (1) All yard requirements to be determined at site plan review.

**§ 375-81. (Reserved)**

Editor's Note: Former §§ [375-81](#) and [375-82](#) HJBR/NC Henry Johnson Boulevard Residential/Neighborhood Commercial District and HJBC/O Henry Johnson Boulevard Commercial/Office District, respectively, were repealed 3-15-1999 by Ord. No. 62.121.98.

**§ 375-82. (Reserved)**

Editor's Note: Former §§ [375-81](#) and [375-82](#) HJBR/NC Henry Johnson Boulevard Residential/Neighborhood Commercial District and HJBC/O Henry Johnson Boulevard Commercial/Office District, respectively, were repealed 3-15-1999 by Ord. No. 62.121.98.

**§ 375-83. C-SWM Commercial Solid Waste Management District.**

A. Principal permitted uses shall be as follows:

- (1) Solid waste landfills.
- (2) Solid waste processing facilities.
- (3) Solid waste transfer stations.
- (4) Recyclables handling and recovery facilities.
- (5) All C-PB principal permitted uses.
- (6) Intermediate processing facilities.

B. Accessory uses shall be as follows:

- (1) Structures customarily appurtenant to a principal permitted use.
- (2) Landfill gas recovery facilities.
- (3) Solar collection equipment.

**[Added 10-6-2008 by Ord. No. 2.12.08]**

C. Special permit uses shall be as follows:

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

- (1) Satellite dish antennas. Editor's Note: Former Subsection C(2), Solar collection equipment, which immediately followed this subsection, was repealed 10-6-2008 by Ord. No. 2.12.08.

D. Yard size requirements: to be determined by the Planning Board.

**ARTICLE XIII. Supplementary Lot, Height and Yard Regulations**

**§ 375-84. Reduction of lots to create nonconforming lots prohibited.**

No lot shall be reduced to create one or more nonconforming lots.

**§ 375-85. Zoned nonconforming lots of record.**

A. In any residential zoning district, only a single-family dwelling may be erected on a nonconforming lot of record, provided that the width of said lot is not less than 75% of that required and the depth is not less than 75% of that required. This provision shall not apply to a nonconforming lot of record that was held in common ownership with adjacent vacant property (on or subsequent to the effective date of this chapter), that could have been combined to create a conforming or more conforming lot (see § [375-86](#)).

B. On a nonconforming lot of record, all front and rear yards and setbacks as well as subsequent expansions must conform to single-family detached housing yard requirements and provide no side yards less than four feet.

C. In any R-zoned district, except R-1A, R-1B or R-1LL, only a single-family detached dwelling may be erected on a nonconforming zone lot of official record, irrespective of its area or width.

**§ 375-86. Nonconforming lots next to other nonconforming lots.**

A. In cases where two or more adjacent, undersized and undeveloped lots exist under the same ownership, at the time this chapter was adopted, they must be combined to be developed.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

B. In cases where an undersized nonconforming lot exists next to an oversized nonconforming lot under the same ownership, at the time this chapter was adopted, they must be combined into conforming lots to be developed.

**§ 375-87. Expansion of a residential building with nonconforming side yard setbacks.**

An addition to a residential building which has nonconforming side yard setbacks may be constructed with a side yard no less in width than the existing side yard (four-foot minimum), provided that the maximum lot coverage is not exceeded.

**§ 375-88. Building lots lacking public water, sewer or other systems.**

Lots not served by a public water or sanitary sewer system or other systems approved by the Albany County Department of Health shall not be less than 100 feet wide at the building line nor less than 15,000 square feet in area per dwelling unit.

**§ 375-89. Through lots.**

Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the wider street shall be deemed the street upon which the property fronts.

**§ 375-90. Discontinuance of a nonconforming use.**

A. Except as herein provided, no nonconforming use may be reestablished after it has been discontinued or vacated for a period of 180 days or more.

**[Amended 10-6-2005 by Ord. No. 65.91.05]**

B. Substitution of a nonconforming use. No nonconforming use may be converted to a different nonconforming use unless a use variance is obtained from the Board of Zoning Appeals.

C. Damage or destruction.

(1) In the event that any structure containing a nonconforming use is damaged or destroyed to the extent of more than 50% of the cost of replacement of the structure, any reuse of the structure shall conform to all regulations of the zoning district in which it is located.

(2) Where any such structure is damaged or destroyed to the extent of 50% or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided that no repairs or restorations shall be made which would create or increase any parking, yard or space and bulk nonconformity, nor shall any repairs or restoration (except in conformity with the applicable zoning district regulations) be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

D. Repair and maintenance. Normal maintenance and repairs or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on mechanical systems or existing portions of any structure devoted in whole or in part to a nonconforming use.

E. Structural alteration. No structure devoted in whole or in part to a nonconforming use shall be structurally altered unless the use shall conform to the use regulations of the zoning district in which it is located.

F. Enlargement of structure. No structure devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner which would enlarge the nonconforming portion. No such enlargement shall create any new parking, yard or bulk nonconforming use.

G. Intensification. A nonconforming use may not be altered in any way which would result in additional personnel, extended hours of operation, additional or expanded signage, increased parking or a change in product line which would alter the character of the use.

[Amended 3-15-1999 by Ord. No. 62.121.98]

**§ 375-91. General nuisances.**

[Amended 3-16-2009 by Ord. No. 64.101.08]

Upon a complaint registered by the Commissioner, 50% of the property owners within 200 feet of a nonconforming use or the Common Council member in whose ward such nonconforming use is situated, which is considered to be a general nuisance or a hazard to the health, safety, welfare and morals of uses or structures within 200 feet of such nonconforming use or uses, the Board of Appeals shall hold a public hearing and make a finding with respect to the nuisance or hazardous condition which exists and shall determine the necessity of terminating such nonconforming use. Such uses shall be terminated within such reasonable time as shall be determined by the Board as related to the reasonable amortization of the capital investment in such uses.

**§ 375-92. Illegal use or structure; effect of violation.**

A use or structure created in violation of this chapter does not constitute a nonconforming use or structure. There shall be no right vested in the continuation of such unlawful use or structure.

**ARTICLE XIV. Specific Use Regulations**

**§ 375-93. Solar energy equipment.**

[Amended 3-15-1999 by Ord. No. 62.121.98; 10-6-2008 by Ord. No. 2.12.08]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS**

A solar energy system that consists of integrating photovoltaic modules into the building envelope, such as the roof or the facade.

**GROUND-MOUNTED**

Directly installed in the ground and not attached or affixed to an existing structure.

**PASSIVE SOLAR SYSTEM**

A solar energy system that relies upon original or retrofitted design features and building materials of a structure to enhance the use of natural forces to provide heating and cooling within a building.

**PHOTOVOLTAIC (PV) SYSTEMS**

A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity whenever light strikes them.

**SOLAR COLLECTOR**

A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**SOLAR ENERGY EQUIPMENT**

Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic, and passive solar.

### **SOLAR-THERMAL SYSTEMS**

A solar energy system that generates energy by collecting and focusing solar energy onto a small area to heat a fluid to a high temperature, which in turn drives an electric generator.

B. Solar energy and solar access are recognized as valid public rights, and the use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling has been determined to be a priority and is a necessary component of the City of Albany's current and long-term sustainability agenda; therefore, passive and active solar energy equipment are permitted outright as an accessory use to all principal permitted uses within all zoning districts, subject to the restraints imposed by this chapter and Article XII of Chapter [42](#). Where there is a conflict between solar energy goals and the goals of this chapter, the applicant may make redress to the Board of Zoning Appeals for a determination pursuant to § [375-25](#), and the Board shall regard solar energy as a factor to be considered, weighed and balanced along with other factors.

C. Installations of solar energy equipment in any residential district or C-1 Neighborhood Commercial District shall comply with the following guidelines:

(1) Placements of solar collectors on a gabled, hipped or mansard roof shall be mounted parallel to and no more than 12 inches from the roof surface.

(2) Placement of solar collectors on flat roofs shall be allowed as of right in nonhistoric districts, provided that panels do not extend past the roofline. While there are aesthetic considerations, the City has determined that the environmental and economic benefits outweigh potential aesthetic impacts. Planning staff shall approve installation designs prior to issuance of permits. If denied by Planning staff, the Director of Buildings shall issue a letter of denial, and the applicant may appeal this decision to the Board of Zoning Appeals.

(3) Installations in C-1 Districts shall be reviewed by Planning staff prior to the issuance of building permits as per § [375-43](#). Planning staff shall approve installation designs prior to issuance of permits. If denied by Planning staff, the Director of Buildings shall issue a letter of denial, and the applicant may appeal this decision to the Board of Zoning Appeals.

(4) Installations in designated historic districts as shall require a certificate of appropriateness from the Historic Resources Commission as per §§ [42-90](#) and [375-57](#).

D. Installations of rooftop and building-mounted solar energy equipment in all other districts shall be permitted as an accessory use.



E. Ground-mounted solar collectors are permitted as accessory structures in all zoning districts, subject to the following requirements:

- (1) The location of the solar collector meets all applicable setback requirements for accessory structures as identified in § [375-136](#).
- (2) The height and the total surface area of all ground-mounted and freestanding solar collectors on the lot shall require approval from Planning staff prior to the issuance of building permits and take into account potential impacts on neighboring properties. If denied by Planning staff, the Director of Buildings shall issue a letter of denial, and the applicant may appeal this decision to the Board of Zoning Appeals.
- (3) The solar collector is located in a side or rear yard.
- (4) The solar collectors do not emit unreasonable glare and negatively impact adjacent properties.

F. Building-integrated photovoltaic (BIPV) systems shall be permitted in all districts subject to all necessary permit and Building Code requirements.

G. Solar energy equipment shall be located in a manner to minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.

H. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.

#### **§ 375-94. Satellite dish antennas.**

Except within the C-3 Zoning District in accordance herein, no satellite/television dish antenna shall be erected and/or otherwise maintained without first having applied for a special use permit.

A. All residential districts and C-1 Neighborhood Commercial Districts.

- (1) Placement shall be in the back yard of the premises served.
- (2) No antenna shall be installed on a portable or movable structure, such as a trailer.
- (3) Satellite earth stations shall not be visible between ground level and six feet above ground level from any street adjoining the lot. They shall be screened from view by a six-foot high wood or wall or by natural evergreen vegetation. Berms may be employed in conjunction with the landscaping plan.
- (4) Placement must comply with setback requirements for accessory structures.

(5) Only one satellite antenna shall be permitted on any lot.

(6) Such satellite equipment, landscaping and screening shall be kept and maintained in good condition.

B. All other commercial districts.

(1) Satellite dish antennas may be roof-mounted.

**§ 375-95. Radio and other antennas.**

A. All installations shall be ground-mounted.

B. All radio antennas in any zone shall be limited to 75 feet.

C. Placement, including all screening treatments at the base and guy wire bases, shall be in the rear yard of the property and shall maintain a minimum ten-foot setback from all property lines.

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

D. All installations shall be screened from view by a six-foot high fence, wall or natural vegetation. Berms may be employed in conjunction with the landscaping plan.

**§ 375-96. Skywalks.**

No skywalks shall be permitted without a special use permit from the Board of Zoning Appeals.

**§ 375-97. Permanent and portable aboveground swimming pools.**

Swimming pools, both permanent and portable, accessory to a dwelling shall be regulated as follows:

A. May be erected only on the same lot as the principal structure.

B. May be erected only in the rear yard of such structure and be:

(1) A minimum of six feet from any side yard.

(2) A minimum of 10 feet from the rear lot line.

(3) A minimum of six feet from the principal structure, porch or deck attached to the house. With respect to aboveground swimming pools, said distances shall be measured from the outer edge of any deck or platform attached to the wall of the pool.

C. The pool, subject to the above requirements, shall be completely surrounded by a fence or wall, the top of which on its perimeter shall be four feet above grade. The pool shall be enclosed in a manner consistent with the New York State Uniform Fire Prevention and Building Code.

**§ 375-98. Location of fences and walls.**

Fences and walls shall be permitted in residential districts in accordance with the following provisions:

A. In residential zoning districts. Fences not exceeding four feet in height and not more than 60% solid may be located in any front yard or in any yard with street frontage. In such a yard, a fence more than four feet in height and more than 60% solid shall be permitted only if it complies with the front yard requirement listed in the Schedule of Use, Area and Height Controls *Editor's Note: The Schedule of Use, Area and Height Controls is included at the end of this chapter.* for the appropriate district, unless the existing principal dwelling is closer to the street than allowed by the Schedule of Use, Area and Height Controls, in which case such fence shall be located no closer to the street than the existing dwelling.

B. In any yard without street frontage, fences shall not exceed six feet in height.

C. In an M-1 General Industrial District only, where fences do not abut a residential district, fences may be employed to a height of eight feet, employing the top 18 inches of barbed (not razor-barb) wire if desired.

D. In all other nonresidential districts, fences and walls accessory to nonresidential uses or on vacant lots shall not exceed six feet in height.

E. No minimum distance shall be required between a fence or wall and a lot line, unless otherwise specified in this chapter.

F. Fences constructed for the purpose of enclosing a tennis court may exceed the six-foot maximum but may not be located closer than 10 feet from the property line.

**§ 375-99. Fence and wall materials.**

A. A fence designed to be structurally supported by posts, cross members or rails on one side only shall be erected with the posts, cross members or rails on the fence owner's side, and the finished side of the fence shall face adjacent properties.

B. No fence intended as a permanent structure shall be constructed of canvas, cloth, wire mesh, chicken wire, snow fencing or any other similar material.

C. No fence or wall shall include barbed wire, broken glass, electrification or other material or device intended to cause injury.

D. All fences and walls in any zoning district shall be maintained in a structurally sound condition. Elements or finishes that become deteriorated shall be repaired or replaced promptly.

**§ 375-100. Essential services.**

Essential services are permitted in all zoning districts.

**§ 375-101. Adult entertainment establishments.**

Editor's Note: Former § 375-101, Nursery schools and day-care centers, was repealed 3-15-1999 by Ord. No. 62.121.98.

**[Added 10-18-1999 by Ord. No. 23.91.99]**

A. In order to prevent the proliferation of crime and effects of crime associated with adult entertainment establishments within M-1 Zoning Districts and the zoning districts surrounding M-1 Zoning Districts throughout the City of Albany, to maintain property values, to protect children and to preserve the historic and scenic qualities of the City of Albany, adult entertainment establishments as defined in § [375-7](#) shall be permitted subject to the following additional standards:

(1) Adult entertainment establishments shall be located at least 1,000 feet from a church or other place of religious worship, a school, a residential zoning district or a park, playground or playing field; however, on or after the effective date of this section, an adult entertainment establishment that otherwise complies with the provisions of this subsection shall not be rendered nonconforming if a church or other place of religious worship, a school, a residential zoning district or a park, playground or playing field is established on or after the effective date of this subsection within 1,000 feet of such adult entertainment establishment.

(2) Adult entertainment establishments shall be located at least 1,000 feet from another adult entertainment establishment.

(3) No more than one adult entertainment establishment shall be located on a zoning lot.

(4) Adult entertainment establishments shall not exceed in total 10,000 square feet of floor area and cellar space not used for enclosed storage or mechanical equipment.

B. A nonconforming adult entertainment establishment shall terminate within one year from the effective date of this section or from such later date that the adult entertainment establishment becomes nonconforming, except that such establishment may be continued for a limited period of time by the Board of Zoning Appeals, provided that:

(1) An application is made by the owner of such establishment to the Board of Zoning Appeals at least 120 days prior to the date on which such establishment must terminate; and

(2) The Board shall find, in connection with such establishment, that:

(a) The applicant had made, prior to the nonconformity, substantial financial expenditures related to the nonconformity; and

(b) The applicant has not recovered substantially all of the financial expenditures related to the nonconformity; and

(c) The period for which such establishment may be permitted to continue is the minimum period sufficient for the applicant to recover substantially all of the financial expenditures incurred related to the nonconformity.

(3) For the purpose of this section, "financial expenditures" shall mean the capital outlay made by the applicant to establish the adult entertainment establishment, exclusive of the fair market value of the building in which such use is located and exclusive of any improvements unrelated to the nonconforming adult entertainment establishment.

**§ 375-102. Farmers' markets.**

Temporary (open no longer than 10 hours per week) farmers' markets are permitted in all commercial districts, provided that there shall be no offensive odors or dust and there shall be no permanent outdoor storage of equipment.

**§ 375-103. Animal hospitals, kennels, veterinary clinics and pounds.**

A. No such use shall be located closer than 300 feet to any R district, unless all animals are kept indoors. Adequate measures and controls shall be taken to prevent offensive noise and odor.

B. No more than five dogs and/or cats shall be kept in a residential zoning district without a special use permit from the Board of Zoning Appeals.

**§ 375-104. Conversion from a one-family home to a two-family home.**

A. Conversions from a one-family house to a two-family house shall be permitted only as a special use in all of the R-2 residential districts, and provided further that a conversion is in accordance with the following provisions:

(1) Where such conversion is undertaken, there shall be provided on the same zone lot not less than one additional off-street parking space in accordance with the provisions of § [375-173B\(2\)](#) hereof.

(2) Such structure shall contain not fewer than 1,600 square feet of living space, and no dwelling unit therein shall contain less than 600 square feet of living space.

(3) There shall not be more than the maximum number of dwelling units that are permitted in the respective districts.

(4) Such conversions may be permitted on zone lots of not less than the minimum area required for the district where situated.

(5) Fire escapes. If required as a result of the conversion, no fire escape or second means of egress shall be attached to that portion of the dwelling bordering the front yard visible from the street right-of-way.

B. Conversions from a one-family home to a two-family home shall be permitted without a special use permit in all R-3 and R-4 residential zoning districts and shall be subject to the provisions listed above.

### **§ 375-105. Conversion from a two-family residence to a one-family residence.**

In any R district, it is permitted to convert any two-family residence into a single-family residence.

### **§ 375-106. Home occupations.**

A home occupation may be operated only if it complies with all of the following conditions:

A. Where permitted. Home occupations are permitted in certain zoning districts as listed in the Schedule of Use, Area and Height Controls *Editor's Note: The Schedule of Use, Area and Height Controls is included at the end of this chapter.* and within a single-dwelling unit, or in a building or other structure accessory to a dwelling unit, and only by the person or persons maintaining their primary residence in said dwelling unit. For the purposes of this section, "primary residence" is defined as the location of an individual's residence for more than six months of the year.

B. Evidence of use. It shall not display or create outside the building any evidence of the home occupation, except that one unanimated, nonilluminated flat or window sign having an area of not more than two square feet shall be permitted on each street front of the zone lot on which the building is situated.

C. Extent of use. It shall not utilize more than 25% of the gross floor area of the dwelling unit, but in no case shall it exceed 500 square feet.

D. Permitted uses. It shall include not more than one of the following uses, provided that such uses are clearly incidental and secondary to the use of the dwelling unit for residential purposes:

(1) Custom dressmaking.

(2) Artist, musician or tutor for not more than two students simultaneously.

- (3) Office of engineer, architect or lawyer.
- (4) Real estate, insurance or accounting.
- (5) Photography.
- (6) Telephone answering service.
- (7) Other uses consistent with the scope and intent of this section as determined and approved by the Board of Zoning Appeals.

E. Employees on site. No more than one employee or assistant in addition to the home occupant may be engaged on the premises in the home occupation at any given time. No other partner, principal or professional may be employed on site.

F. Alterations. No alteration of the principal residential building shall be made which changes the character and appearance of the dwelling.

G. Outdoor storage. There shall be no outdoor storage of equipment or materials used in the home occupation.

H. Not more than one commercial vehicle shall be permitted in connection with any home occupation and shall be stored in an enclosed garage.

I. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.

### **§ 375-107. Outdoor storage areas, including junkyards and automobile wrecking.**

Such uses shall not be located within 200 feet of the nearest R district, and the operation thereof shall be governed by the following provisions and any other conditions as may be required by the Board of Zoning Appeals to protect the public health, safety, comfort, convenience and general welfare with special regard to abutting properties and the occupants thereof:

A. Fencing and setbacks.

(1) All outdoor trash storage shall be in accordance with Chapter [313](#) of the City Code. In addition, all trash storage accessory to buildings with more than four dwelling units or having a commercial or industrial use shall:

- (a) Be enclosed by a solid fence, six feet in height.
- (b) Be located no less than 10 feet from the property line.

(2) All outdoor storage facilities shall be enclosed by a solid fence or wall six feet in height adequate to conceal such facilities and the contents thereof from adjacent property. Such walls and fences shall be distant not less than 10 feet from any property line.

B. Deposit of wastes. No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes or forces.

C. Other hazardous materials. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

D. Inflammable, explosive liquids and gases: see the New York State Uniform Fire Prevention and Building Code.

### **§ 375-108. Special residential uses in urban renewal areas.**

Whenever the Common Council enacts an urban renewal plan pursuant to the laws of the State of New York, all residential and mixed-use buildings within the area encompassed by the plan may contain dwelling units in excess of those otherwise authorized by the Schedule of Use, Area and Height Controls, *Editor's Note: The Schedule of Use, Area and Height Controls is included at the end of this chapter.* provided that the plan so authorizes, and provided that such excess residential use shall be found by the Commissioner to comply with the following requirements:

A. That the cost of the rehabilitation of the building in conformance with the Schedule of Use, Area and Height Controls *Editor's Note: The Schedule of Use, Area and Height Controls is included at the end of this chapter.* exceeds the index set forth in the urban renewal plan. The cost of rehabilitation shall be the total estimated cost of rehabilitation as certified by a licensed architect or licensed engineer.

B. That the total area of habitable space, as defined by the City of Albany Housing Code, *Editor's Note: See Ch. 231, Housing.* in the existing building contains a minimum of 1,800 square feet and that the habitable space of each dwelling unit in the rehabilitated building contains a minimum of 600 square feet.

C. That no additions be made to the existing building so as to increase the number of dwelling units in the building.

D. That the entire building shall be rehabilitated in conformance with the urban renewal plan, as determined by the Urban Renewal Agency.

E. Such other conditions as the plan may require.

### **§ 375-109. Garage sales in residential districts.**

In any R zone, not more than six garage or estate sales shall take place within one calendar year at any residence.



**§ 375-110. Service station locations.**

No service station shall be located within 200 feet of any church, school, library or hospital unless authorized by the Common Council.

**§ 375-111. Gasoline pump locations.**

No gasoline pump shall be located closer than 15 feet to any property line.

**§ 375-112. Mechanical automobile washing establishments.**

In addition to meeting the required minimum yard and lot coverage requirements for the zoning district, these establishments shall be subject to the following regulations:

- A. Such establishments shall not be closer than 200 feet to an R district.
- B. Such establishments shall be located on a public street having a pavement width of not less than 36 feet and shall provide ingress and egress so as to minimize traffic congestion.
- C. Such establishments, in addition to meeting the standard off-street parking and loading requirements, shall provide at least eight off-street automobile waiting spaces on the zone lot in the moving lane to the automobile washing building entrance so as to reduce the number of automobiles waiting in the public street.

**ARTICLE XV. Residential Cluster Development**

**§ 375-113. Purpose and scope.**

- A. The City of Albany Planning Board shall have the authority to permit or require residential cluster development and establish rules and regulations setting forth the conditions under which clustering may occur.
- B. The purpose of cluster development shall be to provide greater flexibility in the planning of residential subdivisions which will result in:
  - (1) The preservation of areas which are physically, aesthetically, historically and environmentally unique by virtue of their geology, topography, vegetative cover or previous use.
  - (2) A pattern of development which preserves trees, outstanding natural topography and geologic features and prevents soil erosion.
  - (3) The preservation or creation of open space, recreation areas and environmentally sensitive land areas.
  - (4) An environment that is in harmony with surrounding development.

(5) A choice in the types of environment and living units available to the public, so that development will be a permanent asset to the City.

(6) An efficient use of land resulting in smaller networks of utilities and streets.

(7) A more desirable environment than would be possible through the strict application of other sections of law.

**§ 375-114. Conditions of development.**

A. A minimum four-acre parcel size is required before clustering will be permitted.

B. The density of proposed development shall be appropriate for and beneficial to the City of Albany in terms of density, aesthetics, economics and/or other criteria deemed necessary and determined relevant by the Planning Board.

C. The density of proposed development shall not exceed the density permitted under the zoning classification where the development is to be located. In determining the allowable density for a given site, the applicant shall submit to the Planning Board a site plan illustrating the density of the property if developed as a conventional subdivision. This density shall serve as the maximum number of dwelling units which may be clustered.

D. The proposed use is permitted under the existing zoning classification where such development is to be located.

E. All open space, recreation or common areas shall be managed and maintained in accordance with a form of legal ownership to be approved by the Planning Board.

F. In a cluster development, single-family detached units, with reduced lot sizes, townhouses in clusters of up to five units or semidetached units will be permitted.

G. Lot size, width, front yard depth and side yard requirements, as otherwise established in other provisions herein, may be varied by the Planning Board as part of the cluster subdivision approval process.

**§ 375-115. Reference of applications to Planning Board.**

**[Amended 3-15-1999 by Ord. No. 62.121.98]**

The Commissioner shall refer any and all applications for clustering to the Planning Board prior to the issuance of any permits.

**ARTICLE XVI. Performance Standards**

**§ 375-116. Compliance required.**

All uses of lands or buildings in Albany shall comply with the performance standards as described in this article.

**§ 375-117. Evaluation.**

The Commissioner of Buildings may require independent expert evaluation to determine the compliance of a proposed use with the performance standards at the expense of the applicant before issuing a permit.

**§ 375-118. Determination of violation.**

The Commissioner of Buildings shall investigate any written or alleged violation of performance standards. If reasonable evidence of a violation exists, the Commissioner of Buildings may then revoke the zoning permit or the certificate of zoning compliance.

**§ 375-119. Certain nuisances prohibited.**

No use shall be established or operated in a manner so as to create hazards, vibration, glare, air, water, ground pollution or other nuisance elements in excess of the limits established under this article.

**§ 375-120. Determination of nuisance elements.**

The determination of the existence of any nuisance elements shall be made at:

- A. The interior of the property for fire, explosion and other safety hazards.
- B. The property lines of the use creating such elements for noise, vibration, glare, dust, electrical disturbance and safety hazards.
- C. Anywhere in the City for elements involving radioactivity, air, water and ground pollution.

**§ 375-121. Fire and explosion hazards; open burning.**

All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and shall be required to have installed on-site fire-suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited.

**§ 375-122. Electrical disturbance.**

No electrical disturbance which adversely affects the operation of any equipment on any other property shall be permitted.

**§ 375-123. Radioactivity.**

There shall be no possession of radioactive materials without issuance of a current license from one of the following: New York State Department of Health, New York State Department of Labor, New York State Department of Environmental Conservation or the Albany County Department of Health.

**§ 375-124. Noise.**

No use shall operate in violation of the City of Albany Noise Ordinance.

**§ 375-125. Vibration.**

No vibration shall be permitted which is detectable without an instrument at the property line and which may cause annoyance to a person of reasonable sensitivity.

**§ 375-126. Glare.**

No glare or sky-reflected glare, whether from floodlights or from high-temperature processes (such as combustion or welding), that may be visible at the property line and which causes annoyance to a person of reasonable sensitivity shall be permitted.

**§ 375-127. Smoke.**

No person shall operate a combustion installation so as to produce, emit or permit the escape of smoke, regardless of how produced or discharged, of a density darker than No. 1 of the Ringlemann Scale as determined by a standard smoke device, except:

A. For a period or periods aggregating four minutes in any thirty-minute period, smoke not denser than Ringlemann No. 2 may be emitted.

B. During the building of a fire, tube blowing or temporary operating difficulties in fuel-burning equipment operated for heat or power, smoke darker than No. 2 of the Ringlemann Scale as determined by a standard smoke device may be emitted for a period not exceeding three consecutive minutes or a period of periods aggregating three minutes in any thirty-minute period or five minutes in any sixty-minute period.

**§ 375-128. Odors.**

No odors may be emitted which are easily detectable and offensive at the property line and which cause annoyance to a person of reasonable sensitivity.

**§ 375-129. Other forms of air pollution.**

No emission of toxic gases or other forms of air pollution shall be permitted which can cause any damage to human or animal health, vegetation or other properties or which may cause any excessive soiling beyond the property line.

## **ARTICLE XVII. General Area, Yard, Height and Landscaping Regulations**

### **§ 375-130. Building heights.**

No building height shall exceed 85 feet without a variance granted by the Board of Zoning Appeals.

### **§ 375-131. Accessibility for emergency vehicles.**

No building or group of buildings in any district may be constructed so as to be inaccessible to emergency vehicles. Access to any such structure which does not abut a public way shall have a width of not less than 20 feet and vertical clearance of 14 feet.

### **§ 375-132. Front yard exception.**

When an unimproved lot is situated between two improved lots, each having a principal building within 25 feet of the side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two adjoining improved lots, but not less than 10 feet. Where an unimproved lot is in an area where no side yard is required, the front yard may be reduced to the average depth of the two adjoining improved lots.

### **§ 375-133. Projections into required yards.**

Certain architectural features may project into required yards as follows:

A. Cornices, canopies, eaves or other architectural features may project into side yards a distance not exceeding two inches per one foot of side yard width, but may not exceed a total of two and one-half (2 1/2) feet.

B. Fire escapes and exterior fire stairs may project into side and rear yards a distance not exceeding four feet six inches.

C. Bay windows, balconies, fireplaces, uncovered stairways, necessary landings, chimneys and handicap accessibility ramps may project a distance not exceeding three feet, provided that such features do not occupy in the aggregate more than one-third (1/3) of the length of the building wall on which they are located.

### **§ 375-134. Maximum coverage.**

The total ground area occupied by principal and accessory structures on each zone lot shall not be a greater percentage of the total lot area than permitted in the Schedule of Use, Area and Height Controls. *Editor's Note: The Schedule of Use, Area and Height Controls is included at the end of this chapter.*

### **§ 375-135. Number of buildings per lot restricted.**

There shall be not more than one principal dwelling structure on any residentially zoned lot with the exception of a garden apartment complex.

**§ 375-136. Accessory structures.**

Nondwelling accessory structures shall comply with front yard requirements for the principal structure to which they are accessory and shall be not closer to any side or rear property line than four feet. The size of the accessory structure shall be subject to lot coverage maximums for each zoning district. The maximum height of any accessory structure shall be 16 feet.

**§ 375-137. Unenclosed C-M and M-1 uses.**

Any C-M or M-1 uses which are not conducted wholly within a completely enclosed building shall be not less than 200 feet distant from any R district and shall be appropriately fenced and screened as determined by the Planning Board.

**§ 375-138. Screening of outdoor uses.**

Any outdoor use required to be screened shall provide a fence or wall six feet high or a visual screen consisting of evergreen, hedges or shrubs planted in a staggered double row spaced at periodic intervals appropriate to the species, or not more than six feet, located and maintained in good condition.

**§ 375-139. Stripping of topsoil.**

No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.

**§ 375-140. Business entrances on residential streets.**

Where an R district is bounded by a portion of a business or commercial district, any side street extending through the R district into the business or commercial district shall not be used for any business purpose, except as set forth below. The business in the business or commercial district shall face and open upon the street in the district. Show windows may face the side street. All business entrances must face on the business street. Entrances may be made from the residential street to the upper stories if used for residential purposes.

**§ 375-141. Minimum width of building.**

In any R-1LL, R-1A, R-1B, R-2A or R-2B District, the minimum width of each dwelling unit shall be no less than 20 feet. That "width" shall be defined as the narrowest exterior side of the dwelling unit.

**§ 375-142. Street frontage required.**

No lot shall be subdivided so as to leave any lot without required street frontage.

## **ARTICLE XVIII. Flood Management Regulations**

### **§ 375-143. Findings.**

The Common Council of the City of Albany, New York, finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Albany and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this article is adopted.

### **§ 375-144. Statement of purpose.**

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

### **§ 375-145. Objectives.**

The objectives of this article are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood-control projects.

- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

### **§ 375-146. Definitions.**

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application. These definitions are to be regarded as applicable to this article of this chapter only if in conflict with definitions contained in § [375-7](#) of this chapter.

#### **APPEAL**

A request for a review of the local administrator's interpretation of any provision of this article or a request for a variance.

#### **AREA OF SHALLOW FLOODING**

A designated AP or VO Zone of a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

#### **AREA OF SPECIAL FLOOD HAZARD**

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AP, A1-99, V, VO, VE or V1-30. It is also commonly referred to as the "base floodplain" or "one hundred-year floodplain."

#### **BASE FLOOD**

The flood having a one-percent chance of being equaled or exceeded in any given year.

#### **BASEMENT**

That portion of a building having its floor subgrade (below ground level) on all sides.

#### **BREAKAWAY WALL**

A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage in the elevated portion of the building or the supporting foundation system.

#### **BUILDING**

Any structure built for support, shelter or enclosure for occupancy or storage.

#### **CELLAR**



Has the same meaning as "basement."

**COASTAL HIGH-HAZARD AREA**

The area subject to high velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE, VO or V.

**DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

**ELEVATED BUILDING**

A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)**

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM)**

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

**FLOOD INSURANCE RATE MAP (FIRM)**

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOODPROOFING**

Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY**

Has the same meaning as "regulatory floodway."

**FLOOR**

The top surface of an enclosed area in a building (including the basement); for example, the top of a slab in concrete slab construction or the top of wood flooring in wood frame construction.

**FUNCTIONALLY DEPENDENT USE**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and

unloading of cargo or passengers, shipbuilding and manufacture, sales or service facilities.

**HIGHEST ADJACENT GRADE**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**LOWEST FLOOR**

The lowest level, including the basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement, is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

**MANUFACTURED HOME**

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**MEAN SEA LEVEL**

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME**

Has the same meaning as "manufactured home."

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)**

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after the effective date of this article.

**PRINCIPALLY ABOVE GROUND**

At least 51% of the actual cash value of the structure, excluding land value, is above ground.

**ONE-HUNDRED-YEAR FLOOD**

Has the same meaning as "base flood."

**REGULATORY FLOODWAY**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in [§ 375-158](#) of this article.

**SAND DUNES**

Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**START OF CONSTRUCTION**

The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings,

piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages and sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing of the manufactured home to its permanent site.

#### **STRUCTURE**

A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

#### **SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part for the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

A. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

B. Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

#### **VARIANCE**

A grant of relief from the requirements of this article which permits construction or use in a manner that would otherwise be prohibited by this article.

#### **§ 375-147. Lands to which this article applies.**

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Albany.

#### **§ 375-148. Basis for establishing areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the City of Albany, of Albany County, New York," dated April 15, 1980, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps, is hereby adopted and declared to be part of this article. The Flood Insurance Study and maps are on file at the office of the City Clerk of the City of Albany.

#### **§ 375-149. Interpretation; conflict with other laws.**

A. This article is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

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

**§ 375-150. (Reserved)**

**§ 375-151. Penalties for offenses.**

**[Amended 5-19-2008 by Ord. No. 25.42.08]**

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this article and any other applicable regulations. Any infraction of the provisions of this article by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$350 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City of Albany from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this article for which the developer and/or owner has not applied for and received an approved variance under § [375-171](#) will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

**§ 375-152. Warning and disclaimer of liability.**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Albany, an officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

**§ 375-153. Designation of local administrator.**

The Commissioner of Buildings is hereby appointed local administrator to administer and implement this article by granting or denying development permit applications in accordance with its provisions.

**§ 375-154. Establishment of development permit.**

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § [375-148](#), Basis for

establishing areas of special flood hazard. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the areas in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing.

**§ 375-155. Application stage.**

The following information is required where applicable:

- A. Elevation in relation to mean sea level of the proposed lowest floor (including the basement or cellar) of all structures.
- B. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- C. When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § [375-165](#).
- D. A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § [375-168B](#).
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**§ 375-156. Construction stage; certificate of elevation.**

Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

**§ 375-157. Duties and responsibilities of local administrator.**

The duties of the local administrator shall include, but not be limited to:

- A. Review all development permit applications to determine that the requirements of this article have been satisfied.
- B. Review all development permit applications to determine that necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

C. Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this article, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

(1) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this article.

(2) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

**[Amended 3-20-1995 by L.L. No. 3-1995]**

D. Review all development permits for compliance with the provisions of § [375-165](#).

**§ 375-158. Use of other base flood and floodway data.**

When base flood elevation has not been provided in accordance with § [375-148](#), Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources, including data developed pursuant to § [375-166](#), in order to administer § [375-168](#), Specific standards, and § [375-170](#), Floodways.

**§ 375-159. Information to be obtained and maintained.**

The local administrator shall:

A. Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including the basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.

B. For all new or substantially improved floodproofed structures:

(1) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

(2) Maintain the floodproofing certifications required in § [375-165](#).

C. Maintain for public inspection all records pertaining to the provisions of this article, including variances, when granted, and certificates of compliance.

**§ 375-160. Alteration of watercourses.**

A. Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of

such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York, 10278.

B. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

**§ 375-161. Interpretation of FIRM boundaries.**

A. The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual flood conditions.

B. Base flood elevation data established pursuant to § [375-168](#) and/or § [375-158](#), when available, shall be used to accurately delineate the areas of special flood hazard.

C. The local administrator shall use flood information from any other authoritative sources, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

**§ 375-162. Stop-work orders.**

A. All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § [375-151](#) of this article.

B. All floodplain development found noncompliant with the provisions of this article and/or the conditions of the approved permit shall be subject to the issuance of stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § [375-151](#) of this article.

**§ 375-163. Inspections.**

The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

**§ 375-164. Certificate of compliance.**

A. It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this article.

B. All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.

C. All certifications shall be based upon the inspections conducted subject to § [375-163](#) and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

### **§ 375-165. General standards.**

In all areas of special flood hazard, the following standards are required:

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

C. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

D. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

E. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flood. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

F. All new and replacement water supply sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.

G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.

H. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### **§ 375-166. Subdivision proposals.**

A. All subdivision proposals shall be consistent with the need to minimize flood damage.



B. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

D. Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.

#### **§ 375-167. Encroachments.**

A. All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in § [375-157](#) (permit review). This may require the submission of additional technical data to assist in the determination.

B. In all areas of special flood hazard in which base flood elevation data is available pursuant to § [375-157](#) or [375-166](#) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

C. In all areas of the special flood hazard where floodway data is provided or available pursuant to §§ [375-157](#) through [375-164](#), the requirements of § [375-170](#), Floodways, shall apply.

#### **§ 375-168. Specific standards.**

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § [375-148](#), Basis for establishing areas of special flood hazard, and § [375-158](#), Use of other base flood and floodway data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any residential structure shall:

(1) Have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation.

(2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be verified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.

(c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction.

(1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either:

(a) Have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation; or

(b) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water.

(2) All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(3) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.

(c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4) If the structure is to be floodproofed:

(a) A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(b) A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

C. The local administrator shall maintain on record a copy of all such certificates noted in this section.

**§ 375-169. Construction standards for areas of special flood hazard without base flood elevations.**

A. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including the basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.

B. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.

(3) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

**§ 375-170. Floodways.**

Located within areas of special flood hazard are areas designated as floodways. The floodway is an extremely hazardous area due to high velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ [375-147](#) and [375-148](#), all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**§ 375-171. Appeals.**

A. The Board of Zoning Appeals as established by § [375-11](#) of this chapter shall hear and decide appeals and requests for variances from the requirements of this article.

B. The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this article.

C. Those aggrieved by the decision of the Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

D. In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article and:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity to the facility of a waterfront location, where applicable.
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood wastes and the effects of wave action, if applicable, expected at the site.
- (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of § [375-171D](#) and the purposes of this article, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

**§ 375-172. Conditions for variances.**

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in [§ 375-171D](#) have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the contributing structures procedures set forth in the remainder of this section.

C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria of Subsections [A](#), [D](#), [E](#) and [F](#) of this section are met; and

(2) The structure of other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

F. Variances shall only be issued upon receiving written justification of:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

## **ARTICLE XIX. Off-Street Parking and Loading Requirements**

### **§ 375-173. General provisions.**

A. In all districts except the C-3 District, there shall be provided, at the time any new building or structure is erected, an existing building is expanded or an intensification of any use, off-street parking spaces in accordance with the requirements set forth below. In addition, every parcel of land used in whole and in part as a public or private parking area or loading area, including a commercial parking lot and automobile or trailer sales lot, shall be developed and maintained in accordance with this article.

B. The provisions of Table 3 *Editor's Note: See § 375-185.* of this article shall apply to new and existing uses of land with the following conditions:

(1) Preexisting parking uses. An existing use which does not meet the minimum standards set forth herein on the effective date of this chapter shall be deemed a preexisting use not subject to the provisions of this section.

(2) Intensification of use. When the intensity of an existing use is increased through the addition of dwelling units, gross floor area, additional employees, seating capacity or modification of use, parking facilities shall be provided as required herein for the increase in intensity.

**§ 375-174. Development and maintenance of parking and loading areas.**

Authorization of the Board shall be required for parking, storage or garaging for more than four vehicles. Every parcel of land used in whole and in part as a public or private parking area or loading area, including a commercial parking lot and automobile or trailer sales lot, shall be developed and maintained in accordance with this article.

**§ 375-175. Parking in required front yards or unimproved areas.**

Parking spaces or parking areas, with the exception of driveways, shall not be permitted within required front yards in any residential zoning district. The parking or storage of vehicles upon lawns or other unimproved areas shall not be permitted on any lot improved by a dwelling structure in a residential district.

**§ 375-176. Distance of off-street parking to lot line for more than four vehicles.**

No off-street parking area for more than four vehicles shall be closer than 10 feet to the lot line of any residential property, school, hospital or other health care or community facility existing on an adjacent lot.

**§ 375-177. Design guidelines for parking lots for more than four vehicles.**

Parking lots or areas for more than four vehicles shall be designed by the minimum guidelines:

**Table 1**  
**Aisle Width Dimensions**  
**[Amended 3-15-1999 by Ord. No. 62.121.98]**

Parking Angle (degrees)	Stall Width (feet)	Required Aisle Width
0	9	12 ft., 0 in.
30	9	11 ft., 0 in.
45	9	14 ft., 0 in.
60	9	19 ft., 0 in.
90	9	24 ft., 0 in.

NOTE: Standard stall length equals 18 feet zero inches.

**Table 2**  
**Parking Stall Dimensions**

Parking Angle (degrees)	Curb Length	Stall Depth
0	22 ft., 0 in.	10 ft., 0 in.
30	20 ft., 0 in.	18 ft., 8 in.
45	14 ft., 2 in.	21 ft., 4 in.
60	11 ft., 6 in.	22 ft., 5 in.
90	10 ft., 0 in.	20 ft., 0 in.

NOTE: Standard stall has a width of nine feet and a length of 18 feet.

**§ 375-178. Non-attendant-operated parking areas.**

- A. Each parking space must be clearly delineated by way of striping or bumper guards.
- B. Parking areas must be either a paved or a dust- and mud-free surface which shall be located outside of any public right-of-way.

**§ 375-179. Access.**

- A. Ingress and egress to all parking spaces shall be provided. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than 10 feet in width leading to the parking, storage, loading or unloading spaces.
- B. Access to off-street parking areas shall be limited to one or more locations. Unrestricted access along the length of the street or alley on which the parking area abuts shall not be permitted.
- C. A minimum of 25 feet is required between an access drive and the right-of-way line at a street intersection.

**§ 375-180. Parking lot design for more than four vehicles.**

Parking lots or areas for more than four vehicles shall be properly screened, landscaped and generally designed as not to present a nuisance to adjacent properties. The following design guidelines shall be considered:

A. Lighting. Fixed lighting shall be so arranged to prevent direct glare onto adjacent properties.

B. Car stops. Suitable devices may be required to protect fencing, landscaping and other screening devices from damage.

C. Drainage. Stormwater drainage improvements shall be installed as per the requirements of the City Engineer's office.

D. Snow storage. Parking facilities shall provide a snow storage area to ensure that fencing, landscaping and other screening devices are protected.

E. Dimensions.

(1) Turnaround access. Parking areas should be arranged where possible to permit cars to exit without backing onto any street or sidewalk.

(2) Backup. Except for attendant-operated lots, each parking space should be provided with a sufficient backup area.

(3) Access. Every parking lot containing 20 or more spaces shall be provided with a two-way driveway of at least 24 feet in width or two one-way driveways at least 15 feet in width.

F. Landscaping. A minimum of 7% of a proposed parking area shall be landscaped. At least one tree island of 80 square feet shall be provided for every 20 parking spaces, in addition to perimeter landscaping. Perimeter landscaping may consist of evergreen and deciduous trees and shall be adequate to properly screen the proposed lot from adjacent uses.

G. Screening. Off-street parking areas for more than four vehicles and off-street loading areas shall be effectively screened on each side which adjoins or faces premises situated in any R district, or institutional premises, by a fence or shall be screened with landscaping.

H. Minimum distances and setbacks. No off-street loading area or parking area or part thereof for more than four vehicles shall be closer than 10 feet to the lot line of any dwelling, school, hospital or other institution for human care located on any adjoining lot. If not in an R district but adjoining such district, the parking area shall not be located within 10 feet from the established street right-of-way line within 50 feet of any R district.

I. Surfaces. In all districts other than M-1, every off-street parking lot shall be constructed in such a manner so as to provide an all-weather, durable dustless surface and shall be graded and drained to dispose of all surface water accumulation without shedding such surface water



on adjoining property or right-of-way. The drainage material and system shall be approved by the Engineering Department. Individual stalls shall be clearly identified.

**§ 375-181. Number of parking spaces required.**

Off-street parking spaces required are set forth in Table 3. *Editor's Note: See § 375-185.* 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 similar shall apply. Off-street parking spaces are not required for uses in a C-3 District.

A. In any R district, no parking area (excluding driveways) shall be closer than 10 feet to any building wall containing windows.

B. No building shall be made inaccessible to emergency vehicles. Access to any such structure which does not abut a public way shall have a width of not less than 20 feet and vertical clearance of 14 feet.

**§ 375-182. Parking of commercial vehicles and trailers in residential districts.**

**[Amended 9-9-2004 by Ord. No. 21.52.04]**

No more than one commercial vehicle may be kept on any residential lot, and it shall be stored in a garage. Trailers may only be stored in a rear yard or garage.

**§ 375-183. Off-site facilities.**

All permitted and required accessory off-street parking spaces, open or enclosed, shall be located on the same zone lot as the use to which such spaces are accessory, except that such spaces may be provided elsewhere but shall be provided within a radius of no greater distance than 250 feet from that zone lot, and provided, further, that required spaces are provided off the site in accordance with the provisions set forth herein and that such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restrictions filed in an office of record, binding the owner and his heirs and/or assigns to maintain the required number of spaces available throughout the life of such use, and such spaces shall conform to all regulations of the district in which they are located.

**§ 375-184. Driveways as parking spaces.**

For residential purposes, a twenty-foot position of a driveway which does not service a larger parking area shall constitute two parking spaces. However, a driveway, regardless of its length, may not be counted for more than two parking spaces, including any garage which is served.

**§ 375-185. Off-street parking requirements.**

**Table 3**  
**Off-Street Parking Requirements**  
**[Amended 8-1-1994; 3-15-1999 by Ord. No. 62.121.98]**

These parking requirements shall apply to all new, altered or expanded uses according to § [375-173](#) of this chapter unless specifically exempted.

Use	Number of Spaces Required
<b>Residential</b>	
One-family residences	2
Two-family residences	3
Three-family residences	4
Garden apartments	1.75 per unit
Dedicated senior citizen housing	0.5 per unit
Community residences	2 plus 1 for each 4 residents
Apartment houses	1 per unit
Bed and breakfast	In addition to the residential requirement, 1 for each rented room
Rooming houses	0.25 per bedroom
Dormitories, fraternities and sororities	1 for each 2 occupants
<b>Retail</b>	
Food stores/supermarkets:	
C-1 District	1 per 500 square feet of floor area
All other districts	1 per 250 square feet of floor area
Auto repair	4 for each repair bay
Furniture, carpets and floor coverings	1 per 250 square feet of floor area
General retail and convenience stores:	
C-1 District	1 per 500 square feet of floor area
All other districts	1 per each 250 square feet of floor area
Shopping centers, including planned unit development	1 per 200 square feet of floor area
Beauty parlors, barbershops and tattoo parlors	1 per chair or works tation
Banks	1 per 250 square feet of floor area
Offices, other than medical and dental	1.0 per 250 square feet of floor area
Offices, medical and dental	1 per 200 square feet of floor area
Bars, taverns and cocktail lounges	13 per 1,000 square feet of floor area
Nightclubs and dance clubs	16 per 1,000 square feet of floor area

<b>Use</b>	<b>Number of Spaces Required</b>
Research	1 per 500 square feet of floor area
Hotels and motels	1.0 for each sleeping unit
Insurance and real estate	See "offices"
Mortuaries or funeral homes	5 per 1,000 square feet of floor area
Personal services and businesses not covered:	
C-1 Districts	1 per 500 square feet of floor area
All other districts	1.0 per 250 square feet of area
Home occupations	1, plus required residential spaces
Service and delivery vehicles	1.5 per delivery vehicle
<b>Restaurants</b>	
Sit down	1 per 50 square feet of dining room floor area
Take-out/carry-out	1 per 100 square feet of floor area
<b>Cultural and Recreational</b>	
Assembly halls, community centers and auditoria	1 per 100 square feet of floor area
Bowling alleys	4 per lane
Churches and houses of worship	1 per 100 square feet of floor area
Trade, dancing and martial arts schools	1 per 250 square feet of floor area
Libraries, museums and art galleries	1 per 500 square feet of floor area
Pool and billiard establishments	1 per 250 square feet of floor area
Skating rinks	1 per 200 square feet of floor area
Theaters and cinemas	1 per 3 seats
Tennis clubs/indoor or outdoor	4 per court
Health spas and fitness clubs	1 per each 250 square feet of floor area. Exception: private spas in office buildings limited to in-house staff
<b>Government, Safety, Health and Welfare</b>	
Hospitals	1 per 250 square feet of floor area
Nursing homes and health-related facilities	1 for each 4 beds
Schools:	
Nursery and day-care	1 for every 4 children
Elementary (grades K-8)	1 for each faculty member, plus 1 for each 3 staff members, plus 1 for each 30 students
Secondary (grades 9-12)	1 for each faculty member, plus 1 for each

<b>Use</b>	<b>Number of Spaces Required</b>
	3 staff members, plus 1 for each 10 students
Colleges:	
Dormitory	1 for each bedroom
Administrative offices	1 per 250 square feet of floor area
Classrooms	1 per 100 square feet of floor area
Auditoriums	1 for each 5 seats
<b>Manufacturing, Industrial and Wholesale</b>	
All uses:	
Office portion	1 per 250 square feet of floor area
Industrial/warehouse portion	1 per 1,000 square feet of floor area

**§ 375-186. Parking space in residential districts to serve abutting commercial use.**

When approved by the Common Council, parking lots may be constructed in any residential district to serve a commercial use, provided that the parking lot:

A. Abuts the commercial district where the use to be served is located, abuts an existing nonconforming commercial use, or abuts a property which is operating as a commercial use under a use variance.

**[Amended 3-5-2001 by Ord. No. 7.21.01]**

B. Has vehicular access only through the abutting commercial district or commercial use or by way of a street upon which the commercial district or use fronts.

**[Amended 3-5-2001 by Ord. No. 7.21.01]**

C. Is screened from adjacent property in the residential district by fencing, walls or landscaping so as to provide an effective barrier against objectionable sound and light.

D. Is improved in accordance with § [375-174](#) and the following sections.

**§ 375-187. Parking space in fully developed residential districts.**

The parking requirements of § [375-185](#) shall not apply to one- and two-family residences in residential districts where residents are permitted to build with no open space accessible from the street.

**§ 375-188. Off-street parking on through lots.**

In through lots, parking shall not be located in the front of the building. The front herein shall be considered the side of the building towards the wider street.

**§ 375-189. Vehicular access to parking on through lots.**

Vehicular access to parking on through lots shall be made from the wider of the two fronting streets. Drive-through traffic shall not be employed to access off-street parking for through lots.

**§ 375-190. Storage and off-street parking of boats and boat trailers.**

A boat trailer or a boat may only be stored in a rear yard.

**§ 375-191. Off-street loading requirements.**

Loading spaces shall be provided in sufficient location and size so that no loading and unloading operations infringe upon any sidewalk or street. A minimum of one loading space shall be provided for each commercial or business use exceeding 15,000 square feet of floor area, unless a legal instrument, approved as to form and manner of execution by the Corporation Counsel of the City of Albany, is executed by the owners of two or more uses requesting the joint use of off-street loading facilities and is filed with the Planning Director with evidences that the joint use will provide sufficient off-street loading facilities.

A. Location. No loading space shall be located within any required front yard. No loading space shall be located closer than eight feet from a lot line abutting any residentially zoned or developed property.

B. Screening. Sufficient screening shall be provided along all lot lines abutting residentially zoned or developed property.

C. Dimensions. Each loading space shall have the following minimum dimensions:

**Table 4**  
**Dimensions of Loading Spaces**

<b>Dimension</b>	<b>Size (feet)</b>
Width	12
Length	35 (55 for tractor-trailers)
Height	14

D. Where a loading space will be used primarily by tractor-trailers, the length of the space shall be increased to a minimum of 55 feet.

**§ 375-192. Off-street loading docks required.**

In any district, in connection with every building or building group or part thereof hereafter erected and having a gross floor area of 15,000 square feet or more, which is to be occupied by manufacturing or commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same zone lot with such building, off-street loading berths in accordance with the requirement of Table 5, following:

**Table 5  
Off-Street Loading Berth Requirements**

<b>Uses</b>	<b>Floor Area (square feet)</b>	<b>Number of Required Off-Street Loading Berths</b>
Schools	15,000 or more	1
Hospitals (in addition to space for ambulances)	From 15,000 to 300,000	1
	For each additional 300,000 or major fraction thereof	1 additional
Undertakers and funeral parlors	5,000	1
	For each additional 5,000 or major fraction thereof	1 additional
Hotels and offices	15,000 or more	1 additional
Retail, commercial wholesale and manufacturing	From 10,000 to 25,000	1
	From 25,000 to 40,000	2
	From 40,000 to 60,000	3
Storage and miscellaneous	From 60,000 to 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional