

Chapter 134 - ZONING

Footnotes:

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Cross reference— Any ordinance zoning or rezoning specific property in the town saved from repeal, § 1-8(15); zoning commission, § 2-326 et seq.; alcoholic beverage provisions supplemental to zoning ordinance, § 6-2; buildings and building regulations, ch. 18; businesses, ch. 22; window treatment required in commercial zoning district, § 22-57; consistency and concurrency management system, ch. 30; environment, ch. 42; floods, ch. 50; historical preservation, ch. 54; marine structures, ch. 62; natural resource protection, ch. 66; planning, ch. 86; streets, sidewalks and other public places, ch. 106; subdivisions, ch. 110.

ARTICLE I. - IN GENERAL

Sec. 134-1. - Purpose; objectives; division of town into districts to accomplish purposes.

- (a) The purpose of this chapter is to establish comprehensive controls for the development of land in the town based on the comprehensive plan for the town, and this chapter is enacted in order to protect, promote and improve the public health, safety, morals and the general welfare of the people.
- (b) The objectives of this chapter are to provide for the following:
 - (1) Efficiency and economy in the process of development;
 - (2) The appropriate and best use of land;
 - (3) Preservation, protection, development and conservation of the natural resources of land, water, and air;
 - (4) Convenience of traffic and circulation of people and goods;
 - (5) The use and occupancy of buildings;
 - (6) Healthful and convenient distribution of population;
 - (7) Adequate public utilities and facilities;
 - (8) Promotion of the civic amenities of beauty and visual interest;
 - (9) Promotion of planned unit developments as a means of achieving better land use and design; and
 - (10) Development in accord with the comprehensive plan.
- (c) To accomplish these purposes, the town council shall divide the entire town into districts of such number and shape as may be deemed best suited to carry out the purposes of this chapter, and within these districts may regulate, determine and establish:
 - (1) Height, number of stories, size, bulk, location, erection, construction, repair, reconstruction, alteration and use of buildings and other structures for trade, profession, residence and other purposes;
 - (2) Use of land and water for trade, profession, residence and other purposes;
 - (3) Size of yards, and other open spaces;
 - (4) Percentage of lot that may be occupied;
 - (5) Density of population;
 - (6) Conditions under which various classes of nonconformities may continue, including authority to set fair and reasonable amortization schedules for the elimination of nonconforming uses;
 - (7) Use and type and sizes of structures in those areas subject to seasonal or periodic flooding and/or storm damages so that danger to life and property in such areas will be minimized;

(8) Performance standards for use of property and location of structures thereon.

- (d) All the regulations stated in subsection (c) of this section shall be uniform throughout each district, but the regulations in one district may differ from those in other districts. For each district designated for the location of trades, callings, commercial enterprises, residences or buildings designed for specific use, regulations may specify those uses that shall be excluded or subjected to reasonable requirements of a special nature.

(Ord. No. 2-74, § 1.20, 3-26-74)

Sec. 134-2. - Definitions and rules of construction.

- (a) *Rules of construction.* For the purpose of this chapter, the regulations are structured so as to be strictly permissive. As such, only those uses and structures which are specifically permitted in the Code of Ordinances are allowed. If there is no specific language in the Code which addresses a use or a structure, then said use or structure is not permitted.

The term "used for" shall include the term "designed for", the term "structure" shall include the term "building", the term "lot" shall include the terms "plot" or "tract", and the term "shall" is mandatory and not permissive.

In the interpretation or application of any provision of this chapter, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulations shall be controlling.

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

Accessory use or building or structure means a subordinate use or structure customarily incident to the principal use or structure located on the lot or located on a contiguous lot when a unity of title has been provided.

Acre means, for the purpose of calculating dwelling units, an area or parcel of land containing 40,000 square feet.

Alley means a facility which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Attic means non-habitable, unfinished space within the roof system of a building or structure with less than seven feet of head room, access by only pull down, non-mechanical stairs and used only for storage, mechanical or machinery use.

Auto rental lot means a lot or parcel of land on which passenger automobiles for active rental purposes only are stored or parked.

Awning means an accessory structure either temporary or permanent which is supported by an open framework and is covered by cloth material.

Awning, sidewalk means an awning that projects over a public sidewalk or walkway.

Banks and financial institutions means establishments providing saving, lending, trust, and other financial services to the public. Banks and financial institutions shall include, but not necessarily be limited to, banks, brokers and brokerage firms, savings and loan associations, mortgage companies, loan offices, credit unions, and trust companies.

Bar/lounge means an establishment dispensing alcoholic beverages for on-site consumption.

Basement means floor area situated under a building, such floor area having exterior perimeter walls and having a floor level two or more feet below the level of the contiguous exterior ground outside of the building and having one-half or more of its floor-to ceiling height below the average level of all of the exterior ground of the lot comprising the subject building development site. For additional regulations and the exceptions to the regulations of basements see sections 134-1608, 134-1609 and 134-1611. See also *sub-basement*.

Beach house means a permanent structure which may contain a bathroom and other rooms, but not a kitchen or any sleeping rooms, and not used as a dwelling unit.

Building. See *Structure*.

Building angle of vision means a line drawn from the front yard property line as determined in section 134-1636(2) 50 degrees either side of a line drawn perpendicular or radial to the front yard property line.

Building, height of (applicable only in the R-B districts) means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The building height zero datum shall be a maximum of 18 inches above the crown of the public or private street or road at its highest street elevation or the minimum flood elevation as established in chapters 18 and 50 of this Code, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing building.

Building height of (applicable to all districts except the R-B districts) means the vertical distance from zero datum (excluding garage), which is the crown of the public or private street or road at its highest elevation abutting the lot or the minimum flood elevation as established in chapters 18 and 50 of the Code, whichever is higher, to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.

Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts) means the vertical distance from the point of measurement zero datum for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior wall meets the minimum flood elevation as defined in chapter 50 or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of first floor slab of the existing structure building.

Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero

datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;
- (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
- (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

Building height of corner lot. In those cases involving a corner lot as defined in this section, the zero datum of the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of the first floor slab of the existing building.

Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the lot, and if such street elevation is below the minimum flood elevation as established in chapter 50 of this Code. Zero datum for measuring building height shall be measured from the minimum flood elevation.

Building, height of, through lot. In those cases involving a through lot as defined in this section, zero datum as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one-half of the mean lot depth shall be from the crown of the public street at its highest elevation abutting the front of the lot zero datum for the portion of the building fronting on the rear street shall be from the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum

elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing building.

Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. Zero datum for buildings shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

Building height plane means a height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in section 134-1636(2) and the zero datum as defined in "height of building" and "overall height of building", or the minimum floodplain elevation as established in chapter 50 of this Code, whichever is higher.

Building line means the line, established by law, beyond which a building shall not extend, except as specifically provided by law.

Building, overall height of includes the height of a building, as defined in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; the definition of "building, height of, through lot"; and the definition of "building, height of, lot abutting low streets," plus the vertical distance from the building height to the highest point of the building's roof system.

Business services means establishments providing support services to other business concerns. Business services would include, but not necessarily be limited to, print shops, secretarial services, travel agents, drafting services, and advertising agencies, etc.

Cabana (pool house) means an accessory structure usually used in connection with outdoor bathing, providing enclosed space for showering or changing clothes, with recreational cooking and/or bar facilities, but no sleeping rooms.

Cannabis cultivation means a use of any property, in whole or in part, including inside buildings, for the growing or cultivation of Cannabis plant(s), whether or not such growing or cultivation is lawful under federal or state law.

Carport means an unenclosed accessory structure for the sheltering of an automobile(s).

Change in generic use means the change in the use of a parcel or structure thereon or portion thereof from one generic category of use to another, but not including a change of activity within a generic use category.

Club, private means buildings and/or facilities, not open to the general public, owned and operated by a corporation or association of persons for social or recreational purposes for members and their bona fide guests and which may render, as an accessory use, services that are customarily carried on as a business. Within residential zoning districts, a private club may provide living quarters for its bona fide employees only.

Commercial use means use of land or structures thereon or portions thereof, for the purpose of conducting business, including the provision of goods and/or services, not otherwise identified under the definition of other generic uses, to the general public or segments thereof. For the purposes of this definition, timesharing, motel and/or hotel uses and occupancy of residential properties for periods of less than three months more frequently than three times per calendar year shall be considered commercial uses.

Common open space means that area of a development site which is unencumbered by buildings, other structures, driveways for vehicular access, or automobile parking areas and storage. This area shall include all yard areas as well as those other open land areas located within the planned unit development site.

Cubic content ratio (CCR) means a measure of land use intensity, expressing the mathematical relationship between the cubic content of a building and the unit of land. It is arrived at by dividing the gross cubic content, as calculated by multiplying building height as stated in the definition of the term "building, height of (applicable only in the R-B district)" in this section times exterior building width times exterior building depth of all structures by the gross area of the lot.

Declaration of use means a town agreement signed under oath and recorded against the title of land in order to provide notice that the use of the land or structure is subject to certain limitations and/or conditions of approval, which unless otherwise determined by the town council, shall include provisions for remedies for violation of said limitations, conditions of approval and/or the Code of Ordinances and that the use will remain in compliance with the limitations in the Code of Ordinances and conditions of approval by the submittal of a certificate of compliance each year.

Dining room means any building or part thereof or any room or part thereof in which food is dispensed or served for profit or gratis to a restricted and limited clientele consisting of tenants and residents of the same premises and their bona fide guests, and private club members and their bona fide guests.

Dish antenna, television and communication means an accessory structure consisting of a satellite earth station designed to receive television or other broadcasts relayed by microwave signals from earth-orbiting communications satellites.

Distribution electric substation means an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

Dock means an unenclosed accessory structure built on piling over the water, which is designed or used to provide dockage for and access to one or more boats and which may have davits, vertical lifts, gates, water and electrical service, other similar public utility services and additional accessory uses customarily incident to a dock, such as but not limited to storage chests and low-intensity lighting approved by the town and installed in a manner as to not have an adverse effect upon adjacent properties.

Drive-in use means an establishment that, by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive goods or services in their motor vehicles.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, but not including trailers, campers, mobile homes, hotels, motels, motor lodges, boardinghouses and lodginghouses, tents, tourist courts or tourist homes.

Dwelling, multiple or multifamily, commonly known as an apartment house, means a building or portion thereof used or designed as a residence for three or more families living independently of each other, having individual living units with each unit having cooking facilities and containing a living room and/or one or more bedrooms.

Dwelling, single-family means a detached building designed and used exclusively for residential purposes by one family.

Dwelling, townhouse means an attached building, not over two stories in height, which is designed for or occupied exclusively by one individual or family and attached to two or more other buildings of similar design and in which each dwelling unit is separated from adjacent dwelling units by party walls extending vertically from the ground upward through the roof in a manner so that there shall be no interconnection of or overlapping between any part of individual dwelling unit walls, floors, roofs, basements or other portions of the building structure, and in which each dwelling unit shall have separate and individual sewer, water and public utilities connections. Townhouses may or may not be located on land belonging exclusively to the individual dwelling unit owner.

Dwelling, two-family means a detached building designed and used exclusively for residential purposes by two families living independently of each other.

Dwelling unit (D.U.) means a room or group of rooms designed, used exclusively or occupied as separate living quarters by a single family.

Employee means any person generally working on site for the establishment and includes sole proprietors, partners, limited partners, corporate officers and the like.

Essential services means public utility facilities related to water supply, telephone, cable television, gas and electrical distribution systems, town-owned town-operated services such as sanitary sewer, stormwater drainage and solid waste collection and disposal systems, and town-owned municipal buildings and structures, including any necessary appurtenant structures serving the town, but not including buildings housing employees.

Executive/employee/group vacation retreat means simultaneous use or occupancy of a dwelling unit by a group of individuals other than a family.

Executive office suites means a tenant space shared by separate office and professional services, each of which has a fixed desk. The executive office suite and each office and professional service business within said suite is licensed and has a fixed desk for each employee.

Family means an individual; or two or more persons related by legal adoption, blood, or a licit marriage; or a group of not more than three persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Floor area total means the sum of the gross horizontal area of all the floors of a building, except a basement or subbasement as defined, measured from the exterior faces of exterior walls and/or supporting columns.

Formula restaurant means a restaurant that is one of a chain or group of three or more restaurants in the nation, and which satisfies at least two of the following three descriptions:

- (1) It has the same or similar name, trade name, or trademark as others in the chain or group;
- (2) It has standardized and limited menus, ingredients, food and beverage preparation;
- (3) It offers any of the following characteristics in a style that is distinctive to and standardized among the chain or group:
 - a. Exterior design or architecture;
 - b. Interior design; or
 - c. Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.

Foster care facility means a facility, licensed or funded by the state department of children and family services, housing foster residents and providing a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents and serving either children or adult foster residents.

Frontage means all the property on one side of a street or place between two intersecting streets or places measured along the line of the street or place, or, if the street or place is dead-ended, all of the property abutting on one side between an intersecting street or place and the dead end of the street or place.

Garage, private means a building or space used as an accessory to or part of a main building permitted in any residence district and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

Garage, storage means any building or premises, other than a private garage, used exclusively for the parking or storage of motor vehicles.

Generic use is the broad description for the use of a parcel or structure or portion thereof. There are but three generic uses in the town: residential, commercial and public/private group use.

Gross leasable area (GLA) means the sum of the gross horizontal area of all floors on one building, which are leased, rented or owned areas within a building, measured from the interior faces of exterior walls and from the interior faces of common interior walls, exclusive of common areas. For the purposes of this definition, the gross leasable area of a given use shall include all floor areas being used, advertised or operated under a single commercial use name which are adjacent to one another; or all floor areas being used, advertised or operated under a single commercial use name which are within 1,500 feet of one another; or all floor areas being used or operated under different commercial use names, but for which interior access between/among them is provided.

Group home means a facility, licensed or funded by the state department of children and family services, providing a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

Habitable space means space in or on a structure used or intended to be used for occupancy, for living, sleeping, lounging, eating, cooking or recreation. Finished or unfinished floors above the maximum number of stories allowed containing an elevator, permanent or mechanically operated stairs and seven feet or more of head room shall be considered habitable space. Closets, hallways, storage rooms, attics, machinery rooms, mechanical equipment rooms, utility space and similar areas shall not be considered habitable space.

Historically or architecturally significant multifamily structure means a structure designated by the town council as an historic or architecturally significant structure and which is proposed for conversion to a multifamily structure under a PUD-4 application.

Hotel/motel means an establishment which provides, for pay, lodging and other services to transient and semipermanent residents. A hotel provides meals, convenience shops, entertainment, lounges and recreational facilities as well as maid, laundry, valet, telephone, desk, limousine and other personal services. A hotel may consist of one or more buildings and/or accessory buildings.

House of worship means a structure owned and/or utilized by a religious organization for worship, religious training or education. A house of worship, for the purposes of this chapter, may include, in addition to the principal structure, accessory structures and/or dwelling units for religious organization personnel located within an accessory structure which

is utilized primarily for religious training or educational purposes.

Institutions means public and public/private group use of a nonprofit nature typically engaged in public service, e.g., houses of worship, nonprofit cultural centers, charitable organizations.

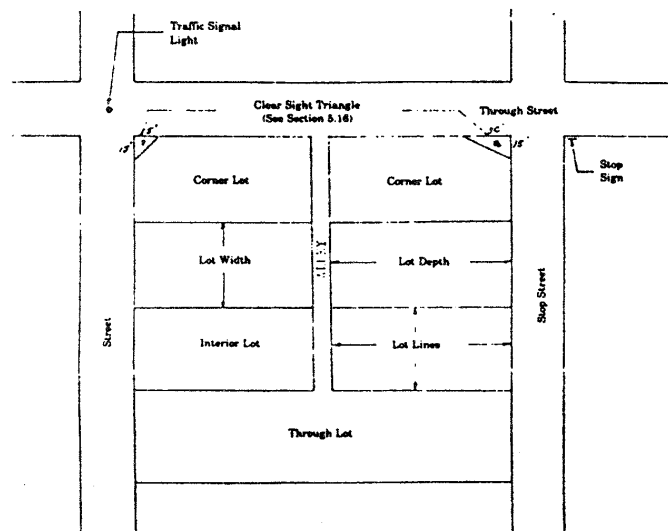
Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Landscaping, required means landscaping that shall consist of those plantings required by this chapter, including beautification strips, hedges, trees, planted ground cover, sodded and grassed areas and planted floral installations, all of which must be composed of natural plantings only as distinguished from artificial manufactured planting reproductions.

Logo means a graphic representation, letter, character, symbol, trademark, design or crest or combinations thereof used to identify a business or organization.

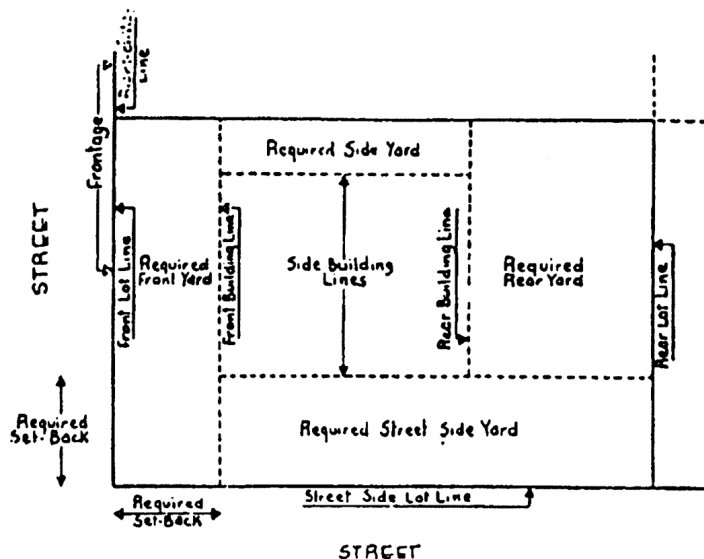
Lot means a parcel of land, vacant or occupied. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots of record or unplatted parcels of land or portions thereof not separated by a street or public way, upon which one or more principal structures for a single use are erected or are to be erected. When the lot is situated immediately adjacent to the ocean front, for the purpose of this chapter, the east lot line shall be the town's bulkhead line as provided in chapter 62 of this Code or the mean high water line, whichever is most westerly. When the lot is situated immediately adjacent to the waters of Lake Worth, the west lot line shall be the existing bulkhead wall or mean high water line, whichever is most easterly. The exception to this definition is that town-owned or town-leased property is exempt from this definition. The following is an illustration of this definition:

Lot Definitions—General



Lot, corner means a lot abutting upon two or more streets at their intersection which is illustrated as follows:

Yard Definitions—Corner Lot

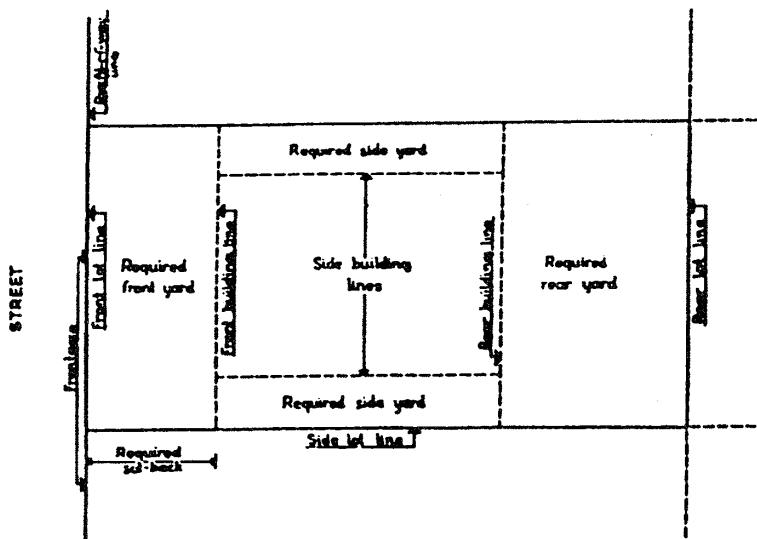


Lot coverage means that percentage of the lot area covered or occupied by the buildings or any part of the buildings, excluding therefrom any projections permitted to extend into yard areas elsewhere by this chapter.

Lot depth means the distance from the midpoint of the front lot line to the midpoint of the mean rear lot line.

Lot, interior means a lot other than a corner lot having frontage on one street, illustrated as follows:

Yard Definitions—Interior Lot

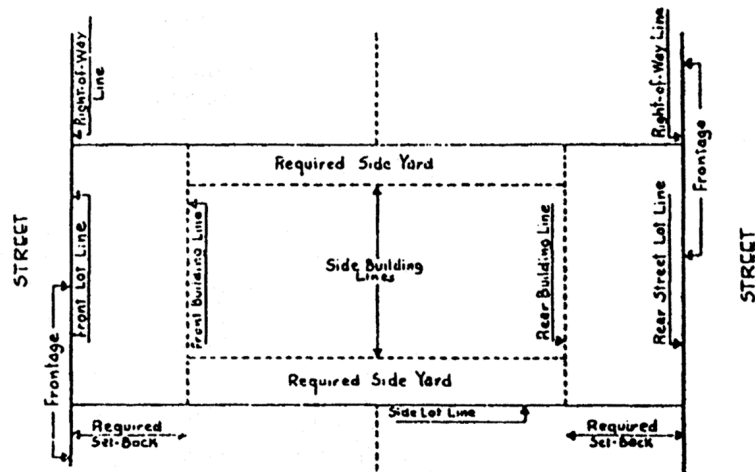


Lot lines means the lines bounding a lot as established by ownership.

Lot of record means a parcel of land as originally subdivided or subsequently resubdivided and properly recorded as a lot within a subdivision or plat.

Lot, street lot line means the front street lot line, side street lot line or rear street lot line of any lot, which shall be the right-of-way line of the abutting street. For public streets this shall consist of the dedicated right-of-way line of public streets plus any additional street widths as required by section 134-1636; for private streets, such right-of-way line shall consist of the platted or unplatted right-of-way line of such private streets plus any additional street width as required by section 134-1636. Note: Refer to section 134-1636 for street lot lines.

Lot, through means an interior lot having frontage on two streets, other than a corner lot, illustrated as follows:



Lot width means the distance measured along the front building line between the side lot lines of a lot.

Manufactured housing means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or panels, and which is built on a frame and designed to be used as a dwelling with a permanent foundation and connected to all required utilities and may include plumbing, heating, air conditioning, and electrical systems contained therein. If fabricated after June 15, 1976, each section shall bear a U.S. Department of Housing and Urban Development label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards.

Medical marijuana dispensary means a facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal, and state laws. Physicians authorized by state law to order low-THC cannabis, as defined in Florida Statutes, for qualified registered patients' medical use are not included in the definition of medical marijuana dispensary.

Medical marijuana treatment center means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualified registered patients or their personal caregivers and is registered by the state department of health and regulated under chapter 134 of the Town Code of Ordinances.

Municipally owned or operated refers to the town.

Museum means an institution for collecting, preparing, and exhibiting rare, interesting, or typical specimens of works of art, science, invention, manufacturers, etc., or of antiquities, curiosities; or objects of natural history; also, the collection of such articles or their repository.

Nightclub means an establishment dispensing alcoholic beverages for on-site consumption, whether or not food is served, and which is a place of entertainment that is usually open late at night, offering live music, dancing, drinks, and a floorshow:

- (1) By one or more performing artists;
- (2) By one or more live entertainers singing to prerecorded music or
- (3) A deejay playing recorded music;

provided, however, that a restaurant that provides only background dinner music, or entertainment, or where dancing is conducted to live or recorded music does not constitute a nightclub.

Nonconforming building or structure means a building or structure lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the building or structure is situated.

Nonconforming land means a parcel of land lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the land is situated.

Nonconforming use means a use lawfully in existence on the effective date of the ordinance from which this chapter is derived that does not conform to the regulations contained in this chapter for the zoning district in which the use is situated.

Nonprofit cultural center means an institution for promoting education and the refinement of taste, intellectual and/or aesthetic matters, not including museum uses, operated without profit.

Office and professional services means administrative offices and establishments providing professional services such as lawyers, doctors, insurance agents, real estate brokers, consultants, interior designers, architects, and engineers.

Office, veterinarian means an establishment which provides medical and surgical care for animals, and may provide overnight facilities.

Open space means that area of a lot which is unencumbered by buildings, other structures, driveways, or automobile parking areas, except for garden walls and fences as provided in this chapter.

Outdoor cafe seating is the placing or locating of furniture outdoors, including tables, chairs, and umbrellas, adjacent to a business licensed as a restaurant dining room, retail specialty food including the sale of prepared foods for takeout only, or private, social, swimming, golf, tennis or yacht club, with the purpose of providing outdoor seating.

Outdoor promotional events means events sponsored and managed by a property owner where the event is to be held in the C-TS, C-WA or C-PC Zoning District for the purpose of providing a public event or promoting business on said private property. Such event shall be limited in scope and size by special exception approval by the town council and the criteria as set forth in section 134-2115 of this Code.

Parapet wall means a low wall to protect the edge of a roof.

Parking lot, public or private means an open area or plot of land used for the storage or parking of motor vehicles to provide off-street parking, either for profit or gratis, for commercial or residential uses, other than single-family.

Parking, principle of equivalency, as it relates to a method of establishing an inventory of required off-street parking spaces for a conforming or nonconforming use of an existing building, or structure for the purpose of determining the net off-street parking requirement for the establishment of a proposed new use to be permitted in the existing building or structure, is based on the "schedule" in section 134-2176.

Parking, required means those parking facilities determined as the minimum facilities necessary to comply with this chapter as set forth in the schedule of off-street parking requirements.

Parking, supplemental means those parking facilities provided as a permitted or special exception and which are in addition to existing required parking as set forth in the schedule of off-street parking requirements. Supplemental off-site parking in an underground garage or surface, enclosed, partially enclosed, or a rooftop parking facility that is a permitted

use in the C-TS, C-WA and C-OPI zoning districts is not required to be parking that is in addition to what is required in the schedule of off-street parking requirements in the code. This definition will sunset on March 13, 2024 and revert back to the definition prior to the adoption of Ordinance Nos. 1-2021 and 20-2021 unless extended or modified by the town council.

Pergola means an open, accessory structure comprised of a structural framework over an outdoor area usually covered with climbing shrubs or vines.

Personal service establishments means establishments primarily engaged in the provision of services to individuals dealing with their personal or immediate effects. Personal services would include, but not necessarily be limited to, hairstyling or beauty services, tailor/dressmaker, travel agent, cleaning services, interior decorator services, dance studio or similar personal instruction services.

Public/private group use means use of land or structures thereon or portions thereof for public structures, governmental operations, education, essential services, recreation and cultural amenities generally beneficial to the public health, safety and general welfare of the town's residents.

Public structures means municipally owned and/or operated structures used for public purposes such as, but not limited to, administrative offices, recreational buildings, police and/or fire stations and other public safety facilities.

Quasi-commercial means any activity that would seemingly or to some degree be normally considered commercial in nature.

Rear height plane means a height limit of a building in the R-B district as measured by the maximum overall height permitted on the abutting lot to the rear. When a lot abuts more than one lot to the rear, an average maximum overall height will be used to establish the rear height plane.

Residential use means use of land or structures thereon or portions thereof for residential occupancy of a permanent or semipermanent nature with an intended occupancy period, by any one individual or family, with or without bona fide nonpaying guests, of not less than three months; except that residential uses may be occupied by any one individual or family for periods of less than three months not more frequently than three times per calendar year; and except that this definition does not include occupancy of a transient nature such as in hotel, motel or timesharing uses.

Restaurant means every building or part thereof and all accessory buildings used in connection therewith or any place or location kept, used or maintained as, advertised as or held out to the public to be a place where meals and foodstuffs are prepared and served.

Retail establishments means establishments selling commodities or goods to ultimate consumers.

School, academic means a structure or portions thereof designed or used for instructing one or more persons, either children or adults, in either general or specialized education, and including accessory uses such as administrative offices, physical education facilities and group housing facilities for students or staff; provided, however, that instruction received by children or adults in their place of residence shall not constitute a school.

School, professional or studio-type means a structure or portion thereof designed and used for the business of instructing one or more persons, either children or adults, in a specialized subject such as voice, language, dancing or modeling.

Service station means a building or lot where gasoline, oil, greases, batteries and tires are supplied and dispensed to the motor vehicle trade and where repair services other than body work and painting are rendered and where motor vehicles are washed and/or polished manually but not by machinery.

Shade tree means a tree having a height of not less than 12 feet and a spread of not less than ten feet at the time of planting.

Sign means signs and/or lettering, pictures, illustrations or trademarks, logograms, posters or characters, visible from a public or private roadway and/or sidewalk, which shall be classified as signs regardless of whether they are freestanding or attached or painted to or on a building, structure, display board, screen surface or wall or are projected thereon by artificial lighting.

Sign, artisan means a temporary sign of mechanics, painters or other artisans or artisan concerns erected and maintained only during the period such persons or concerns are actively performing work on the premises on which such signs are erected or placed.

Sign, awning. See Sign, banner.

Sign, banner means a sign possessing characters, letters, illustrations, ornamentations, or that is designed so as to attract attention by a scenic effect, including pennants, balloons, and flags with or without lettering or characters, including streamers and wind-driven whirligigs, propellers or other devices, and applied to cloth, paper, fabric or like kind of material, either with or without frame, and which sign is not of permanent construction.

Sign, building identification means a sign designed and intended readily to indicate the location of a certain and specific multifamily or commercial building.

Sign, business directory means a wall mounted sign which identifies only the names of the businesses located in a via or building in a via. Said directory sign at the entrance to a via or building in a via may include the name of the via and the via address.

Sign, development means a temporary sign advertising the sale, rental or development of the premises as a whole upon which it is placed or erected.

Sign, illuminated means a sign which is lighted by electrical lighting installed thereon or therein or lighted by remotely located lights or that is produced and/or displayed by means of artificial projected light or lighted by reflected light.

Sign, individual business means a flat wall-mounted identification sign permitted for each individually town-licensed business with street or parking lot frontage and having direct ground level walk-in access from a public or private roadway, sidewalk, or parking lot in a commercially zoned district. *Sign, institutional* means a sign for building identification of schools, colleges, museums, libraries, houses of worship, or other institutions of a similar public or semipublic nature.

Sign, menu means a restaurant or take-out food establishment wall or pedestal mounted sign which identifies the menu and prices within said establishment.

Sign, official traffic means a sign placed or erected by a municipal, county, state, or federal governmental agency as a regulatory, aid-to-traffic or informational sign, in connection with control of vehicular or pedestrian traffic over a bridge, roadway, pathway or sidewalk.

Sign, property identification yard means a detached and freestanding identification sign for a Commercial zoned property supported on a monument, pillar or similar supporting structure.

Sign, sale or rental means a temporary sign advertising the sale or rental of the premises upon which it is placed or erected by the owner or broker or any other person interested in the sale or rental of the premises.

Sign, tow-way means a sign which provides notice as required by Florida Statute for any property owner, lessee, or person authorized by a property owner or lessee to tow or remove any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel.

Sign, yard means a detached and freestanding identification sign supported on a pole or similar supporting structure.

Special exception. Special exception uses are allowable as conditional uses authorized in a zone only under the specific conditions specified in sections 134-227 through 134-233 and article III of this chapter and pursuant to the procedures in divisions 3 and 4 of article II of this chapter, but which use cannot be located in a zone as a matter of right and which may be revoked if any of the required conditions to approval and operation are violated.

Special exception structure means a structure approved as a special exception subject to sections 134-227 through 134-233, 134-897, 134-952, 134-1008, 134-1063, 134-1115, 134-1165 and 134-1214.

Statue or sculpture means an object which is fashioned, shaped and formed by hand or machine into a work of art, including but not limited to contemporary, modern, classical and/or abstract design, and that may or may not be a likeness of a person or thing.

Story means that portion of a building, other than an attic, included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, the space between such floor and the ceiling next above it. Habitable space, open patios, accessible roof decks not used exclusively for mechanical equipment, observation decks and/or similar areas located above the first or second story shall be considered a story for the purpose of this definition.

Street means a facility, either public or private, that affords the primary access to abutting property and that is intended for general traffic circulation. A street includes the entire area between street lines (right-of-way lines), including provisions for culs-de-sac.

Street line means the line between the street and abutting property. Also referred to as right-of-way line.

Structural alteration means any change, except the repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions affecting more than 50 percent of the floor area of the building.

Structure means anything constructed, placed or erected on land, submerged land or over water, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having permanent or temporary location on or over the land, submerged land, or water.

Structure, principal means a main and foremost building or structure located on a lot and in which is conducted the main and foremost use of the lot on which the building or structure is situated.

Structure, public means anything constructed, placed or erected on land, submerged land or over water by a Federal, State, County, City of West Palm Beach and City of Lake Worth governmental entities, the use of which requires permanent or temporary location on the land, submerged land or over water, or attachment to something having a permanent or temporary location on or over the land, submerged land, or water.

Sub-basement means a facility that is located underground and does not exceed in height the lowest point of the public sidewalk abutting the property or, alternately, the lowest point of the public street if there is no public sidewalk and no portion which is located beyond the confines of the outer walls of the main building located above ground level. For additional regulations and the exceptions to the regulations of sub-basements see sections 134-1610, 134-1611 and 134-2179.

Timesharing use means the use of any unit under which the exclusive right of use or occupancy of the unit for a period of less than three months circulates among various occupants in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by such schedule. Such a use is permitted in the town only by special exception in the C-OPI, C-PC, C-B and R-D(2) zoning districts.

Townpersons means all full-time and seasonal residents as well as visitors staying at accommodations and employees working in establishments located within the town.

Town-serving means establishments principally oriented to serving the needs of townpersons which would not substantially rely upon the patronage of persons not defined as townpersons. Town-serving establishments, by definition, would typically contain 4,000 or less square feet of interior gross leasable area (GLA) in the C-WA district, 3,000 or less square feet of interior GLA in the C-TS and C-B districts and 2,000 or less square feet interior GLA in the C-PC district. Establishment would also not engage in advertising designed to attract other than townpersons.

Trellis means an ornamental accessory structure of lattice work over which vines are trained, usually made of narrow strips of wood which cross each other at regular intervals.

Use, principal means a main and foremost use of improved or unimproved property, such use established on the property and which may be within or without any building on the property.

Vacant land means any lot or parcel of land which is completely open, has no use associated with it or upon it and is not utilized as the required yard area for any adjoining uses.

Variance means a modification from the literal interpretation of this chapter, other than those sections relating to use requirements, subject to the procedures of divisions 3 and 4 of article II of this chapter.

Yard means an open space on the same lot with a building, such space unoccupied by structures and unobstructed from the ground upward except by trees or shrubbery or as otherwise provided in this chapter. The term "yard" may also apply to that area of the lot required to remain in open space by percentage of lot coverage regulations contained in this chapter in addition to the required front, required side or required rear yard open spaces.

Yard, front means a yard across the full width of the lot, extended from the front building line, including open porches, to the front street line of the lot.

Yard, rear means a yard extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building. For corner lots, the rear yard shall be the yard opposite the front street line of the lot. For through lots, the rear yard fronting on the street opposite the front street line of the lot shall be the rear street yard. (Note: Refer to [section 134-1636](#) for street lot lines.)

Yard, side means an open unoccupied space on the same lot with a building between the building line and the sideline of the lot extending through from the front building line to the rear yard or to the rear line of the lot, where no rear yard is required.

Zero datum means the point of measuring all zoning code calculations related to building height, building overall height, building height plane and cubic content ratio.

Zoning in progress means a period of time during the zoning procedures which begins with active and documented efforts by those authorized to do the zoning work which, in the normal course of municipal action, may culminate in the requisite zoning change.

(Ord. No. 2-74, § 2.10, 3-26-74; Ord. No. 3-77, § 1, 3-29-77; Ord. No. 5-78, § 1, 3-31-78; Ord. No. 7-79, §§ 1, 4, 3-30-79; Ord. No. 4-80, § 1, 3-31-80; Ord. No. 6-81, § 1(a), 3-31-81; Ord. No. 7-82, § 1(a), (b), 3-31-82; Ord. No. 2-83, § 1(a), (b), 2-23-83; Ord. No. 1-84, § 1(a), (b), (d)—(i), 3-1-84; Ord. No. 2-84, § 1(c), 3-1-84; Ord. No. 1-85, § 1(a)—(i), 2-11-85; Ord. No. 1-86, § 1(a), (c)—(e), 2-10-86; Ord. No. 1-87, § 1(a)—(d), 2-9-87; Ord. No. 1-89, § 1(a)—(i), 2-6-89; Ord. No. 1-90, § 1(a), (b), 2-5-90; Ord. No. 1-91, § 1(a), (b), 4-23-91; Ord. No. 1-92, § 1(a), 2-3-92; Ord. No. 1-93, § 1(a)—(c), 2-8-93; Ord. No. 9-93, § 1(a)—(h), 6-8-93; Ord. No. 1-94, § 1(a), 2-7-94; Ord. No. 1-96, §§ 2, 18, 19, 2-5-96; Ord. No. 1-98, § 1, 2-9-98; Ord. No. 1-99, §§ 1, 2, 4-5-99; Ord. No. 1-01, §§ 3, 5, 2-19-01; Ord. No. 1-02, §§ 3, 4, 3-12-02; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 1-03, § 1, 3-11-03; Ord. No. 1-04, §§ 7, 21, 3-9-04; Ord. No. 1-06, § 1, 3-14-06; Ord. No. 1-07, § 1, 4-10-07; Ord. No. 4-08, §§ 1, 4, 7, 4-7-08; Ord. No. 11-08, §§ 1, 2, 5-12-08; Ord. No. 5-09, § 29, 4-15-09; Ord. No. 26-10, § 1, 12-15-10; Ord. No. 14-2011, § 1, 6-15-11; Ord. No. 2-2011, § 1, 7-13-11; Ord. No. 3-2012, § 1, 4-11-12; Ord. No. 10-2012, § 1, 9-11-12; Ord. No. 7-2014, § 1, 5-14-14; Ord. No. 25-2015, § 1, 11-12-15; Ord. No. 31-2015, § 1, 2-10-16; Ord. No. 24-2016, § 1, 1-11-17; Ord. No. 15-2017, § 1, 7-12-2017; Ord. No. 04-2018, § 1, 4-11-18; Ord. No. 30-2017, § 1, 1-10-18; Ord. No. 11-2018, § 1, 7-11-18; Ord. No. 02-2019, § 1, 3-19-19; Ord. No. 01-2021, § 1, 2-10-21; Ord. No. 16-2021, § 1, 8-11-21; Ord. No. 19-2021, § 1, 9-13-21; Ord. No. 20-2021, § 1, 9-13-21)

Editor's note— Ord. No. 25-2015 § 8, adopted November 12, 2015 provided that the amendment to section 134-2 contained in § 1 of said ordinance shall sunset on December 13, 2017, whereupon section 134-2 as it existed prior to adoption of said ordinance shall remain in full force and effect.

Cross reference— Definitions generally, § 1-2.

Sec. 134-3. - Interpretation.

- (a) *Minimum requirements.* In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the protection, promotion, and improvement of the public health, safety, morals and general welfare of the community. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, where this chapter imposes a greater restriction upon the use of buildings, premises, or upon the height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this chapter shall control. If, because of error or omission in the zoning map, any property in the town is not shown as being in a zoning district, the classification of such property shall be deemed to be R-A unless changed by amendment to this chapter.
- (b) *Effect of old ordinance.* This chapter is adopted for the purpose of revising, amending and bringing to date the zoning laws and ordinances of the town in existence since the enactment of Zoning Ordinance Number One of March 1929, and subsequent amendments, and it is expressly declared and determined that it is the intention of the mayor and town council that this chapter shall supersede only such parts of the existing zoning laws and ordinances of the town as are in direct conflict with and not reconcilable to the provisions of this chapter. It is expressly declared and determined that if for any reason this chapter is found by any court of competent jurisdiction to be invalid or unenforceable, the provisions of the zoning ordinances of the town in force and effect as of the effective date of the ordinance from which this chapter is derived shall continue to be in full force and effect, it being the intention of the town council that there shall exist no period of time in which the town shall not be comprehensively zoned.

(Ord. No. 2-74, § 12.10, 3-26-74)

Sec. 134-4. - Classification of districts into less restrictive classifications on finding of unconstitutionality; severability.

- (a) If any court of competent jurisdiction holds that any provision of this chapter, or the zoning map which is made a part of this chapter, is unconstitutional or unenforceable as to any particular parcel of land or building within the town, because the use allowed for such parcel of land or building under this chapter amounts to taking property without the due process of law or for any other reason, such piece or parcel of land or building is declared to be and is classified under the town's zoning laws in the next less restrictive classification. For example, if any property is classed as R-A and any court holds such classification to be arbitrary and unreasonable, it shall thereupon fall into classification R-B. For the purpose of this section, the zoning district classifications in the descending order of their restrictions shall be considered as follows: R-AA, R-A, R-B, R-C, R-D(1), R-D(2), C-B, C-TS, C-WA, C-OPI and C-PC. If any property classified as PUD-B is held by any court of competent jurisdiction to be arbitrary and unreasonable, it shall thereupon fall into classification R-C. If any property classified as PUD-C is held by any court of competent jurisdiction to be arbitrary and unreasonable, it shall thereupon fall into classification R-B.
- (b) If any article, section, clause or provision of this chapter shall be declared by a court to be invalid, the article, section, clause or provision shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be invalid.

(Ord. No. 2-74, § 12.20, 3-26-74; Ord. No. 5-78, § 22, 3-31-78; Ord. No. 7-78, § 5, 5-9-78; Ord. No. 4-80, § 4, 3-31-80)

Sec. 134-5. - Effective date.

The effective date of the ordinance from which this chapter was derived is March 26, 1974.

(Ord. No. 2-74, § 15.10, 3-26-74)

Sec. 134-6. - Violations.

- (a) *Complaints of violations.* Any person may file a complaint if there is any reason to believe a violation of this chapter exists. All such complaints must be in writing and shall be filed with the building official, who shall properly record such complaint and immediately investigate.
- (b) *Procedures for abatement of violations.* If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure or land is used in violation of this chapter or of any ordinance or regulation made under authority conferred by this chapter, the town council or, with their approval, the building official or other proper official, in addition to other remedies, may institute any appropriate legal action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use about such premises.

(Ord. No. 2-74, § 13.10, 3-26-74)

Sec. 134-7. - Violations and penalties.

- (a) Violations of this chapter or failure to comply with any of the requirements of this chapter, including violations of conditions and safeguards established in connection with grants of variances, special exceptions or site plan reviews, shall constitute a zoning violation, and the violator shall be prosecuted under the provisions of article V

of chapter 2 by the town code enforcement board. Each day such violation continues shall be considered a separate offense.

- (b) The owner or tenant of any building, structure, premises, or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section.
- (c) It shall be a violation of this chapter for any person to destroy, move, remove, or deface or obscure any sign or notice erected or posted by town officials pursuant to the requirements of this chapter.
- (d) Nothing contained in this section shall prevent the town from taking other lawful action necessary to prevent or remedy any violation of or failure to comply with the regulations contained in this chapter, including but not limited to the issuance of a citation pursuant to section 1-14 and/or the commencement of a civil action in a court of appropriate jurisdiction.

(Ord. No. 2-74, § 13.20, 3-26-74; Ord. No. 1-84, § 10, 3-1-84; Ord. No. 1-91, § 7(a), (b), 4-23-91; Ord. No. 26-10, § 10, 12-15-10)

Secs. 134-8—134-35. - Reserved.

ARTICLE II. - ADMINISTRATION

Footnotes:

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Cross reference— *Administration, ch. 2.*

DIVISION 1. - GENERALLY

Sec. 134-36. - Powers of director of planning, zoning and building; town council and town council order for issuance of building permits for variances and special exceptions.

- (a) The director of planning, zoning and building is given the duty, power and authorization to enforce this chapter. He or she shall oversee the examination of all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with requirements of this chapter. The building official shall record and file all applications for permits with accompanying plans and documents and shall make such reports to the planning and zoning commission and/or town council as may be required.
- (b) The town council shall have the power to waive zoning provisions in this chapter regulating the use of public rights-of-way to allow town sponsored events provided that the waiver is consistent with the town's comprehensive plan, and further, that there is a favorable vote to grant the waiver by four members of the town council at a regularly scheduled town council meeting.
- (c) Building permits for a variance from the requirements of this chapter and for such special exception uses as may be enumerated in this chapter shall be issued only upon written order of the town council.

(Ord. No. 2-74, § 9.10, 3-26-74; Ord. No. 1-04, § 40, 3-9-04; Ord. No. 23-10, § 1, 9-15-10; Ord. No. 26-10, § 2, 12-15-10)

Editor's note— Ord. No. 26-10, § 2, adopted December 15, 2010, changed the title of section 134-36 from "Powers of planning, zoning and building director and town council and town council order for issuance of building permits for variances and special exceptions" to "Powers of director of planning, zoning and building; town council and town council

order for issuance of building permits for variances and special exceptions." The historical notation has been preserved for reference purposes.

Sec. 134-37. - Liability of officers and employees.

Any officer or employee charged with the enforcement of this chapter, acting for the town in the discharge of his duties, shall not thereby render himself liable personally, and he is relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any section of this chapter shall be defended by the town until final termination of the proceedings.

(Ord. No. 2-74, § 9.50, 3-26-74)

Sec. 134-38. - Filing fees for rezoning, special exception use, variance, appeal or other matter requiring public hearing.

Upon filing an application requesting a rezoning, special exception use approval, a request for a zoning variance, an appeal, or any other application related to this chapter, the applicant shall deposit with the office of planning, zoning and building the application fee as identified in the Town of Palm Beach Master Fee Schedule as adopted by resolution.

The fees identified in the Master Fee Schedule do not include additional fees owed by the applicant for all costs associated with the use of a consultant or legal representation for analysis, study and report of any application determined by the director of planning, zoning and building or designee to require such review.

(Ord. No. 2-74, § 9.40, 3-26-74; Ord. No. 3-77, § 15, 3-29-77; Ord. No. 7-82, § 7(a), 3-31-82; Ord. No. 1-84, § 7, 3-1-84; Ord. No. 1-86, § 5(b), (c), 2-10-86; Ord. No. 1-88, § 5, 2-8-88; Ord. No. 1-94, § 5(a), 2-7-94; Ord. No. 1-97, § 11, 2-17-97; Ord. No. 1-03, § 13, 3-11-03; Ord. No. 4-08, § 3, 4-7-08; Ord. No. 5-09, § 33, 4-15-09; Ord. No. 3-2012, § 2, 4-11-12; Ord. No. 25-2015, § 2, 11-12-15; Ord. No. 04-2018, § 2, 4-11-18; Ord. No. 13-2018, § 1, 8-15-18)

Editor's note— Ord. No. 25-2015 § 8, adopted November 12, 2015 provided that the amendment to section 134-38 contained in § 2 of said ordinance shall sunset on December 13, 2017, whereupon section 134-38 as it existed prior to adoption of said ordinance shall remain in full force and effect.

Secs. 134-39—134-65. - Reserved.

DIVISION 2. - PERMITS AND CERTIFICATE OF OCCUPANCY

Subdivision I. - In General

Sec. 134-66. - Town council, landmark commission and architectural commission application supplementary requirements.

All town council zoning applications, and landmark commission and architectural commission applications shall include a signed and sealed survey with all pertinent information including the location of historic/specimen trees. In addition to the survey, a detailed written explanation of how said trees shall be protected by barricading shall accompany said survey.

(Ord. No. 1-99, § 3, 4-5-99)

Secs. 134-67—134-85. - Reserved.

Subdivision II. - Building Permit

Sec. 134-86. - Required.

To ensure compliance with this chapter, no person shall erect, alter or convert any structure or building or part thereof or alter the use of any land until a building permit has been issued by the building official.

(Ord. No. 2-74, § 9.21, 3-26-74)

Sec. 134-87. - Application.

All building permit applications shall be accompanied by two sets of plans, drawn to the requirements contained in the building code of the town. In addition, all building permit applications shall include a signed and sealed survey with all pertinent information including the location of historic/specimen trees. In addition to the survey, a detailed written explanation of how said trees shall be protected by barricading shall accompany said survey.

(Ord. No. 2-74, § 9.22, 3-26-74; Ord. No. 1-99, § 4, 4-5-99)

Sec. 134-88. - Criteria for issuance; display; continuing operation after revocation.

- (a) It shall be the duty of the building official to issue a building permit, provided he is satisfied that the structure, building, signs, parking areas, and the proposed use conform with all requirements of this chapter and that all other reviews and actions, if any, called for in this chapter have been complied with and all necessary approvals secured therefor.
- (b) Every building permit, after issuance, shall be kept conspicuously on the premises affected and shall be protected from the weather whenever construction work is being performed on the premises. No owner, contractor, workman or other person shall perform any building operation of any kind unless a building permit covering such operation has been displayed as required by this chapter.
- (c) No owner, contractor, workman or other person shall perform building operations of any kind after notification of the revocation of the building permit.

(Ord. No. 2-74, § 9.23, 3-26-74)

Sec. 134-89. - Denial.

- (a) When the building official is not satisfied that the applicant's proposed development will meet the requirements of this chapter, he shall refuse to issue a building permit, and the applicant may appeal to the town council for a reversal of the official's decision.
- (b) When zoning is in progress, no building permit shall be issued by the building official that is in contravention of proposed amendments to this chapter.

(Ord. No. 2-74, § 9.24, 3-26-74)

Sec. 134-90. - Revocation authority; bond for reissuance after revocation.

- (a) If it shall appear, at any time, to the building official that the application for a building permit or any accompanying information in any respect false or misleading or that work is being done upon the premises differing materially from that called for in the application for a building permit filed with him under existing laws or ordinances, he may forthwith revoke the permit, whereupon it shall be the duty of the person holding the building permit to surrender it and all copies thereof to the building official.
- (b) After the building permit has been revoked, the building official may, in his discretion, before issuing the new building permit, require the applicant to file an indemnity bond in favor of the town with sufficient surety conditioned for compliance with this chapter and all laws and ordinances in force and in a sum sufficient to cover the cost of removing the building or structure if it does not so comply.

(Ord. No. 2-74, § 9.25, 3-26-74)

Secs. 134-91—134-110. - Reserved.

Subdivision III. - Certificate of Occupancy

Sec. 134-111. - Required; criteria for issuance; temporary certificate.

- (a) It shall be unlawful to use or permit the use of any building or premises thereon created or erected, changed or converted, wholly or partly, in its use or structure until a certificate of occupancy to the effect that the building or premises or part thereof and the proposed use thereof conform to this chapter shall have been issued by the building official.
- (b) Under the rules and regulations of the town, a temporary certificate of occupancy for a part of a building may be issued by the building official.

(Ord. No. 2-74, § 9.30, 3-26-74)

Secs. 134-112—134-140. - Reserved.

DIVISION 3. - APPEALS

Sec. 134-141. - Town council powers.

The town council shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

(Ord. No. 2-74, § 10.11, 3-26-74)

Sec. 134-142. - Exercise of town council powers.

In exercising its powers, the town council may, upon appeal, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the enforcement of this chapter and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote by three-fifths of all the members of the town council shall be

necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the town council is required to pass under this chapter. In the event of a tie vote, the mayor shall cast the deciding vote, which shall constitute the three fifth's requirement of the town council stated herein.

(Ord. No. 2-74, § 10.20, 3-26-74; Ord. No. 1-03, § 22, 3-11-03)

Sec. 134-143. - Persons authorized to appeal.

Appeals to the town council may be taken by any person aggrieved or by any officer, board or bureau of the town affected by any decision of an administrative official under any section of this chapter.

(Ord. No. 2-74, § 10.30, 3-26-74; Ord. No. 5-78, § 7, 3-31-78; Ord. No. 7-82, § 8(a), 3-31-82)

Sec. 134-144. - Stay of work on premises.

Under this chapter, an appeal to the town council stays all work on the premises which is in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the town council that, because of facts stated in the certificate, a stay would cause imminent peril to life and property, in which case, proceedings or work shall not be stayed except by a restraining order which may be granted by the town council or by a court of competent jurisdiction on application, on notice to the officer from whom the appeal is taken, and on due cause shown of imminent peril to life and property.

(Ord. No. 2-74, § 10.31, 3-26-74; Ord. No. 7-82, § 8(b), 3-31-82)

Sec. 134-145. - Hearing procedure.

Any person appealing any decision of an administrative official made under this chapter shall make such appeal within 30 days after rendition of the written order, requirement, decision, or determination that is being appealed, or the right to appeal shall be barred. Such appeal shall be filed in writing or electronically to the director of planning zoning and building for consideration by the town council. The filing shall include a recorded disk or the documents which contain all supporting facts, and data and appropriate exhibits, plans, documents and other materials to adequately depict and support the appeal. Upon receipt of the appeal, the following procedures shall be followed:

- (1) The director of planning, zoning and building shall examine such appeal and make a recommendation thereon, and shall forward such recommendation to town council, together with all documents, plans, and and/or other materials that constitute the record of the action that is being appealed.
- (2) All appeals will be heard at regular meetings of the town council unless otherwise ordered by the town council and in accordance with sections 134-141, 134-142, 134-201 and 134-226.
- (3) Postponement requests for deferred action on any appeal will be granted for one month only or the next succeeding regular town council meeting, if that should occur on a different date, except for good cause shown.
- (4) When an appeal is deferred or postponed because the town council determines that additional professional advice is necessary, the expense of obtaining such additional professional advice shall be borne by the appellant. The person to render or give such additional professional advice shall be selected by mutual agreement of the town and appellant.

(Ord. No. 2-74, § 10.32, 3-26-74; Ord. No. 3-76, § 5, 3-23-76; Ord. No. 3-77, § 16, 3-29-77; Ord. No. 5-78, § 8, 3-31-78; Ord. No. 7-82, § 8(c), 3-31-82; Ord. No. 26-10, § 3, 12-15-10; Ord. No. 04-2018, § 3, 4-11-18)

Secs. 134-146—134-170. - Reserved.

DIVISION 4. - SPECIAL EXCEPTIONS, VARIANCES, AND DIMENSIONAL WAIVERS

Footnotes:

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Editor's note— Ord. No. 8-07, § 1, adopted May 8, 2007, changed the title of division 4 from "Special exceptions and variances" to "Special exceptions, variances, and dimensional waivers."

Subdivision I. - In General

Sec. 134-171. - Application by property owner; costs of extraordinary professional advice.

- (a) Applications for special exceptions and/or variances to the provisions of any of the regulations contained in this chapter shall be made by the fee simple title owner. The fee simple title owner may authorize a designee, agent or representative by power of attorney filed with the building official.
- (b) When an application for special exception or variance is filed in which extraordinary professional advice and/or consultation is required, as determined by the director of planning, zoning and building, such as but not limited to architectural, engineering and legal services, the expense of such professional advice shall be borne by the applicant.

(Ord. No. 2-74, § 10.40, 3-26-74; Ord. No. 7-82, § 8(e), 3-31-82; Ord. No. 1-84, § 8(b), 3-1-84; Ord. No. 1-94, § 6, 2-7-94; Ord. No. 26-10, § 4, 12-15-10)

Sec. 134-172. - Uniform development review procedures.

- (1) *Application.* All applications for development review, being variances, special exception, and site plan review, shall be filed with the director of planning, zoning and building by the property owner or a designee, agent, or representative who is authorized to file an application by power of attorney, which must be filed with the director of planning, zoning and building. Applications shall be completed and submitted per the application instructions and shall include all items identified in the application checklist, which can be amended by town staff from time to time. All applications shall include the application fee as set forth in the town fee schedule.
- (2) *Determination of sufficiency.* The director of planning, zoning and building, or their designee, shall review the application and required documents and determine whether it is competent and complete. If the director, or their designee, determines that the application is not competent or complete, the director of planning, zoning and building, or their designee, shall notify the applicant as to the nature of the deficiency. In this case, no other action shall be taken on the application until the deficiency is remedied. If the director, or their designee, determines that the application is competent and complete, the department will process the application.
- (3) *Schedule of meetings and deadlines.* The director of planning, zoning and building shall produce each year a schedule of public meetings and deadlines for all development review applications, which can be amended

from time to time. The director shall place the schedule of meetings and deadlines on the town website.

- (4) *Notice of public hearings.* Public hearings for all development review projects, which includes the architectural review commission major projects, landmarks preservation commission certificates of appropriateness, and town council special exceptions, variances, and site plan review, shall be noticed in accordance with the following provisions:
- (a) *Advertisement.* At least 30 days prior to the public hearing date, a description of the project or request, the date, start time of the meeting and location of the hearing shall be noticed in a newspaper of general circulation. The notice will be prepared and placed in the newspaper by town staff.
 - (b) *Mail Notice.* At least 30 days prior to the public hearing date, the applicant shall mail a notice containing a description of the request, the date, start time of the meeting and location of the hearing, to the owners of record of property lying within 300 feet of the property subject to the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the department and identified in the application instructions.

If a variance is being requested that exceeds the maximum density or the maximum off-street parking requirements allowed in the zoning district, the notification distance shall increase to 1,000 feet. A density variance is not allowed which is inconsistent with the maximum density allowed in the town's comprehensive plan.

If a special exception application is being requested for a service station, restaurant, lounge/bar, nightclub, private social, swimming, tennis or yacht club; or any other use deemed by the director of planning, zoning and building to be an intensification of use on a property, the notification distance shall increase to 750 feet. For the purpose of this section of the Code, intensification of use shall include, but not be limited to, increased tenant square footage, increased seating, increased off-street parking demand, and increased hours of operation of a special exception use.

- (c) *Posting.* At least 30 days prior to the public hearing, the town will post a copy of the hearing notice within a conspicuous place in Town Hall.

(Ord. No. 08-2021, § 1(Exh. A), 6-9-21)

Editor's note— (Ord. No. 08-2021, § 1(Exh. A), adopted June 9, 2021, repealed the former 134-172, and enacted a new 134-172 as set out herein. The former 134-172 pertained to hearing procedure and derived from Ord. No. 2-74, § 10.41, 3-26-74; Ord. No. 7-82, § 8(e), 3-31-82; Ord. No. 1-88, § 6, 2-8-88; Ord. No. 1-89, § 5(a), 2-6-89; Ord. No. 1-90, § 5(e), (f), 2-5-90; Ord. No. 1-97, § 12, 2-17-97; Ord. No. 1-99, § 5, 4-5-99; Ord. No. 1-02, § 13, 3-12-02; Ord. No. 5-09, § 27, 4-15-09; Ord. No. 5-2011, § 1, 3-9-11; Ord. No. 7-2014, § 2, 5-14-14; Ord. No. 11-2018, § 2, 7-11-18.

Sec. 134-173. - Deferral request; denial of application; duration of approval; time extension; clarification.

- (1) An initial deferral request received by the town more than seven days prior to scheduled town council hearing date may be granted for one month only or the next succeeding regular town council meeting, if that should occur on a different date. Any deferred action request received seven days or less from the scheduled meeting date shall be made in person at the town council meeting at the time the action item appears on the agenda. The applicant must explain or justify the request, which the town council may approve or deny. A second request for deferral shall be made in person at the town council meeting at the time the item appears on the agenda. The applicant must explain or justify the request, which the town council may approve or deny. A third request for

deferral shall be denied unless the applicant can demonstrate to the town council that a compelling reason exists. Any deferral which is required due to a case being deferred by the architectural commission or landmark preservation commission shall be an exception to the regulation above. In no case shall a deferral exceed six months.

- (2) An application request seeking substantially the same relief cannot be accepted for consideration after it has been denied by the town council until after 12 months have elapsed from the date of denial.
- (3) The work or use authorized under an approved variance or special exception application must be commenced within 36 months from the date of the town council approval thereof, and if not so commenced the special exception or variance shall be null and void. Commencement shall be considered at the issuance of a building permit for the work related to the application or a business tax receipt if no building permit is required. In addition, all authorized work under the building permit for said approved special exception or variance must be completed within the timeframe set forth in Chapter 18 of this Code or said special exception or variance shall expire.
- (4) A request for a time extension from any of the requirements in subsection (3) may be granted or denied by the town council for just cause. Said time extension request shall be submitted in writing to the planning, zoning and building department at least one month prior to the expiration date or said special exception or variance approval shall expire.
- (5) Should a question arise as to compliance with the conditions as outlined by the town council actions, a clarification hearing before the town council may be called at the request of the director of the planning, zoning and building department, or by the applicant, and placed upon the next available agenda.

(Ord. No. 08-2021, § 1(Exh. A), 6-9-21)

Editor's note— (Ord. No. 08-2021, § 1(Exh. A), adopted June 9, 2021, repealed the former 134-173, and enacted a new 134-173 as set out herein. The former 134-173 pertained to judicial remedy by circuit court and derived from Ord. No. 2-74, § 10.50, 3-26-74; Ord. No. 7-82, § 8(f), 3-31-82.

Sec. 134-174. - Judicial remedy by circuit court.

Any person aggrieved by any decision of the town council made pursuant to this chapter, on appeal within 30 days from the rendition of such decision, may appeal to the circuit court for the 15th judicial circuit for a writ of certiorari to review such decision of the town council.

(Ord. No. 08-2021, § 1(Exh. A), 6-9-21)

Secs. 134-175—134-200. - Reserved.

Subdivision II. - Variances

Sec. 134-201. - Findings prior to authorization.

- (a) The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town

council must and shall find the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.
- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
 - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
- (b) The town council may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both. Under no circumstances, except as permitted in subsection (a) of this section, shall the town council grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this chapter in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(Ord. No. 2-74, § 10.13, 3-26-74; Ord. No. 1-84, § 8(a), 3-1-84; Ord. No. 1-91, § 6(a), 4-23-91; Ord. No. 1-98, § 15, 2-9-98)

Subdivision III. - Special Exceptions

Sec. 134-226. - Town council powers.

- (a) The town council shall hear and decide special exceptions, decide such questions as are involved in determining if and when special exceptions should be granted, and grant special exceptions with appropriate conditions and safeguards or deny special exceptions when not in harmony with the purpose and intent of this chapter.
- (b) In granting any special exceptions, the town council shall find that such grant will not adversely affect the public interest. In granting any special exception, the town council, in addition to the standards enumerated in this subdivision, may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a special exception the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The town council may prescribe a reasonable time limit within which the action for which the special exception is required shall begin or be completed or both.

(Ord. No. 2-74, § 10.12, 3-26-74; Ord. No. 1-84, § 8(a), 3-1-84; Ord. No. 1-91, § 6(a), 4-23-91)

Sec. 134-227. - Town council authorization, compliance and site plan review required.

Special exception uses and their related accessory uses or any expansion, enlargement, or modification of an existing special exception use or any physical expansion of an existing special use or facility shall be permitted only upon authorization by the town council, provided that such uses shall be found by the town council to comply with the requirements in this subdivision and other applicable requirements as set forth in this chapter. All special exception uses require site plan review in accordance with article III of this chapter. Additional standards applicable to planned unit developments are contained in article V of this chapter.

(Ord. No. 2-74, § 6.40, 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91)

Sec. 134-228. - Discontinuance or abandonment of use.

If an authorized or existing special exception use is discontinued for any period of time with the intention on the part of the owner to abandon such special exception use or if the use is discontinued for a period of two years without the intention of the owner to abandon, such shall be an abandonment thereof, and the special exception use shall thereby be immediately terminated and may not thereafter be revived except upon new application and approval by the town council.

(Ord. No. 2-74, § 6.40(n), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91)

Sec. 134-229. - Requirements for granting.

The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.
- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and

morals will be protected.

- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
- (6) The use will comply with all elements of the comprehensive plan.
- (7) The use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.
- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.
- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.
- (14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

(Ord. No. 2-74, § 6.40(a)—(m), (r), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91; Ord. No. 1-96, § 7, 2-5-96; Ord. No. 1-99, § 6, 4-5-99; Ord. No. 2-2011, § 2, 7-13-11; Ord. No. 7-2014, § 9, 5-14-14)

Sec. 134-230. - Determination of parking needs of commercial uses.

(a) In conjunction with subsection 134-229(8), the following factors may be used as a guide in determining the parking need generated by any commercial uses (retail, personal services, offices, professional and business services, banks and financial institutions) being considered for special exception approval:

(1) *Offices, professional and business services, banks and financial institutions.*

- a. Per each full-time employee, 0.65 spaces; plus
- b. Per each part-time employee, 0.33 spaces; plus
- c. Per salesman, 0.16 spaces; plus
- d. Twenty-five percent of the sum of subsections (a)(1)a through (a)(1)c to cover customer parking need.

(2) *Retail and personal services uses.*

- a. Per each full-time employee, 0.65 spaces; plus
- b. Per each part-time employee, 0.33 spaces; plus
- c. Two times the sum of subsections (a)(2)a and (a)(2)b to cover customer parking need.

(b) The calculations in subsections (a)(1) and (2) of this section may be used to determine if the proposed use would generate parking need in excess of that required by the parking schedule of this chapter.

(Ord. No. 2-74, § 6.40(h), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91)

Sec. 134-231. - Residential use in C-TS, C-WA or C-OPI district; one-family use above first floor in C-TS, C-WA or C-PC district.

(a) When any residential use is approved as a special exception use as provided for within the C-TS, C-WA, or C-OPI commercial district, it shall conform to the lot, yard, and bulk regulations of the R-C residential district and, if appropriate, division 9 of article VIII of this chapter and subdivision II of division 10 of article VIII of this chapter.

(b) When a one-family residential use is approved as a special exception use above the first floor within the C-TS, C-WA, or C-PC district, the residential story shall conform to the lot, yard, and bulk requirements of the R-C residential district.

(Ord. No. 2-74, § 6.40(o), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91)

Sec. 134-232. - Preferred location of group homes and foster care facilities.

With reference to group homes and foster care facilities, locations in proximity to the town center and commercial areas are preferred because of the greater availability of goods and services, both public and private.

(Ord. No. 2-74, § 6.40(p), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91)

Sec. 134-233. - Applicability of Worth Avenue Design Guidelines in C-WA district.

(a) Special exceptions in the C-WA district which involve special allowances pertaining to residential uses, height or coverage, as referenced in section 134-1165, shall be based upon the Worth Avenue Design Guidelines and contingent upon review and recommendation by the architectural commission.

- (b) The architectural commission, in order to make a positive recommendation, must make an affirmative finding that the proposed special exception is meritorious to the town because of its general appearance and adherence to the Worth Avenue Design Guidelines, published by Adley, Brisson, Engman, Inc.
- (c) The Worth Avenue Design Guidelines are incorporated and adopted as part of this chapter as if fully set forth in this section.

(Ord. No. 2-74, § 6.40(q), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91)

Cross reference— Special exception to height regulations, special exception structures, § 134-1165.

Subdivision IV. - Dimensional Waivers

Sec. 134-234. - Dimensional waiver described.

Waivers providing for relief from the strict application of certain of the dimensional requirements of the zoning code are available for the following situations:

- (1) Additions to, or renovation of existing single-family development constructed prior to 1980. These waivers will be reviewed and approved or denied administratively by the director of the planning, zoning and building department.
- (2) Modifications to landmarked structures or properties. These waivers will be reviewed and approved or denied by the landmarks preservation commission and ratified by the town council.

(Ord. No. 8-07, § 2, 5-8-07)

Sec. 134-235. - General conditions applicable to all dimensional waivers.

- (a) Approval of the waiver will not compromise traffic safety.
- (b) Approval of the waiver will not compromise fire safety.
- (c) There shall be no objection of any abutting property owner(s).

(Ord. No. 8-07, § 2, 5-8-07; Ord. No. 26-10, § 11, 12-15-10)

Editor's note— Ord. No. 8-07, § 2, adopted May 8, 2007, enacted provisions intended for use as subsections 1. and 2. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a) and (b).

Sec. 134-236. - Dimensional waivers for existing single-family development constructed prior to 1980, and which have not been landmarked.

- (a) *Specific conditions for approval of a waiver of required minimum side yard setback.*
 - (1) For a single-story structure, the resulting side yard setback is not less than any existing nonconforming side yard setback of the principal structure located on property immediately abutting the side yard for which the waiver is requested.
 - (2) For a two-story structure, the resulting side yard setback is not less than:

- a. Any existing nonconforming side yard setback of the single-story principal structure located on property immediately abutting the side yard for which the waiver is requested, plus two and one-half feet; or
 - b. Any existing nonconforming side yard setback of any two-story principal structure located on property immediately abutting the side yard for which the waiver is requested.
- (3) In no event shall the side yard be less than seven and one-half feet in the R-B district and not less than ten feet in any other residential district.
- (b) *Specific conditions for approval of a waiver of required minimum rear yard setback.*
- (1) For a single-story structure, the resulting rear yard setback is not less than any existing nonconforming rear yard setback of the principal structure located on property immediately abutting the rear yard for which the waiver is requested.
 - (2) For a two-story structure, the resulting rear yard setback is not less than:
 - a. Any existing nonconforming rear yard setback of any single-story principal structure located on property immediately abutting the rear yard for which the waiver is requested, plus five feet; or
 - b. Any existing nonconforming rear yard setback of any two-story principal structure located on property immediately abutting the rear yard for which the waiver is requested.
 - (3) In no event shall the rear yard be less than seven and one-half feet in the R-B district and not less than ten feet in any other residential district.
- (c) *Specific conditions for approval of a waiver of minimum front yard setback for entry features.*
- (1) The waiver shall be only for a single-story entry feature which meets the following conditions:
 - a. Such feature shall not exceed 25 percent of the total dimension of the building wall from which such entry feature projects (measured parallel to said building wall) but shall not be required to be less than ten feet wide.
 - b. The measurement of the projection from the building wall shall not be more than the width of the entry feature.
 - (2) The resulting front yard setback is not less than the lesser of any existing nonconforming front yard setback of the principal structures located on property immediately abutting either side of the property for which the waiver is requested. In no case, however, shall the front yard setback be less than 20 feet.
- (d) *Notice to abutting property owners; review by director.*
- (1) Abutting property owners shall be notified by certified mail to their respective addresses, as shown on the county property appraiser's tax records, not less than 15 calendar days prior to a decision by the director to approve or deny an application for a dimensional waiver.
 - (2) Said notification shall describe the nature and extent of the requested waiver, the location of the property for which the waiver is requested, and the date by which the application will be acted upon by the director.
 - (3) The director or his/her designee shall approve, approve with modifications or deny the application for a waiver within 30 days of receipt of the application and shall notify the applicant and abutting property owner(s) in writing by certified mail within seven days of the decision.
 - (4) The applicant or abutting property owner(s) shall have 30 days, from the date of the issuance of the certified letter notifying the applicant of the director's decision, to file an appeal with the town council as set forth under sections 134-141—134-145.
 - (5) Effective date of approval of a waiver. The approval of a waiver by the director or his/her designee shall

become effective upon the expiration of the appeal period as outlined in section 134-145.

(Ord. No. 8-07, § 2, 5-8-07)

Editor's note— Ord. No. 8-07, § 2, adopted May 8, 2007, enacted provisions intended for use as subsections 1.—4. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a)—(d).

Sec. 134-237. - Dimensional waivers for landmark properties.

The purpose and intent of this section is to provide owners of landmark properties and structures with flexibility in the rehabilitation, expansion, and redevelopment of buildings and structures within the town. This Code establishes general standards for the location, design, scale, and massing of buildings and structures which do not always fit the unique conditions and circumstances of a built-out community that includes many buildings of distinctive individual and cumulative design and character. This section establishes substantive criteria for the review and approval of development on landmarked properties when the property owner desires to use conditional dimensional waivers to the strict application of the underlying zoning district regulations.

- (1) *Application of dimensional waivers for landmark properties.* The dimensional waivers of this section may be applied to applications that seek to deviate from the strict application of the underlying zoning district regulations, except that these standards shall not be applied in commercial zoning districts. The dimensional waivers of this section shall be applied in addition to the standards for approval of certificates of appropriateness that are set out in chapter 54. It is not the intent of this section that the consideration of a dimensional waiver supercedes the criteria for granting a certificate of appropriateness.
- (2) *Description of conditional dimensional waivers available for landmark structures.* The landmark preservation commission may apply the following conditional dimensional waivers in the alternative to the strict application of the underlying zoning district regulations:
 - a. *Reduced setbacks for expansion of landmark buildings.* Reduced side and rear yard setbacks may be approved for the expansion of landmark buildings, or the addition of permissible new buildings, on a lot which contains a landmark building if all of the following are demonstrated:
 1. The setback does not violate any of the following conditions:

Front: Reduction can be up to 90 percent of underlying zoning district requirement; provided, however that the front yard setback shall not be less than the lesser of the existing front yard setbacks of the principal structures on the lots immediately abutting the side property lines of the lot for which the waiver is being requested.

Side: Reduction can be up to 65 percent of underlying zoning district requirement; provided, however, that the side yard setback shall not be less than five feet.

Side street: Reduction can be up to 65 percent of underlying zoning district requirement.

Rear: Reduction does not result in a rear yard setback of less than seven and one-half feet.

Rear street: Reduction does not result in a rear street yard setback of less than 20 feet.
 2. The proposed portion of building or structure between the required setback and the reduced setback does not compromise the historic character of the landmark building, due to one or more of the

following:

- A. The architecture and design of the additional building or structure between the required setback and the reduced setback:
 - i. Is complimentary to the architecture of the landmark building, while neither replicating the architecture nor fundamentally departing from it;
 - ii. Is such that the additional building or structure appears subordinate to those parts of the landmark building that materially contribute to its landmark status;
 - iii. Does not block public views of those parts of the landmarked building that materially contribute to its landmark status; and
 - iv. Allows for future removal of the additional building or structure and restoration of the landmark building to its existing design.
 - B. The volume and footprint of the portion of the building or structure between the required setback and the reduced setback is de minimus, and the character of the proposed building or structure does not tend to distract the eye from the principal landmark building.
 - C. The portion of the additional building or structure between the required setback and the reduced setback is completely screened from view from public rights-of-way by existing topography, existing walls, and/or existing landscaping that do not interfere with the historic character of the landmark building.
 - D. Reasonable alternative designs that are permitted by the strict requirements of the underlying zoning district and result in the same cubic content ratio would detract from the landmark character of the building.
- b. *Reduced setbacks for restoration/replacement of documented portion of a landmark building that has been destroyed.* A reduction of up to 100 percent of any required setback may be approved if it is demonstrated that the proposed development between the required setback and the reduced setback area enhances the historic character of the landmark building by restoring or replacing a portion of the original building or structure that had been destroyed or demolished.
- c. *Increasing maximum height of driveway gates.* An increase in the maximum height of driveway gates may be approved if it is demonstrated that:
- 1. The proposed driveway gates will restore or replace gates that contribute to the character of landmark building;
 - 2. The proposed driveway gates are located no closer to the street than the original driveway gates; and
 - 3. The proposed driveway gates will not compromise traffic safety.
- d. *Decreasing minimum setback of driveway gates.* A decrease in the minimum setback of driveway gates may be approved if it is demonstrated that:
- 1. The proposed driveway gates will restore or replace gates that contribute to the character of landmark building;
 - 2. The proposed driveway gates are located no closer to the street than the original driveway gates; and
 - 3. The proposed driveway gates are designed and located in such a manner that they will not compromise traffic safety.
- e. *Decreasing landscaped open space for restoration or renovation of nonconforming landmark buildings.* A

decrease in the minimum landscaped open space may be approved in order to permit landmark buildings that do not conform to the minimum landscaped open space requirements to be renovated, reconstructed, or restored, in order to either preserve the building as it existed when it was landmark; or in conjunction with restoration that involves the application of subsection b.

- f. *Decreasing landscaped open space for expansion of landmarked buildings which are used for an important public purpose.* A decrease of up to 15 percent of the minimum required landscaped open space may be approved if it is demonstrated that:
1. The reduction is necessary to permit the necessary expansion of a landmark building which serves an important public purpose; and
 2. Reasonable alternative designs that are otherwise permitted by the strict requirements of the underlying zoning district, and which would result in the same cubic content ratio, would detract from the landmark character of the building.

(3) *Landmarks preservation commission action; town council ratification of commission action on applications involving dimensional waivers.*

- a. *Decisions to be placed on town council consent agenda.* Decisions of the landmark preservation commission to approve, approve with conditions, or deny applications for development approval involving dimensional waivers shall be placed on the consent agenda of the first available meeting of the town council after the decision.
- b. *Removal of decisions from consent agenda.* Decisions that are placed on the town council consent agenda pursuant to subsection a., may be removed from the consent agenda and placed on the regular agenda at the request of a member of the town council.

(Ord. No. 8-07, § 2, 5-8-07)

Secs. 134-238—134-260. - Reserved.

DIVISION 5. - AMENDMENTS

Subdivision I. - In General

Sec. 134-261. - Town council actions; submission to planning and zoning commission for recommendations and report.

- (a) The town council may from time to time on its own motion or on petition, signed by the fee simple property owner of the property involved or authorized designee, agent or representative of the owner by power of attorney filed with the director of the planning, zoning and building department or designee, amend, supplement, change, modify or repeal the regulations, restrictions or district boundaries established in this chapter.
- (b) Any proposed amendment, supplement, change, modification or repeal shall first be submitted as an initial review to the director of planning, zoning and building or his designee, who shall submit it to the town council for its review and feedback. Should the applicant of a privately initiated text amendment decide to submit same following town council feedback, the director of planning zoning and building or his designee shall submit the application to the planning and zoning commission for its recommendations and report. Upon the filing of the

recommendations and report by the planning and zoning commission, the town council shall proceed to hold a public hearing in relation thereto, giving at least 15 days' notice of the time and place of such hearing in a newspaper having a general circulation in the town, and by posting the notice on the official bulletin board of the town hall, If a proposed comprehensive plan amendment, zoning text amendment or zoning change increases the allowable density or intensity, a notice identifying such amendments or changes shall be mailed to all property owners within 1,000 feet from any part of the subject property at the address shown on the county property appraiser's tax records, advising of the day and time of the hearing on such application before the town council. Said notice shall be mailed at least 15 days prior to the date for town council consideration of the proposed amendment(s) or zoning change(s).

- (c) If an adverse report is given by the planning and zoning commission, or if there is a written protest against such proposed amendment, supplement, change, modification or repeal, by an affected party, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the area thereof extending 500 feet therefrom, such amendment supplement, change, modification or repeal shall not become effective except by the favorable vote of three-fifths of all the members of the town council. In the event of a tie vote, the mayor shall cast the deciding vote, which shall constitute the three-fifth's requirement of the town council stated herein.
- (d) The planning and zoning commission shall hear applications to rezone property and/or to amend, supplement, change, modify or repeal any article, division or section of this chapter within 60 days of the application being deemed complete by the director of the planning, zoning and building department or designee. Any proposed amendment to change property from one zoning district to another zoning district shall require the favorable vote of at least four members of the town council. A public hearing on the application shall then be held by the town council after public notice of the hearing is given in accordance with law.

(Ord. No. 2-74, § 11.10, 3-26-74; Ord. No. 7-82, § 9(a), 3-31-82; Ord. No. 2-83, § 8(c), 2-23-83; Ord. No. 1-84, § 9, 3-1-84; Ord. No. 1-89, § 6(a), 2-6-89; Ord. No. 1-98, § 16, 2-9-98; Ord. No. 1-03, §§ 21, 23, 3-11-03; Ord. No. 1-04, § 41, 3-9-04; Ord. No. 5-09, § 25, 4-15-09; Ord. No. 10-2012, § 2, 9-11-12; Ord. No. 7-2014, § 3, 5-14-14; Ord. No. 04-2018, § 4, 4-11-18)

Secs. 134-262—134-285. - Reserved.

Subdivision II. - Referendum

Sec. 134-286. - Effective date of amendments.

No amendment to this chapter shall become effective until 31 days subsequent to its enactment on second and final reading of an amending ordinance.

(Ord. No. 2-74, § 11.20(a), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-287. - Power of electors; time limit and number of voters required for filing petition.

The electors shall have the power to approve or reject at the polls any amendment to this chapter or zoning map of the town passed by the town council. Within 30 days after the enactment of any amendment to this chapter, a petition signed by registered voters of the town equal to ten percent of the voters registered at the last town election may be filed with the town clerk requesting that any such amendment be either repealed or submitted to a vote of the electors.

(Ord. No. 2-74, § 11.20(b), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-288. - Form of petition: committee of petitioners; affidavit of circulator.

- (a) All petition papers circulated for the purpose of a referendum for a zoning amendment shall be uniform in size and style. Each petition paper shall contain the full text of the zoning amendment the petitioners desire to be submitted for referendum. The signature to the petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this subdivision. Each signer of any such paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other descriptions sufficient to identify the place.
- (b) There shall appear on each petition the names and addresses of the same five electors who, as a committee of the petitioners, shall be regarded as responsible for the circulation and the filing of the petition.
- (c) Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

(Ord. No. 2-74, § 11.20(c), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-289. - Filing, examination and certification of petitions.

- (a) All petition papers comprising a referendum petition for a zoning amendment shall be assembled and filed with the town clerk as one instrument.
- (b) Within ten days after the petition is filed, the town clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The town clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds.
- (c) After completing examination of the petition, the town clerk shall certify the result thereof to the town council at its next regular meeting. If the clerk shall certify that the petition is insufficient, he shall set forth in the clerk's certificate the particulars in which the petition is defective and shall at once notify the committee of petitioners of the clerk's findings.

(Ord. No. 2-74, § 11.20(d), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-290. - Amendment of petitions.

Under this subdivision, a referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the town clerk, by filing a supplementary petition upon additional papers signed and filed as provided for an original petition. The town clerk shall, within five days after such an amendment is filed, make an examination of the amended petition, and, if the petition is still insufficient, the clerk shall file a certificate to that effect in the clerk's office and notify the committee of the petitioners of the findings, and no further action shall be had on such insufficient petition.

(Ord. No. 2-74, § 11.20(e), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-291. - Amendment suspended until certification of petition and approval by electors.

When a referendum petition or amended petition, as defined in section 134-290, has been received by the town clerk, the amendment specified in the petition shall not go into effect and further action thereunder shall be suspended if it shall have gone into effect until and unless the petition is certified by the town clerk and approved by the electors, as provided in this subdivision.

(Ord. No. 2-74, § 11.20(f), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-292. - Consideration by town council.

Whenever the town council receives a certified referendum petition for a zoning amendment from the town clerk, it shall proceed at once to consider such petition. The town council shall take final action on the zoning amendment petitioned for referendum not later than 60 days after the date on which the petition is certified by the town clerk. The referred amendment, when reconsidered by the town council shall be upon the question, "Shall the ordinance amendment specified in the referendum petition be repealed?"

(Ord. No. 2-74, § 11.20(g), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-293. - Submission to electors.

If the town council fails to repeal the referred amendment to this chapter, the referred amendment shall be submitted to the electors not less than 60 days or more than 90 days from the date the town council takes its final vote thereon. The town council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

(Ord. No. 2-74, § 11.20(h), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-294. - Form of ballot.

Amendments to this chapter submitted to vote of the electors in accordance with this subdivision shall be submitted by a ballot title, which shall be prepared by the town attorney. The ballot title may be different from the legal title of such referred amendment, and it shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such zoning ordinance amendment. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other in the order indicated: "for the zoning ordinance amendment" and "against the zoning ordinance amendment." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the elector may vote for or against the zoning ordinance amendment. Any number of zoning ordinance amendments may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby vote for or against the zoning ordinance amendment.

(Ord. No. 2-74, § 11.20(i), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-295. - Availability of list of qualified electors.

If any organization or group requests the list of qualified electors for the purpose of circulating descriptive matter relating to a zoning ordinance amendment to be voted on, the town clerk or other official having custody of such list shall furnish it. For this service, the requesting party shall pay a fee to be established by the town council.

(Ord. No. 2-74, § 11.20(j), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Sec. 134-296. - Result of elections.

A referred zoning ordinance amendment which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If the referred zoning ordinance amendment is approved by a majority of the electors voting thereon, the zoning ordinance amendment shall become effective as of the date the results of the election are certified by the town clerk. Referendum amendments adopted or approved by the electors shall be posted and may be amended or repealed by the town council as for other ordinances.

(Ord. No. 2-74, § 11.20(k), 3-26-74; Ord. No. 1-84, § 9, 3-1-84)

Secs. 134-297—134-325. - Reserved.

ARTICLE III. - SITE PLAN

Sec. 134-326. - Purpose of review process; building permit denial pending approval; costs of extraordinary professional advice.

- (a) The primary purpose of the site plan review process is to examine for potential adverse impact on the adjacent area, neighborhood or town those uses having characteristics identified as possessing the potential for negative impact and to ensure such uses are located, sited and designed that they result in a positive contribution to the area, neighborhood and town. To achieve these purposes, the town council or director of planning, zoning and building, whichever is relevant, may, after detailed review of the site plan and its potential off-site impact, impose such operational and/or design conditions as will eliminate or minimize such impact. Such conditions shall reflect the review criteria set forth in this article.
- (b) Where, by the terms of this chapter site plan review is required, no building permit shall be issued for the purposes of erecting, altering or converting any structure or building or any part thereof or altering the use of any land until after the town council or director of planning, zoning and building or designee approves the site plan in accordance with this article.

Notwithstanding the provisions of the immediately preceding sentence, site plan reviews which have obtained prior architectural commission or landmark preservation commission approval, which do not involve a variance or special exception, an increase in the square footage by more than 200 square feet, and/or an increase in density or intensity of use, may be administratively approved or denied by the director of planning, zoning and building department or designee.

In order to administratively approve a site plan review, a determination must be made that the proposed site plan review meets concurrency; does not create negative impacts on an abutting property owner or right-of-way; and, if required to go to either the architectural commission or landmark preservation commission, does not receive an objection from a noticed property owner as part of the commission review process, Said approval shall not require property owner notice or legal advertisement as provided for site plan review by town council. The administrative site plan review application must

be acted upon within 30 days of being deemed complete by the planning, zoning and building department. For the purpose of this subsection, the term intensity of use refers to creating a larger parking demand based on the use and/or square footage.

- (c) When an application for site plan review is filed in which extraordinary professional advice and/or consultation is required, as determined by the director of the planning, zoning and building department, such as but not limited to architectural, engineering and legal services, the expense shall be borne by the applicant.

(Ord. No. 2-74, § 9.60, 3-26-74; Ord. No. 7-82, § 7(b), 3-31-82; Ord. No. 1-94, § 5(b), 2-7-94; Ord. No. 5-09, § 34, 4-15-09; Ord. No. 4-10, § 1, 2-10-10; Ord. No. 26-10, § 12, 12-15-10)

Cross reference— Contents of site plans, § 18-207.

Sec. 134-327. - Application.

- (a) The applicant or his agent shall furnish to the town, as a part of his application for site plan review, a professionally prepared study and detailed report, at the applicant's expense, of the impact of the proposed development on the infrastructure and operation of the town, including development requirements for utility services such as stormwater sewers, sanitary sewers, garbage and trash collection and all other matters relating to the provision of public utilities and/or services by the town.
- (b) Applications for site plan review shall be filed by the fee simple owner. The fee simple title owner may authorize a designee, agent or representative by power of attorney filed with the director of planning, zoning and building or designee. The application shall include those of the following items deemed to be applicable by the director of planning, zoning and building or designee:
- (1) Statements of ownership and control of the subject property.
 - (2) A statement describing in detail the character and intended use of the property.
 - (3) A general location map, showing the relation of the site for which site plan approval is sought to major streets, schools, existing utilities, shopping areas, important physical features in and adjoining the project, and the like.
 - (4) Two copies of a site plan containing the title of the project and the names of the architect, engineer, project planner and/or developer; date and north arrow; and based on an exact survey of the property drawn to a scale of sufficient size to show:
 - a. Boundaries of the project, any existing streets, buildings, watercourses, easements and section lines;
 - b. Exact location of all buildings and structures;
 - c. Access and traffic flow and how vehicular traffic will be separated from pedestrian and other types of traffic;
 - d. Off-street parking and off-street loading areas;
 - e. Recreation facilities locations;
 - f. All screens and buffers;
 - g. Refuse collection areas; and
 - h. Access to utilities and points of utilities hookups.
 - (5) Tabulations of total gross acreage in the project and the percentages thereof proposed to be devoted to:
 - a. The various permitted uses;

- b. Ground coverage by structures; and
 - c. Impervious surface coverage.
- (6) Tabulations showing:
- a. The derivation of numbers of off-street parking and off-street loading spaces shown in subsection (b)(4) of this section; and
 - b. Total project density in dwelling units per acre.
- (7) If common facilities, such as recreation areas or structures, private streets, common open space, etc., are to be provided for the development, statements as to how such common facilities are to be provided and permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners' association surety arrangements or other legal instruments providing adequate guarantee to the town that such common facilities will not become a future liability for the town.
- (8) Storm drainage and sanitary sewage plans.
- (9) Architectural elevations for buildings in the development; exact number of dwelling units, sizes and types, together with typical floor plans of each type.
- (10) Plans for signs, if any.
- (11) Landscaping plan, including types, sizes and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance. Location on the site of all existing trees protected by town regulations shall be shown on the plan that specifies the means of protecting said trees with barricading.
- (12) Plans for recreation facilities, if any, including buildings for such use.
- (13) Such additional data, maps, plans or statements as may be required for the particular use or activity involved; for commercial uses, colored photographs of each building within 100 feet to either side of the property line on any street and a diagrammatic elevation drawing indicating the height and width of existing or planned structures within the same distance.
- (14) Such additional data as the applicant may believe is pertinent to the site plan.
- (c) Subsections (b)(3), (4), (8) and (9) of this section shall be prepared by a registered surveyor, engineer or architect or practicing land planner as may be appropriate to the particular item.

(Ord. No. 2-74, § 9.61, 3-26-74; Ord. No. 5-78, § 14, 3-31-78; Ord. No. 4-80, § 8, 3-31-80; Ord. No. 7-82, § 7(c) 3-31-82; Ord. No. 1-86, § 5(d), 2-10-86; Ord. No. 1-99, § 7, 4-5-99; Ord. No. 26-10, § 5, 12-15-10)

Sec. 134-328. - Site Plan application and notice shall follow the requirements found in Section 134-172, Uniform Development Review Procedures.

- (a) A copy of such application for site plan review shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all owners of all other property within 300 feet from any part of the subject property at their respective addresses as shown on the county property appraiser's tax records, together with a notice from the director of planning, zoning and building or designee advising of the date, time and location of the hearing on such application before the town council. Such list of property owners, together with a notification map, shall be provided by the applicant along with addressed and properly stamped envelopes and shall be certified by the applicant as being true and accurate. The applicant shall be required to mail the application to the property owners within the notification area within five days of submittal of the application to the town. No application shall be heard less than ten days after the first

publication notice as provided in this section and 15 days after the mailing to property owners directly affected, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council.

- (b) The director or designee shall also cause to be published in a newspaper of general circulation in Palm Beach or West Palm Beach a brief summary of such application and the date of the hearing, directed" to all to whom it may concern", such notice to be published on two separate days not less than seven days apart, the first to at least ten days before the meeting of the town council to consider such application. The cost of such publication shall be borne by the applicant.

(Ord. No. 2-74, § 9.62, 3-26-74; Ord. No. 5-78, § 14, 3-31-78; Ord. No. 2-83, § 8(a), 2-23-83; Ord. No. 1-97, § 12, 2-17-97; Ord. No. 1-02, § 13, 3-12-02; Ord. No. 5-09, § 35, 4-15-09; Ord. No. 11-2018, § 3, 7-11-18; Ord. No. 08-2021, § 2(Exh. A), 6-9-21)

Editor's note— Ord. No. 08-2021, § 2,(Exh. A), adopted June 9, 2021, changed the title of section 134-328 from "Review by director of planning, zoning and building or his/her designee; notice of hearing" to "Site Plan application and notice shall follow the requirements found in Section 134-172, Uniform Development Review Procedures."

Sec. 134-329. - Review by town council.

Within 30 days of receipt of the application for site plan review, the town council shall review and consider the application. Before any site plan shall be approved, approved with changes, or denied, the town council shall make a finding that the approval of the site plan will or will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have or have not been met and that, further, satisfactory provision and an arrangement has or has not been made concerning the following matters, where applicable:

- (1) Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the town.
- (2) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon; provided, however, that nothing in this subsection shall be construed as granting the town council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.
- (3) Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.
- (4) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.
- (5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.
- (6) Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacities.
- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.
- (8) Recreation facilities and open spaces, with attention to the size, location and development of the areas as to

adequacy, effect on privacy of adjacent and nearby properties and uses within the property, and relationship to communitywide open spaces and recreation facilities.

- (9) Such other standards as may be imposed by this chapter for the particular use or activity involved.
- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.
- (11) Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

(Ord. No. 2-74, § 9.63, 3-26-74; Ord. No. 5-78, § 14, 3-31-78; Ord. No. 4-80, § 8, 3-31-80; Ord. No. 6-81, § 8, 3-31-81; Ord. No. 2-83, § 8(b), 2-23-83)

Sec. 134-330. - Action by town council; deviations; time limit for beginning work.

- (a) After review and preparation of the findings, the town council shall approve, approve with changes, or deny the application for site plan review and direct the director of planning zoning and building or designee to approve or withhold approval of the building permit.
- (b) An approval of a site plan review application by the town council shall include, as a part thereof, all of the information and exhibits as required by this chapter. No subsequent deviation or change may be made from this information and the exhibits as approved by the town council in the implementation of the town council approval except upon new application to and approval by the town council. The application shall include size, shape, style and location of buildings, number of dwelling units, location of parking facilities, driveways, accessory uses and buildings, landscaping concepts, and all other aspects of the proposed development germane to the site plan review. Any deviation will result in a stay of work until resolved.
- (c) An initial deferral request received by the town more than seven days prior to scheduled town council hearing date may be granted for one month only or until the next succeeding regular town council meeting, if that should occur on a different date. Any deferred action request received seven days or less from the next scheduled meeting date shall be made in person at the town council meeting at the time the action item appears on the agenda. The applicant must explain or justify the request, which town council may approve or deny. A second request for deferral shall be made in person at the town council meeting at the time the item appears on the agenda. The applicant must explain or justify the request, which town council may approve or deny. A third request received for deferral shall be denied unless the applicant can demonstrate to the town council that a compelling reason exists. Any deferral which is required due to a case being deferred by the architectural commission or landmark preservation commission shall be an exception to the regulation above. In no case shall a deferral exceed six months.
- (d) The work authorized by town council approval of a site plan review must be commenced within 36 months after the date of town council approval thereof, and if not so commenced town council approval shall thereupon become null and void. Commencement shall be considered the issuance of a building permit for the work related to the application.

A building permit must be issued within one year of the date of commencement or said site plan review approval shall expire. In addition, all authorized work under the building permit for said approved site plan review must be completed within the construction schedule contained in section 105.4.1.6 of the Florida Building Code as amended in section 18-242

of this Code or said site plan review approval shall expire.

- (e) A time extension from any of the requirements in subsection (d) may be granted or denied by the town council for just cause. Said time extension request shall be submitted in writing to the planning, zoning and building department at least one month prior to the expiration date or said site plan review approval shall expire.

(Ord. No. 2-74, § 9.64, 3-26-74; Ord. No. 5-78, § 14, 3-31-78; Ord. No. 7-79, § 18, 3-30-79; Ord. No. 5-09, §§ 28, 36, 4-15-09; Ord. No. 26-10, § 6, 12-15-10; Ord. No. 5-2011, § 2, 3-9-11; Ord. No. 11-2018, § 4, 7-11-18)

Secs. 134-331—134-360. - Reserved.

ARTICLE IV. - NONCONFORMITIES

DIVISION 1. - GENERALLY

Secs. 134-361—134-385. - Reserved.

DIVISION 2. - USES

Sec. 134-386. - Continuation; definition; intent.

- (a) A use lawfully in existence at the effective date of the ordinance from which this chapter is derived, which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto, may be continued except as otherwise provided in this article.
- (b) A use is, for the purposes of this chapter, a nonconforming use if the use or any physical characteristics of the use are not in full compliance with all regulations of the zoning district in which it is situated.
- (c) The intent of this division is that, by the provisions of this chapter or by amendments that may be adopted, there may exist uses and characteristics of use which were lawful before this chapter was adopted or amended and which would be prohibited, regulated or restricted under the terms of this chapter or amendments thereto. It is the intent of this chapter to permit these nonconforming uses to continue until they are voluntarily removed, removed by abandonment, or otherwise removed as required by this chapter, but not to encourage their survival.
- (d) It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded, intensified or extended, or be used as grounds for adding other uses prohibited elsewhere in the same district.

(Ord. No. 2-74, § 8.10, 3-26-74; Ord. No. 2-83, § 7, 2-23-83)

Cross reference— Definitions generally, § 1-2.

Sec. 134-387. - Extension or expansion.

No nonconforming use shall be enlarged, increased, intensified, substituted or extended to occupy a greater area than it occupied at the effective date of adoption or amendment of this chapter, except as may be granted by variance under section 134-201. No such nonconforming use shall be relocated in whole or in part to any portion of a lot or parcel except

the location occupied by such use at the effective date of adoption or amendment of this chapter.

(Ord. No. 2-74, § 8.11, 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 1-91, § 5(a), 4-23-91)

Sec. 134-388. - Conversion to permitted or generic use.

(a) Any nonconforming use which is replaced by a permitted use shall thereafter conform to the regulations of the zoning district in which such use is located, and the terminated nonconforming use shall not thereafter be resumed nor shall any other nonconforming uses be permitted.

(b) When the generic use of a nonconforming parcel of property or portion thereof is changed into another generic use, any and all nonconforming conditions of that parcel of property or portion thereof shall be discontinued.

(Ord. No. 2-74, § 8.12, 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 1-93, § 5(a), 2-8-93)

Sec. 134-389. - Special exceptions.

(a) Any use which is permitted by the town council as a special exception in a district under this chapter shall not be deemed a nonconforming use in such district.

(b) If an existing approved special exception use which also has zoning nonconformity of use or structure existing in connection with the special exception use has been removed by the town council from the special exception uses in article VI of this chapter, the nonconforming use and/or structure shall become a nonconforming use as contained in this chapter.

(Ord. No. 2-74, § 8.13, 3-26-74; Ord. No. 2-83, § 7, 2-23-83)

Sec. 134-390. - Restoration.

Under this chapter, any nonconforming use which has less than 50 percent of its previous existing floor area made unsafe or unusable by lack of normal maintenance or by ordinary deterioration may be restored and used as before, provided that the floor area of such use shall not exceed the floor area which existed prior to such damage. All restoration shall be completed within the time frame set forth in the construction schedule contained in the construction schedule contained in section 105.4.1.6 of the Florida Building Code as amended in section 18-242. In the event such restoration is not completed within the time frame required by the Building Code, construction shall cease and shall not resume until the town council decides the remedy for noncompliance, and reviews and approves a completion schedule.

(Ord. No. 2-74, § 8.14(a), 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 1-84, § 6(a), 3-1-84; Ord. No. 2-05, § 1, 5-10-05; Ord. No. 1-06, § 6, 3-14-06; Ord. No. 4-08, § 12, 4-7-08; Ord. No. 5-09, § 31, 4-15-09)

Sec. 134-391. - Alterations and repairs.

Normal maintenance repair and incidental alteration of a structure containing a nonconforming use is permitted under this chapter, provided it does not extend the area or volume of space occupied by the nonconforming use.

(Ord. No. 2-74, § 8.14(b), 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 1-84, § 6(a), 3-1-84)

Sec. 134-392. - Termination.

(a) *Abandonment.* Under this chapter, the discontinuance of a nonconforming use with the intention of the owner thereof to terminate the use for any period of time is an abandonment. Likewise, the discontinuance of a

nonconforming use for a period of two years without the intention of the owner thereof to discontinue the use and/or the change of a use to a more restricted or conforming use for any period of time shall be considered an abandonment thereof, and such nonconforming use shall not thereafter be revived.

- (b) *Destruction or partial destruction.* When 50 percent or more of the existing floor area of a nonconforming building or structure occupied by a nonconforming use is unintentionally damaged or destroyed, such as by an act of terrorism or war or fire or other casualty, or act of God or nature, or the acts of the owner thereof, the use of such building or structure as a nonconforming use shall immediately be terminated. If a town-designated landmark which contains a nonconforming use is destroyed by fire or other casualty or act of God, to the extent of more than 50 percent as determined by floor area prior to its destruction, such designated landmark may be reconstructed in its original location to its original size and configuration and the nonconforming use may continue.

(Ord. No. 2-74, § 8.15, 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 1-95, § 3, 1-23-95; Ord. No. 1-2015, § 1, 2-11-15)

Secs. 134-393—134-415. - Reserved.

DIVISION 3. - BUILDINGS AND STRUCTURES

Sec. 134-416. - Continuation; definition; intent.

- (a) A building or structure, lawfully in existence at the effective date of the ordinance from which this chapter is derived, which shall be made nonconforming at the passage of this chapter or any applicable amendment thereto, may be continued except as otherwise provided in this article.
- (b) A building or structure is, for the purposes of this chapter, nonconforming if the building or structure or any physical characteristics thereof is not in full compliance with all regulations of the zoning district in which it is situated.
- (c) The intent of this division is to exempt town-owned municipal buildings and structures which are at least 50 years old from article IV, Nonconformities, division 3, Buildings and Structures.
- (d) It is further the intent that, by the provisions of this chapter or by amendments that may be adopted, there may exist buildings or structures which were lawful before this chapter was adopted or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these nonconforming buildings and structures to exist until they are voluntarily removed, removed by abandonment, or otherwise removed as required by this chapter, but not to encourage their survival. Such nonconforming buildings and structures are allowed to be enlarged, expanded or extended, provided that said enlargement, expansion or extension meets all of the lot yard and bulk regulations for the zoning district in which the building or structure is located and provided that said enlargement, expansion or extension is not used as grounds for adding other buildings or structures prohibited elsewhere, in the same district.

(Ord. No. 2-74, § 8.20, 3-26-74; Ord. No. 2-83, § 2, 2-23-83; Ord. No. 26-10, § 13, 12-15-10; Ord. No. 02-2019, § 2, 3-19-19)

Cross reference— Definitions generally, § 1-2.

Sec. 134-417. - Extension or expansion.

A building or structure which is nonconforming with any of the lot, yard and bulk, regulations may be enlarged, expanded or extended to occupy a greater area of land provided that the enlargement, expansion or extension complies with all lot, yard and bulk regulations for the zoning district in which the building or structure is located. This section shall not apply to a building or structure which is demolished by more than 50 percent, as provided for in section 134-419(1), in preparation for any proposed enlargement, expansion, or extension of a building or structure.

(Ord. No. 2-74, § 8.21, 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 26-10, § 14, 12-15-10; Ord. No. 04-2018, § 5, 4-11-18)

Sec. 134-418. - Conversion to conforming building or structure.

For any building or structure or part thereof, in which a nonconformity of the building or structure or part thereof is altered, changed or replaced by a conforming building or structure, the terminated nonconformity shall not thereafter be resumed nor shall any additional nonconformity be permitted.

(Ord. No. 2-74, § 8.22, 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 26-10, § 15, 12-15-10)

Sec. 134-419. - Restoration, demolition, enlargement, extension, expansion, reconstruction, alteration or repair.

No nonconforming building or structure shall be enlarged, extended, reconstructed or structurally altered except, as provided for in sections 134-416, 134-417 and 134-418, or when required to do so by law in accordance with the following:

- (1) Voluntary demolition, restoration and reconstruction. A nonconforming building and/or structure may be demolished, restored as before, enlarged, extended, expanded and reconstructed provided that such demolition, restoration, enlargement, extension, expansion or reconstruction does not result in any of the following cumulatively occurring within five years of passing a final inspection:
 - a. The loss of more than 50 percent of an exterior wall square footage, including fixed windows, on an entire north, south, east or west elevation:
 - b. The loss of more than 50 percent of the roof truss area (with all of the roof measured as though flat):

In addition, any enlargement, extension or expansion of a nonconforming building or structure is required to meet current lot, yard and bulk regulations in chapter 134, Zoning.

All demolition, restoration, enlargement, extension, expansion or reconstruction shall be completed within the time schedule set forth in the construction schedule section 105.4.1.6 of the Florida Building Code. In the event such demolition, restoration, enlargement, extension, expansion or reconstruction is not completed within the timeframe required by the building code, construction shall cease and shall not resume until the town council decides the remedy for noncompliance, and review and approves a completion schedule.

- (2) *Alteration and repairs.* Normal maintenance and repair and incidental alteration of a nonconforming building or structure is permitted, provided it does not increase the area, volume or size. Replacement of only operable windows and/or doors exceeding the parameter in (1)a and b above is permitted provided the openings of such windows and/or doors are not enlarged. A building used for single-family or multi-family residential purposes may be altered in any way to improve interior livability; provided, however, that no alterations shall be made which would increase the number of dwelling units. Single-family dwellings may be added onto or partially demolished in accordance with sections 134-794, 134-844, 134-894, 134-1005 and 134-1060.
- (3) *Minimum flood elevation.* A nonconforming building may be raised to meet, but not exceed, the minimum

town flood elevation provided that all of the following conditions are met:

- a. There is no increase in height as measured from the raised finished floor to the bottom of the top chord of the roof framing member for a pitched roof and the ceiling of a flat roof does not get any taller;
- b. There is no increase in overall height as measured from the raised finished floor elevation to the top of the roof for pitched roof, and top of the ceiling and parapet for a flat roof is not any taller;
- c. The building footprint within the required setbacks is no larger, and is no closer to the property line than it was prior to being raised; and
- d. Any new additions shall meet existing lot, yard and bulk regulations.

(Ord. No. 2-74, § 8.23, 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 1-84, § 6(b), 3-1-84; Ord. No. 1-98, § 13, 2-9-98; Ord. No. 2-05, §§ 2, 3, 5-10-05; Ord. No. 1-06, § 7, 3-14-06; Ord. No. 1-07, § 2, 4-10-07; Ord. No. 4-08, § 13, 4-7-08; Ord. No. 5-09, § 32, 4-15-09; Ord. No. 26-10, § 16, 12-15-10; Ord. No. 4-2011, § 1, 7-13-11; Ord. No. 4-2016, § 1, 4-13-16; Ord. No. 04-2018, § 6, 4-11-18)

Sec. 134-420. - Unintentional damage or destruction or partial destruction.

- (a) Any nonconforming building or structure which is unintentionally damaged or destroyed, such as by an act of terrorism or war or fire or other casualty, or act of God or nature, can be reconstructed in its original location to its original size and configuration provided that the property owner of said building or structure (i) commences with reasonable promptness following such damage or destruction to obtain the necessary permits and approvals for such reconstruction and thereafter continues with reasonable diligence to obtain such permits and approvals, and (ii) begins construction within five years of said unintentional damage or destruction and provided further that for residential use, the property does not exceed the existing density and for commercial use it does not exceed the existing or allowed intensity and/or density by Code. In addition, if said building or structure did not meet the town's minimum flood elevation requirements, the rebuilt building or structure shall be raised to meet said requirements if required by law.
- (b) If a nonconforming building or structure is located partially or entirely east of the coastal construction control line, said building or structure may be rebuilt in its original location to its original location, size and configuration, density and/or intensity provided it meets all state and federal requirements for a building and/or structure located east of the coastal construction control line.

(Ord. No. 2-74, § 8.24, 3-26-74; Ord. No. 2-83, § 7, 2-23-83; Ord. No. 1-93, § 5(b), 2-8-93; Ord. No. 1-98, § 14, 2-9-98; Ord. No. 1-04, § 4, 3-9-04; Ord. No. 4-2011, § 1, 7-13-11)

Editor's note— Ord. No. 4-2011, § 2, adopted July 13, 2011, changed the title of section 134-420 from "Destruction or partial destruction" to "Unintentional damage or destruction or partial destruction." The historical notation has been preserved for reference purposes.

Secs. 134-421—134-445. - Reserved.

DIVISION 4. - LAND

Sec. 134-446. - Development and redevelopment of nonconforming residential lots.

- (a) Vacant land located in any zoning district which does not conform to the minimum requirements of lot dimension or area as required by the schedule of lot, yard and bulk regulations for the district as given in article VI of this chapter be developed or redeveloped as allowed in subsections (b) and (c) provided that multi-family residential use and single-family residential use does not exceed the maximum density allowed for the site, as identified in chapter 134 and the Future Land Use Element in the town's comprehensive plan. Development of a single-family residential dwelling unit on a vacant residentially zoned lot which has existed in the same configuration for a minimum of 30 years is allowed under subsection (b) or (c), whichever is relevant.
- (b) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-C, R-D(1), R-D(2), C-TS, C-WA, C-OPI, C-PC, C-B and PUD zoning districts shall be subject to an application to the town council for a variance. A variance to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.
- (c) The development or redevelopment of land which does not conform to the requirements of lot dimension or lot area requirements in the R-AA, R-A and R-B zoning districts shall be subject to an application to the town council for special exception and/or site plan review as provided for in subsections 134-793(b), 134-843(b) and 134-893(b). A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.

(Ord. No. 26-10, § 17, 12-15-10; Ord. No. 4-2016, § 2, 4-13-16)

Secs. 134-447—134-475. - Reserved.

ARTICLE V. - PLANNED UNIT DEVELOPMENT PROCEDURE

DIVISION 1. - GENERALLY

Sec. 134-476. - Purpose.

- (a) The purpose of planned unit development regulations is to:
 - (1) Encourage flexibility in the design and development of land in order to promote its most appropriate use;
 - (2) Facilitate the adequate and economical provision of streets, utilities and public spaces; and
 - (3) Preserve the natural and scenic qualities of open areas.
- (b) The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and morals both in the use and occupancy of buildings and facilities in planned groups.
- (c) In addition to subsections (a) and (b) of this section, PUD-4 historical preservation-residential development is intended to preserve structures and premises of significant historical or architectural value to the town by allowing for low-density residential development at a density calculated on the area of the entire property, excluding the area of property required by the town to be assigned to the historical structure. Structures and/or

premises listed in the national record or in any historical report recognized by the town council may be considered significant for the purposes of this article. In addition, the town council may declare any other structure and/or premises to be of historical or architectural significance.

(Ord. No. 2-74, § 7.10, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 1-92, § 5(a), 2-3-92)

Sec. 134-477. - District regulations.

The requirements and regulations for a PUD district are contained in division 14 of article VI of this chapter.

Sec. 134-478. - Town council approval for permitted use and special exception use; review by planning and zoning commission; hearing; site plan review of application.

- (a) A planned unit development, when a permitted use, shall be subject to the approval of the town council after a review and report by the planning and zoning commission and after a public hearing is held by the town council in accordance with law.
- (b) A planned unit development, when a special exception use, shall be subject to the approval of the town council after a review and report by the planning and zoning commission and after a public hearing is held by the town council in accordance with law. The review by the planning and zoning commission shall be to make findings pursuant to sections 134-227 through 134-233 and other applicable sections of this chapter and to make recommendations thereon.
- (c) Every application for approval of a planned unit development shall require concurrent site plan review in accordance with article III of this chapter.

(Ord. No. 2-74, § 7.20, 3-26-74; Ord. No. 7-79, § 15, 3-30-79; Ord. No. 1-04, § 42, 3-9-04)

Secs. 134-479—134-505. - Reserved.

DIVISION 2. - PROCEDURE

Subdivision I. - In General

Secs. 134-506—134-530. - Reserved.

Subdivision II. - Tentative Approval

Sec. 134-531. - Application.

In order to provide an expeditious method for processing a plan for a planned unit development, under the terms of this chapter, it is declared to be in the public interest that all procedures with respect to the approval or disapproval of a plan for a planned unit development, and the continuing administration thereof, shall be consistent with the following:

- (1) An application for tentative approval of the plan for a planned unit development shall be filed by or on behalf of the landowner with the building official.

- (2) The following information shall be submitted with the application:
- a. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed.
 - b. The density of land use to be allocated to parts of the site to be developed.
 - c. The location and size of any common open space and the form or organization proposed to own and maintain any common open space.
 - d. The use and the approximate height, bulk and location of buildings and other structures.
 - e. The feasibility of proposals for the disposition of sanitary waste and stormwater.
 - f. The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.
 - g. The provisions for parking of vehicles and the location and width of proposed streets and public ways.
 - h. The required modifications in the town land use regulations otherwise applicable to the subject property.
 - i. For plans that call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
 - j. For PUD-4, a complete description of the historical and/or architecturally significant structures and/or premises and provisions for their preservation. The portion of the property to be devoted to the preservation shall be delineated.
- (3) The application for tentative approval of a planned unit development shall include a written statement by the landowner or any other entity having a cognizable interest in the land, setting forth the reasons why, in his opinion, a planned unit development would be in the public interest and would be consistent with the town's statement of purposes on planned unit development.

(Ord. No. 2-74, § 7.31, 3-26-74; Ord. No. 5-78, § 13, 3-31-78)

Sec. 134-532. - Public hearings.

- (a) Upon submission of a complete planned unit development application, the planning and zoning commission shall hear said application within 60 days of the application being deemed complete by the director of the planning, zoning and building department or designee. A public hearing on the planned unit development application shall then be held by the planning and zoning commission and town council after public notice is given in accordance with law. A copy of the PUD application shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all property owners within 300 feet from any part of the subject property at the address shown on the county property appraiser's tax records, together with a notice from the director or designee advising the date, time and location of the hearing on such application before the planning and zoning commission and town council. Such list of property owners, together with a notification map, shall be provided by the applicant and shall be certified by the applicant as being true and accurate. The applicant shall be required to mail the application to the property owners within notification area within five days of submittal of the application to the town. No application shall be heard less than ten days after the first publication notice as provided in this section and 15 days after the mailing to property owners directly affected, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council.

- (b) A transcript of the hearing shall be caused to be made by the town council, copies of which shall be made available to any party to the proceedings, and all exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. The plan and zoning commission shall report on the proposed planned unit development not less than 15 days before the public hearing, and the report shall be available for public inspection during reasonable hours.

(Ord. No. 2-74, § 7.32, 3-26-74; Ord. No. 2-83, § 6, 2-23-83; Ord. No. 1-04, §§ 38, 43, 3-9-04; Ord. No. 5-09, § 26, 4-15-09; Ord. No. 11-2018, § 5, 7-11-18)

Sec. 134-533. - Grant or denial.

- (a) The town council shall, within 60 days following the conclusion of the public hearing for tentative approval of a planned unit development, by written resolution either (i) grant tentative approval of the plan as submitted, (ii) grant tentative approval subject to specified conditions not included in the plan as submitted, or (iii) deny tentative approval to the plan. Failure of the town council to so act within such period shall be deemed to be a grant of tentative approval of the plan as submitted.
- (b) If tentative approval is granted, other than by lapse of time, either of the plan as submitted or of the plan with conditions, the town council shall, as part of its resolution, specify the drawings, specifications and form of performance bond that shall accompany an application for final approval.
- (c) If tentative approval is granted subject to conditions, the landowner shall, if he finds such conditions to be unacceptable, within 45 days after receiving a copy of the written resolution of the town council, notify the town council of his refusal to accept the conditions.
- (d) If the landowner refuses to accept all the conditions, the town council shall be deemed to have denied tentative approval of the plan.
- (e) If the landowner does not, within such period, notify the town council of his acceptance of or his refusal to accept all the conditions, tentative approval of the plan, with all the conditions, shall stand as granted.
- (f) Nothing contained in this section shall prevent the town council and the landowner from mutually agreeing to a change in such conditions, and the town council may, at the request of the landowner, extend the time during which the landowner shall notify the town council of his acceptance or refusal to accept the conditions.
- (g) The grant or denial of tentative approval by written resolution shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and the resolution shall set forth with particularity in which respects the plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:
- (1) In what respects the plan is or is not consistent with the purpose of a planned unit development, as expressed in section 134-476.
 - (2) The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are not deemed to be in the public interests.
 - (3) The purpose, location and amount of the common open space in the planned unit development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of development.

- (4) The physical design of the plan and the manner in which the design does or does not make adequate provision services, provide adequate control over vehicular traffic and further the amenities of light and air, recreation an enjoyment.
 - (5) The relationship, beneficial or adverse, of the proposed planned unit development to the neighborhood in which it is proposed to be established.
 - (6) For a plan that proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and of the residents and owners of the planned unit development in the integrity of the plan.
 - (7) The historical or architectural significance of any structure and/or premises and the adequacy of provisions for its preservation.
- (h) If a plan is granted tentative approval, with or without conditions, the town council shall set forth in the written resolution the time within which an application for final approval of the plan shall be filed or, for a plan that provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. The time so established between grant of tentative approval and application for final approval shall not be less than three months and, for developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than six months. Nothing contained in this subsection shall be construed to limit a landowner from the presentation of any application for final approval earlier than the time period set forth in this subsection.

(Ord. No. 2-74, § 7.33, 3-26-74; Ord. No. 5-78, § 13, 3-31-78)

Sec. 134-534. - Status of plan after tentative approval.

- (a) Within five working days after the adoption of the written resolution provided for in section 134-533, it shall be certified by the town clerk and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the approval shall be noted on the zoning map maintained in the office of the town clerk.
- (b) Tentative approval of a plan shall not qualify a plat of the planned unit development for recording or authorize development or issuance of any building permits. A plan which has been given tentative approval as submitted or which has been given tentative approval with conditions that have been accepted by the landowner, and provided that the landowner has not defaulted or violated any of the conditions of the tentative approval, shall not be modified, revoked or otherwise impaired by action of the town pending an application for final approval, without the consent of the landowner, provided an application for final approval is filed or, for development over a period of years, provided applications are filed within the periods of time specified in the resolution granting tentative approval.
- (c) If a plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon part or all of the plan and shall so notify the town council in writing, or if the landowner shall fail to file application for final approval within the required period of time, as the case may be, tentative approval shall be deemed to be revoked, and all that portion of the area included in the plan for which final approval has not been given shall be subject to the sections of this chapter applicable thereto, as they may be amended from time to time, and such shall be noted on the zoning map in the office of the town clerk and in the records of the town clerk.

(Ord. No. 2-74, § 7.34, 3-26-74)

Secs. 134-535—134-560. - Reserved.

Subdivision III. - Final Approval

Sec. 134-561. - Application.

- (a) An application for final approval of a planned unit development may be for all the land included in a plan or the extent set forth in the tentative approval for a section thereof. The application shall be made to the director of planning, zoning and building or designee. The application shall include such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth by written resolution of the town council at the time tentative approval. A public hearing on an application for final approval of the plan or part thereof shall not be required, provided the plan, or the part thereof submitted for final approval, is in substantial compliance with the plan theretofore given tentative approval. The town council shall find that any changes to the tentative plan shall not be in contravention to the public's best interests.
- (b) When the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof and as required by the resolution of tentative approval, the town council shall, within 45 days of such filing, grant such plan final approval.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84; Ord. No. 26-10, § 7, 12-15-10)

Sec. 134-562. - Refusal to grant for variations in tentatively approved plan.

- (a) If the final plan for a planned unit development as submitted contains variations from the plan given tentative approval, the town council may, after a meeting with the landowner, refuse to grant final approval and shall, within 45 days from the filing of application for final approval, so advise the landowner in writing of the refusal, setting forth in the notice the reasons why one or more of the variations are not in the public interest.
- (b) If refusal occurs, the landowner may:
 - (1) File his application for final approval without the variations objected to by the town council on or before the last day of the time within which he was authorized by the resolution granting tentative approval to file for final approval, or within 30 days from the date he received notice, whichever date shall last occur;
 - (2) Treat the refusal as a denial of final approval; or
 - (3) File a written request with the town council that it hold a public hearing on his application for final approval. Any such public hearing shall follow the procedure for tentative approval and shall be held during the next annual public hearing period starting with October.
- (c) Within 45 days after the conclusion of the hearing, the town council shall by resolution either grant final approval to the plan or deny final approval to the plan. The grant or denial of final approval of the plan shall, in cases arising under this subsection, be in the form and contain the findings required for a resolution on an application for tentative approval set forth in section 134-532.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84; Ord. No. 1-04, § 39, 3-9-04)

Sec. 134-563. - Certification; filing of record plat; modification before completion of development.

- (a) A plan for a planned unit development or any part thereof that has been given final approval by the town council

shall be so certified without delay by the town clerk, and a record plat may be filed on record forthwith in the office of the county clerk in accordance with F.S. ch. 177 before any development shall take place in accordance therewith. Upon the filing on record of the plan, all other ordinances and subdivision regulations otherwise applicable to the land included in the plan shall cease to apply thereto.

- (b) Pending completion within five years of the planned unit development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of the plan or part thereof, as finally approved, shall be made nor shall it be impaired by act of the town, except with the consent of the landowner.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84)

Sec. 134-564. - Abandonment; termination.

If a plan for a planned unit development or section thereof is given final approval and thereafter the landowner shall abandon the plan or the section thereof that has been finally approved and shall so notify the town council in writing or if the landowner shall fail to commence the planned unit development within 18 months, such final approval shall terminate and be deemed null and void unless such time period is extended by the town upon written request of the landowner.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84)

Secs. 134-565—134-590. - Reserved.

DIVISION 3. - REGULATIONS

Subdivision I. - In General

Secs. 134-591—134-615. - Reserved.

Subdivision II. - Permitted Uses

Sec. 134-616. - Districts where permitted.

Planned unit developments are a permitted use within PUD-A, PUD-B and PUD-C districts as indicated on the Amended Zoning Map of the Town of Palm Beach, Florida, adopted by reference and made a part of this chapter.

(Ord. No. 2-74, § 7.41, 3-26-74; Ord. No. 7-78, § 4, 5-9-78)

Sec. 134-617. - Compliance.

When developed as a permitted use within PUD-A, PUD-B or PUD-C district, planned unit developments shall conform to the regulations in this subdivision, other pertinent sections of this chapter and the principles set forth in the comprehensive plan of the town.

(Ord. No. 2-74, § 7.42, 3-26-74)

Sec. 134-618. - Minimum area.

Minimum area requirements for permitted use planned unit developments are as follows:

- (1) PUD-A, mixed use district, 25 contiguous acres undivided by any public right-of-way or easement.
- (2) PUD-B, residential mix district, 15 contiguous acres undivided by any public right-of-way or easement.
- (3) PUD-C, residential mix district, four contiguous acres undivided by any public right-of-way or easement.

(Ord. No. 2-74, § 7.421, 3-26-74)

Sec. 134-619. - Open space.

In permitted use planned unit developments in the PUD-A, PUD-B and PUD-C districts, not less than 15 percent of the planned unit site areas shall be developed as common open space; vehicle access facilities and parking areas shall not be considered in calculating such common open space. In no event, however, shall the lot coverage of all structures located within a planned unit development site exceed 35 percent of the gross area included within such planned unit development site.

(Ord. No. 2-74, § 7.422, 3-26-74)

Sec. 134-620. - Residential density.

Residential densities in permitted use planned unit developments shall be as follows:

- (1) PUD-A, ten units per acre; provided, however, that the planned unit development on the Breaker's Property shall be subject to the requirements of Resolution No. 6-71 and Resolution No. 9-72 of the town, as agreed to by the Flagler Systems, Inc.
- (2) PUD-B, ten units per acre.
- (3) PUD-C, six units per acre.

(Ord. No. 2-74, § 7.423, 3-26-74)

Sec. 134-621. - Densities bordering estate districts.

- (a) As used in this section, the term "adjoin" is defined as having a common property line or being separated by a public right-of-way on an easement of 150 feet or less.
- (b) Where a permitted use planned unit development adjoins an R-AA large estate residential district or an R-A estate residential district, residential densities within the planned unit development shall not exceed six units per acre within 500 feet of the R-AA or R-A district, and the height of structures within 500 feet of the R-AA or R-A district shall not exceed two stories or 25 feet. When such restrictions are imposed on permitted use planned unit developments, densities may be increased in the remainder of the development site in order that the gross density of the development may equal but not exceed the maximum density stipulated in section 134-620.

(Ord. No. 2-74, § 7.424, 3-26-74)

Sec. 134-622. - Permitted land uses in PUD-A district.

The following uses shall be permitted in planned unit developments in the PUD-A district:

- (1) Any use permitted in the R-D(1) moderate density residential district and R-D(2) high density residential district; provided, however, that the maximum density for the planned unit development shall be governed

by section 134-620.

- (2) Any use permitted in the C-TS, C-WA, C-OPI or C-PC commercial district; provided, however, that commercial development within the planned unit development shall, in no case, occupy more than 20 percent of the gross area of the planned unit development. For the purpose of calculating gross density, as set forth in section 134-620, the land use measurements indicated in the table in section 134-656 shall be equivalent to a dwelling unit as defined.
- (3) Hotels.
- (4) Golf courses and other uses that are customarily accessory to a principal hotel use.
- (5) Site plan review modifications for permitted and accessory uses that do not exceed 2,500 square feet may be approved administratively without Town Council review if the Director of Planning, Zoning and Building determines that such modifications will not create adverse impacts on surrounding properties or Town facilities.

(Ord. No. 2-74, § 7.425, 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-00, § 1, 2-22-00; Ord. No. 1-2020, § 1, 2-12-20)

Sec. 134-623. - Permitted land uses in PUD-B district.

The uses permitted in planned unit developments in the PUD-B district shall be any use permitted in the R-C, medium density district; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620. Newsstands, dining rooms and personal service uses for the convenience of residents shall be permitted in such district; provided, however, that no exterior or external advertising of such facilities shall be permitted.

(Ord. No. 2-74, § 7.425, 3-26-74)

Sec. 134-624. - Permitted land uses in PUD-C district.

The uses permitted in planned unit developments in the PUD-C district shall be any use permitted in the R-C, medium density district; provided, however, that the maximum density for the planned unit development shall not be governed by section 134-620.

((Ord. No. 2-74, § 7.425, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 7-78, § 4, 5-9-78)

Secs. 134-625—134-650. - Reserved.

Subdivision III. - Special Exceptions

Sec. 134-651. - Establishment of special exception planned unit developments.

The following special exception planned unit development districts are established and shall be subject to all applicable requirements of this article and of the district in which they are located:

PUD-1	Single-family development
PUD-2	Residential mix development

PUD-3	Mixed use development
PUD-4	Historical preservation residential development

(Ord. No. 2-74, § 7.431, 3-26-74)

Sec. 134-652. - Districts where permitted.

Planned unit developments as established by this article may be permitted as special exceptions only in specifically designated districts as follows:

- (1) *PUD-1, single-family development.* Permitted only in portions of R-B districts which are in close proximity to intensive developments in an R-C, R-D(1) or R-D(2) district.
- (2) *PUD-2, residential mix development.* Permitted only in R-C, R-D(1) and R-D(2) districts.
- (3) *PUD-3, mixed use development.* Permitted only in R-C, R-D(1) and R-D(2) districts.
- (4) *PUD-4, historical preservation residential development.* Permitted only in R-AA, R-A and R-B districts.

(Ord. No. 2-74, § 7.432, 3-26-74)

Sec. 134-653. - Minimum area requirements.

Minimum area requirements for special exception planned unit developments are as follows:

- (1) *PUD-1, single-family development.* One contiguous acre undivided by any public right-of-way or easement.
- (2) *PUD-2, residential mix development.* Ten contiguous acres undivided by any public right-of-way or easement.
- (3) *PUD-3, mixed use district.* Twenty contiguous acres undivided by any public right-of-way or easement.
- (4) *PUD-4, historical preservation residential development.* One or more contiguous acres undivided by any public right-of-way or easement.

(Ord. No. 2-74, § 7.433, 3-26-74)

Sec. 134-654. - Residential density.

Residential densities in special exception planned unit developments permitted under this article shall be as follows:

PUD District	Use District	Maximum Density Permitted under PUD* (units per acre)
PUD-1	R-B	4
PUD-2	R-C	6**
	R-D(1)	13**
PUD-3	R-C	6**
	R-D(1)	13**
	R-D(2)	13**
PUD-4	R-AA	$\frac{2}{3}$ **

	R-A	2**
	R-B	4**

* See section 134-656 for conversion of nonresidential uses to equivalent dwelling unit amounts for the purpose of calculating gross density.

** ;hg;See section 134-655 far special provisions covering densities in those portions of the planned unit development site adjoining lower density residential districts.

(Ord. No. 2-74, § 7.434, 3-26-74; Ord. No. 6-81, § 6(a), 3-31-81; Ord. No. 1-03, § 7, 3-11-03; Ord. No. 1-04, § 34, 3-9-04)

Sec. 134-655. - Areas of restricted density in PUD-2 or PUD-3 district.

- (a) For the purpose of this section, the term "adjoin" is defined as having a common property line or being separated by a public right-of-way of 150 feet or less.
- (b) Whenever a PUD-2 or PUD-3 planned unit development is permitted, the density restriction in subsection (c) of this section shall apply.
- (c) Where the proposed planned unit development adjoins an R-AA, R-A or R-B district, residential densities within the planned unit development shall not exceed six units per acre within 500 feet of the R-AA, R-A or R-B district, and the height of structures within 500 feet of the R-AA, R-A or R-B district shall not exceed two stories or 25 feet. When such density restrictions are imposed on planned unit developments adjoining an R-AA, R-A or R-B district, the height limit on the portion of the development over 500 feet from the R-AA, R-A or R-B district may be increased but shall not exceed five stories or 62 feet in building height.

(Ord. No. 2-74, § 7.435, 3-26-74)

Sec. 134-656. - Permitted land use.

The uses permitted in planned unit developments shall be as follows:

- (1) *PUD-1.*
 - a. Any use permitted in the R-AA large estate residential district, R-A estate residential district or R-B low density residential district; provided, however, that such uses are grouped in cluster development in accordance with division 5 of this article.
 - b. Townhouses, subject to applicable requirements in subdivision II of division 10 of article VIII of this chapter.
- (2) *PUD-2.*
 - a. Any use permitted in the R-C medium density residential district.
 - b. Newsstands, dining rooms and personal service uses for the convenience of residents shall be permitted in such district; provided, however, that no exterior or external advertising of such facilities shall be permitted nor shall the gross floor area devoted to such uses exceed ten percent of the gross ground floor area of buildings included within the planned unit development.
- (3) *PUD-3.*
 - a. Any use permitted in the R-D(1) moderate density residential district.

- b. In PUD-3 developments containing 100 or more residential dwelling units, commercial uses permitted in the OPI or C-PC commercial district may be permitted; provided, however, that any commercial development in unit development shall front on a major thoroughfare and further provided that such commercial development its required parking area, shall not occupy more than 20 percent of the gross floor area of the planned unit development. For the purpose of calculating gross density, as set forth in section 134-620, the following land use measurement is equivalent to a dwelling unit as defined:

Land Use Type	Unit of Measurement	Equivalence to One Dwelling Unit of Gross Density
Hotels, motels or similar places of transient occupation	Number of bedrooms	Two bedrooms
Principal commercial uses	Total floor area	750 square feet
Accessory commercial uses	Total floor area	1,500 square feet
All other nonresidential floor spaces	Total floor area	1,000 square feet

- (4) *PUD-4*. Any use permitted in the R-AA large estate residential or RD-A estate residential district, provided the uses are developed compatibly with an historical or architecturally significant structure or premises.

(Ord. No. 2-74, § 7.436, 3-26-74; Ord. No. 6-81, § 6(b), 3-31-81; Ord. No. 1-92, § 5(b), 2-3-92)

Sec. 134-657. - Open space.

A minimum of 15 percent of a planned unit site area shall be developed as common open space. Parking areas and vehicle access facilities shall not be considered in calculating such common open space. In no event, however, shall the lot coverage of all structures located within a planned unit development site exceed 35 percent of the gross area included within such planned unit development site.

(Ord. No. 2-74, § 7.437, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 7-79, § 16, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-92, § 5(b), 2-3-92)

Secs. 134-658—134-685. - Reserved.

DIVISION 4. - STANDARDS

Sec. 134-686. - Compliance with division.

The town council shall approve the planned unit development only if it finds that the planned unit development satisfies all of the standards in this division.

(Ord. No. 2-74, § 7.50, 3-26-74)

Sec. 134-687. - General standards.

- (a) The planned unit development shall be consistent with the regulations governing planned unit developments as

set forth within division 3 of this article.

- (b) The planned unit development plan shall be consistent with the Palm Beach Comprehensive Plan.
- (c) The planned unit development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.
- (d) The planned unit development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.

(Ord. No. 2-74, § 7.51, 3-26-74)

Sec. 134-688. - Design standards.

- (a) In a planned unit development, all buildings in the layout and design shall be an integral part of the development and shall have convenient access to and from adjacent uses and blocks.
- (b) Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development.
- (c) Treatment of the sides and rear of all buildings within the planned unit development group shall be comparable in amenity and appearance to the treatment given to street frontage of these same buildings.
- (d) The design of buildings and the parking facilities shall take advantage of the natural features, topography of the project site, where appropriate.
- (e) All building walls shall be so oriented as to ensure adequate light and air exposures to the room within.
- (f) All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- (g) All buildings shall be arranged so as to be accessible to emergency vehicles.

(Ord. No. 2-74, § 7.52, 3-26-74)

Sec. 134-689. - Landscape design standards.

- (a) In a planned unit development, landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.
- (b) Primary landscape treatment shall consist of shrubs, ground cover, and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to local growing conditions.
- (c) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- (d) All streets bordering the project area shall be planted at appropriate intervals with street trees.

(Ord. No. 2-74, § 7.53, 3-26-74; Ord. No. 5-78, § 19, 3-31-78)

Sec. 134-690. - Circulation system design standards.

- (a) In a planned unit development, there shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
- (b) Roads, pedestrian walks and open space shall be designed as integral parts of an overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped.

- (c) Buildings and vehicular circulation with open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (d) Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
- (e) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained and indicative of their function.

(Ord. No. 2-74, § 7.54, 3-26-74)

Sec. 134-691. - Parking and loading design standards.

- (a) In a planned unit development, parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- (b) Pedestrian connections between areas and buildings shall be via special pedestrian walkways and/or elevators.
- (c) Parking facilities shall be designed with careful regard to orderly arrangement, landscaping, ease of access, and shall be developed as an integral part of an overall site design.
- (d) Any abovegrade loading facility should be screened from public view to the extent necessary to eliminate unsightliness.
- (e) Parking and loading facilities shall be provided in accordance with divisions 2 and 3 of article IX of this chapter.

(Ord. No. 2-74, § 7.55, 3-26-74)

Secs. 134-692—134-720. - Reserved.

DIVISION 5. - CLUSTER DEVELOPMENT

Sec. 134-721. - Variance of net residential density.

In order to promote the health and general welfare of the community and to preserve and make available open space, the town council may grant a developer the right to vary the net residential density within a tract to be developed, leaving a substantial area free of building lots. The right to vary the net density shall be subject to the following conditions:

- (1) An overall plan of the entire tract showing lots, lot lines, lot areas, easements, encumbrances and other relevant data shall be submitted.
- (2) The average lot size may be reduced by 20 percent with no lot reduced by more than 25 percent. The uses in the proposed subdivision shall be grouped in clusters.
- (3) Minimum yard requirements in a cluster development shall be as follows:
 - a. Front yard, 25 feet.
 - b. Side yard, ten feet, except that garages or carports upon an adjacent lot may join at the property line or be grouped on land away from the individual lot.
 - c. Rear yard, 25 feet.
- (4) The balance of the land not contained in the lots or within the road rights-of-way shall be contiguous and of such condition, size and shape as to be usable for recreation. Such land shall be held in corporate ownership

by the owners of lots within the development and shall incorporate into the deeds a clause giving to the owners an interest in such open land which shall be used for recreation purposes only. No structures except those incidental to the recreational use shall be permitted thereon.

(Ord. No. 2-74, § 7.44, 3-26-74)

Secs. 134-722—134-750. - Reserved.

ARTICLE VI. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 134-751. - Establishment of districts.

For the purposes of protecting, promoting and improving the public health, safety, morals and the general welfare of the people, the town is divided into the following districts:

R-AA	Large estate residential
R-A	Estate residential
R-B	Low density residential
R-C	Medium density residential
R-D(1)	Moderate density residential
R-D(2)	High density residential
C-TS	Commercial—Town serving
C-WA	Commercial—Worth Avenue
C-OPI	Commercial—Offices, professional and institutional
C-PC	Commercial—Planned center
C-B	Commercial, offices
C	Conservation
PUD-A	Planned Unit Development

PUD-B	Planned Unit Development
PUD-C	Planned Unit Development
Beach area	Beach area

(Ord. No. 2-74, § 3.10, 3-26-74; Ord. No. 5-78, § 9, 3-31-78; Ord. No. 7-78, § 3, 5-9-78; Ord. No. 4-80, § 2, 3-31-80)

Sec. 134-752. - Zoning map.

- (a) The boundaries of the districts are as shown upon the zoning map which is adopted by reference and made a part of this chapter and is entitled "Amended Zoning Map of the Town of Palm Beach, Florida," which original amended map bears the following legend: "Adopted March 26, 1974, as a part of Ordinance No. 2-74."
- (b) Following the legend in subsection (a) of this section appear the original signatures of the members of the town council signing such ordinance, the signatures of the mayor and the town clerk, and the corporate seal of the town.
- (c) The amended zoning map and all the notations, references and other information shown thereon are a part of this chapter as if such information set forth on the map were all fully described and set out in this chapter. This amended zoning map, properly attested, shall remain at all times on file in the office of the town clerk. The boundaries of such districts as are shown upon the map adopted by this section or any subsequent amendment thereto are adopted and approved, and the regulations of this chapter governing the use of land and buildings, the height of buildings, building site areas, the size of yards about buildings and other matters as set forth in this chapter are established and declared to be in effect upon all land included within the boundaries of each and every district shown upon such map.

(Ord. No. 2-74, § 3.20, 3-26-74)

Sec. 134-753. - Interpretation of boundaries.

- (a) In the creation, by this chapter, of the respective zoning districts, the town council has given due and careful consideration to the peculiar suitability of each and every such district for the particular regulations applied thereto, and the necessary proper and comprehensive groupings and arrangements of the various uses and densities of population in accordance with a well-considered plan for the development of the town.
- (b) Where uncertainty exists as to boundaries of any district, the following shall apply:
 - (1) Where such district boundaries are indicated as approximately following street lines, alley lines or lot lines, such lines shall be construed to be such boundaries.
 - (2) In unsubdivided property or where a district boundary divides a lot, the location of such boundary, unless the boundary is indicated by dimensions, shall be determined by use of the scale appearing on the map.
 - (3) Where any street or alley is officially vacated or abandoned subsequent to the effective date of the ordinance from which this chapter is derived, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

- (4) Where a district boundary line divides a lot in a single ownership on the effective date of the ordinance from which this chapter is derived, the town council may, in its discretion, permit a use authorized in either portion of such lot to be used on the entire lot, but not more than 25 feet beyond the boundary line of the district in which such use is authorized.
- (5) Where district boundary lines are indicated on the amended zoning map as intersecting the waters of Lake Worth or the bulkhead or pierhead lines, such district boundary lines shall be construed to extend westward in the same general direction as indicated on the map to the westerly corporate limits of the town, and all water and land existing shall be included within the district boundary lines and therefore zoned accordingly.
- (6) When parcels of land have been annexed to or consolidated with the corporate limits of the town as the result of action of the state legislature or when parcels of land come within the jurisdiction of the town in any other manner, the parcels of land shall be classified as R-A until changed by ordinance by the town council following public hearing as prescribed by law.

(Ord. No. 2-74, § 3.30, 3-26-74)

Sec. 134-754. - Schedules of regulations.

The restrictions and controls intended to regulate development in each zoning district are set forth in divisions 2 through 15 of this article which are supplemented by other sections of this chapter. The schedule of lot, yard and bulk regulations in this article for each district sets forth certain minimum and maximum criteria forming the building envelope within which development may occur. These regulations are not intended to allow maximum development under many of the possible combinations of the minimum and maximum thresholds set forth in divisions 2 through 15 of this article.

(Ord. No. 2-74, § 4.10, 3-26-74; Ord. No. 9-93, § 2(a), 6-8-93)

Sec. 134-755. - Application of regulations.

Except as provided in this chapter:

- (1) No building shall be erected, added on to, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all the district regulations established by this chapter for the district in which the building or land is located.
- (2) The minimum yards and other open spaces, including the intensity of use provisions contained in this chapter for each building erected, added on to, reconstructed or structurally altered subsequent to the effective date of the ordinance from which this chapter is derived shall not be encroached upon or considered as a compliance with yard or open space requirements for any other building or adjoining building. The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this chapter except as provided in this chapter, and, if already less than the minimum required by this chapter, the area or dimension may be continued. Lots or yards created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established by this chapter.
- (3) Every building erected, added on to, reconstructed or structurally altered subsequent to the effective date of the ordinance from which this chapter is derived shall be located on a lot fronting on either a private or public street.
- (4) Land areas of a proposed development site required to be included in computations for meeting requirements on percentage of lot coverage, and on open yard areas of a lot, must be land having the same

zoning classification as that zoning in which the principal building or use is located.

- (5) For the purpose of calculating the permissible number of dwelling units per acre in this chapter, such calculations shall be based on an acre containing 40,000 square feet.
- (6) No building or land shall be used for casino gambling.
- (7) In all zoning districts, no building or structure may exceed 100 feet in height above the natural grade unless notice and approval by the Federal Aviation Administration (FAA) under 14 CFR, part 77, specifically part 77.13, has occurred. Should the FAA find such building or structure would exceed an obstruction standard, said building or structure shall not be permitted under the provisions of Chapter 333, Florida Statute, State Statute 333.025(1).

(Ord. No. 2-74, § 4.20, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 7-79, § 5, 3-30-79; Ord. No. 1-85, § 2(a), 2-11-85; Ord. No. 1-87, § 2(a), (d), 2-9-87; Ord. No. 1-99, § 8, 4-5-99)

Secs. 134-756—134-785. - Reserved.

DIVISION 2. - R-AA LARGE ESTATE RESIDENTIAL DISTRICT

Sec. 134-786. - Purpose.

The purpose of the R-AA large estate residential district is to provide for single-family estate residential use, as that term is defined in [section 134-2](#), of spacious character together with publicly operated recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. This district is located to protect and preserve existing development of estate character and contains vacant land considered appropriate for such development in the future.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-787. - Permitted uses.

The permitted uses in the R-AA large estate residential district are as follows:

- (1) Single-family dwellings.
- (2) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 16-2012, § 1, 12-12-12)

Sec. 134-788. - Accessory uses.

The accessory uses in the R-AA large estate residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.
- (5) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the town's municipal limits provided such parking is located a minimum of 75 feet from a single-family home and is separated from a street by a landscape island.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 1-01, § 2, 2-19-01; Ord. No. 04-2018, § 7, 4-11-18)

Sec. 134-789. - Prohibited uses.

The specific prohibited uses of buildings or land in the R-AA large estate residential district are as follows:

- (1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the town. No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited. Additionally, executive/employee/group vacation/retreats are prohibited in this zoning district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 04-2018, § 8, 4-11-18)

Sec. 134-790. - Special exception uses.

The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the R-AA large estate residential district are as follows:

- (1) Planned unit development, PUD-4 (see article V of this chapter for standards).

- (2) Public structures.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Beach houses intended for the use of family and guests.
- (5) Municipally owned and operated parks and recreation areas.
- (6) Private social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996.
- (7) Supplemental parking, allowed only in a manner consistent with the zoning of the district in which it is located.
- (8) Museums occupying buildings of unique value as historical landmarks, as determined by the landmarks preservation commission and the town council, and for which it is demonstrated that no permitted use is economically viable.
- (9) Group home with up to six occupants.
- (10) Foster care facility with up to six occupants.
- (11) Pedestrian access tunnel to the beach as an accessory use provided that the applicant owns the land on both sides of the roadway, provides unity of title, and provides prior written approval from all governmental agencies having jurisdiction.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 5, 2-5-96; Ord. No. 1-99, § 9, 4-5-99; Ord. No. 1-04, § 8, 3-9-04; Ord. No. 16-2012, § 9, 12-12-12; Ord. No. 02-2019, § 3, 3-19-19)

Sec. 134-791. - Accessory structures.

- (a) *Accessory structures in R-AA district.* Accessory structures in the R-AA large estate residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-AA district.* Accessory structures without kitchen facilities may be erected in accordance with the following requirements:
 - (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.
 - (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed" or "partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
 - (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear yard setback, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
 - (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed

and enclosed accessory structures as for the principal structure, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.

- (5) Nothing contained in this section shall prohibit the construction of an enclosed accessory building containing bedrooms with bath facilities to be used in connection with and as a part of the main residence within the building lines as provided in this chapter. Such enclosed accessory building shall be used only for occupancy of nonpaying guests of the owners of the main residence or bona fide members of the family or servants, and no kitchen or cooking facilities shall be constructed or used therein except by submission of a written agreement with the town stating that such accessory structure will be used only by family members or household staff and approval of the planning, zoning and building director or his designee.
- (6) Accessory structures in the R-AA district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.
- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on a building lot. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.
- (8) One dock, as defined in section 134-2 and as regulated in sections 62-74, 62-75 and 134-1697, shall be unenclosed accessory structures as defined in this section.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-98, § 9, 2-9-98; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 1-02, § 5, 3-12-02; Ord. No. 17-2019, § 1, 6-12-19; Ord. No. 16-2021, § 2, 8-11-21)

Sec. 134-792. - Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.

In the R-AA large estate residential district, no accessory structure shall be used as or converted to a dwelling unit. Further, if any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure and use is established on the lot on which the accessory structure and use is located.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94)

Sec. 134-793. - Lot, yard and area requirements—Generally.

(a) *Schedule of regulations.* In the R-AA large estate residential district, the schedule of lot, yard and area requirements is as given in this section.

- (1) *Lot area.* The minimum lot area is 60,000 square feet; except that any property to be developed which consists of two or more lots shall have a minimum lot area of 40,000 square feet for each lot, and that the average lot area of all lots to be developed shall not be less than 60,000 square feet.
- (2) *Lot width.* The minimum lot width is 150 feet.
- (3) *Lot depth.* The minimum lot depth is 150 feet.
- (4) *Density.* The maximum density is one dwelling unit per 1½ acres.
- (5) *Front yard.* The minimum front yard setback is 35 feet.
- (6) *Angle of vision.* The building angle of vision (front setback) is 100 degrees.
 - a. Building angle of vision is not applicable to lots fronting on cul-de-sacs.
 - b. No portion of any individual building shall extend beyond a line drawn from the front property line 50 degrees either side of a line drawn perpendicular or radial to the front yard property line. For lots exceeding the minimum required width, the base angle of vision (50 degrees on either side of the line) shall be increased by two degrees for each ten feet of increased lot width over the minimum up to a maximum additional width of 50 feet in the R-AA district.
 - c. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building angle of vision shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.
 - d. In the case of other corner or through lots, the building angle of vision shall be applied only to the front yard as determined by the orientation of the building.
 - e. For exceptions to these regulations, see section 134-795.
 - f. For the purposes of determining application of the building angle of vision, an accessory structure shall be considered part of the principal structure when it is separated from the principal structure by a distance of less than 25 feet. When an accessory structure is separated by a distance of 25 feet or more from the principal structure, it shall be treated as separate structure and individually subject to the building angle of vision.
- (7) *Building height plane.* The building height plane regulations are as follows: two feet of front setback for each one foot in building height.
 - a. No portion of any building or building roof system shall extend beyond a height limiting plane extending at an inclined angle from the intersection of the front yard property line and the zero datum grade for a

lot or the minimum flood elevation as established in chapter 50, whichever is higher, as defined by height of building and overall height of building.

- b. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building height plane shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.
 - c. In the case of other corner or through lots, the building height plane shall be applied only to the front yard as determined by the orientation of the building.
 - d. The granting of a variance for measurement for building height for ground levels above the minimum flood elevation as required in chapter 50 or zero datum grade is not intended to modify the location of the building height plane.
 - e. For exceptions to these regulations, see section 134-796.
- (8) *Side yard.* The minimum side yard setback is 30 feet.
- (9) *Rear yard.* The minimum rear yard setback is 15 feet.
- (10) *Height and overall height.*
- a. The maximum building height is 30 feet, not to exceed two stories.
 - b. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (11) *Lot coverage.*
- a. The maximum lot coverage for one-story buildings is 25 percent.
 - b. The maximum lot coverage for two-story buildings is 25 percent.
- (12) *Landscaped open space.*
- a. The minimum landscaped open space is 55 percent.
 - b. Additionally, not less than 45 percent of the required front yard must be landscaped open space in the R-AA district.
- (b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-AA zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

(Ord. No. 2-74, schedule A, § 5.11, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-

90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, §§ 8, 11, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-01, § 1, 2-19-01; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-03, § 14, 3-11-03; Ord. No. 1-04, § 13, 3-9-04; Ord. No. 4-2016, §§ 3, 4, 4-13-16; Ord. No. 15-2017, § 2, 7-12-2017)

Sec. 134-794. - Same—Existing single-family dwelling development.

(a) A single-family dwelling located in the R-AA large estate residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district, may be enlarged with a first story and/or second story addition, provided:

- (1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and
- (2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under the current schedule of lot, yard and bulk regulations for this district.

(b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.

(c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

(Ord. No. 2-74, § 5.17, 3-26-74; Ord. No. 3-77, § 3, 3-29-77; Ord. No. 7-82, § 4(a), 3-31-82; Ord. No. 1-86, § 3(b), 2-10-86; Ord. No. 1-87, § 3(b), 2-9-87; Ord. No. 1-90, § 3(a), 2-5-90; Ord. No. 1-92, § 3(a), 2-3-92; Ord. No. 1-93, § 3(b), 2-8-93; Ord. No. 1-04, § 5, 3-9-04)

Sec. 134-795. - Same—Exceptions to yard regulations.

In the R-AA large estate residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Chimneys, cornices, eaves, bay windows and balconies may extend 24 inches from the main and/or accessory building into the yard area. Chimneys and bay windows shall not exceed ten feet in the horizontal, measured parallel to the building wall, and the total linear dimension for such projection shall not exceed 25 percent of the total dimension along the building wall from which such chimney and/or bay window may project.
- (2) A first floor front entry ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed first floor entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.
- (3) In this district an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Awnings and/or trellises so erected may not be converted to permanent additions to the principal structure if such conversion will increase lot coverage of the principal structure above the allowed percentage.
- (4) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (5) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area.

(Ord. No. 2-74, § 5.31, 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 19-2021, § 2, 9-13-21)

Sec. 134-796. - Exceptions to height limitations.

- (a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-AA large estate residential district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flag-pole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. Solar materials shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission.
- (b) In the R-AA zoning district, observation towers may be constructed as an integral part of a single-family dwelling. The height of such tower may exceed the allowable building height limit and overall building height limit of the dwelling by ten feet. The area of such tower shall not exceed one percent of the gross floor area of the dwelling. It is also the intent that this subsection not apply to entry facades or parapets.

(Ord. No. 2-74, § 5.22, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 7-79, § 9, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(c), 3-31-82; Ord. No. 2-83, § 4(c), 2-23-83; Ord. No. 1-84, § 3(a), 3-1-84; Ord. No. 1-85, § 3(a), 2-11-85; Ord. No. 1-90, § 3(b)—(d), 2-5-90; Ord. No. 1-96, §§ 12, 13, 2-5-96; Ord. No. 1-98, § 7, 2-9-98; Ord. No. 1-04, § 46, 3-9-04; Ord. No. 2-05, § 4, 5-10-05; Ord. No. 7-09, §§ 1, 6, 5-13-09; Ord. No. 16-09, § 7, 11-12-09; Ord. No. 04-2018, § 9, 4-11-18)

Editor's note— Section 6 of Ord. No. 7-09, adopted May 13, 2009, states the following: "Section 6. The newly adopted provisions contained herein relating to flag poles and flags shall not be applicable retrospectively to flags or flag poles permitted prior to the adoption of Ordinance No. 7-09 or, in the event not granted by permit, which have been in continuous existence for a period of three years or more prior to the adoption of this ordinance."

Sec. 134-797. - Lot grade topography and drainage.

In the R-AA, large estate residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 2-74, § 5.18, 3-26-74; Ord. No. 7-82, § 4(b), 3-31-82; Ord. No. 1-92, § 3(b), 2-3-92; Ord. No. 1-94, § 3(a), 2-7-94; Ord. No. 26-10, § 33, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

Sec. 134-798. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the R-AA large estate residential district are contained in article VIII of this chapter.

Sec. 134-799. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the R-AA large estate residential district are contained in article IX of this chapter.

Sec. 134-800. - Signs.

The sign regulations which may be applicable in the R-AA large estate residential district are contained in article XI of this chapter.

Sec. 134-801. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Secs. 134-802—134-835. - Reserved.

DIVISION 3. - R-A ESTATE RESIDENTIAL DISTRICT

Sec. 134-836. - Purpose.

The purpose of the R-A estate residential district is to provide for single-family residential use, as that term is defined in section 134-2, of spacious character together with publicly operated recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. This district is located to protect and preserve existing development of estate character and contains vacant land considered appropriate for such development in the future.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-837. - Permitted uses.

The permitted uses in the R-A estate residential district are as follows:

- (1) Single-family dwellings.
- (2) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 16-2012, § 2, 12-12-12)

Sec. 134-838. - Accessory uses.

The accessory uses in the R-A estate residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.
- (5) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the town's municipal limits provided such parking is located a minimum 75 feet from a single-family home and is separated from a street by a landscape island.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 1-01, § 2, 2-19-01; Ord. No. 04-2018, § 10, 4-11-18)

Sec. 134-839. - Prohibited uses.

The specific prohibited uses of buildings or land in the R-A estate residential district are as follows:

- (1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the town, no person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited.
- (3) Executive/employee/group vacation retreats are prohibited in this zoning district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 04-2018, § 11, 4-11-18)

Sec. 134-840. - Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the R-A estate residential district are as follows:

- (1) Planned unit development (see article V of this chapter for standards).

- (2) Public structures, including essential services west of Lake Trail.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Beach houses intended for the use of family and guests.
- (5) Municipally owned and operated parks and recreation areas.
- (6) Private social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996.
- (7) Supplemental parking, allowed only in a manner consistent with the zoning of the district in which it is located.
- (8) Museums occupying buildings of unique value as historical landmarks, as determined by the landmarks preservation commission and the town council, and for which it is demonstrated that no permitted use is economically viable.
- (9) Group home with up to six occupants.
- (10) Foster care facility with up to six occupants.
- (11) Pedestrian access tunnel to the beach as an accessory use provided that the applicant owns the land on both sides of the roadway, provides unity of title, and provides prior written approval from all governmental agencies having jurisdiction.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 5, 2-5-96; Ord. No. 1-99, § 9, 4-5-99; Ord. No. 1-04, § 8, 3-9-04; Ord. No. 16-2012, § 10, 12-12-12; Ord. No. 04-2018, § 12, 4-11-18; Ord. No. 02-2019, § 4, 3-19-19)

Sec. 134-841. - Accessory structures.

- (a) *Accessory structures in R-A district.* Accessory structures in the R-A estate residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-A district.* Accessory structures without kitchen facilities may be erected in accordance with the following requirements:
 - (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.
 - (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed or partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
 - (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear yard setback lot with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.

- (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and accessory structures as for the principal structure, with the exception of garden walls and fences, which are regulated in division 5 of article VIII of this chapter.
- (5) Nothing contained in this section shall prohibit the construction of an enclosed accessory building containing bedrooms with bath facilities to be used in connection with and as a part of the main residence within the building lines as provided in this chapter. Such enclosed accessory building shall be used only for occupancy of nonpaying guests of the owners of the main residence or bona fide members of the family or servants, and no kitchen or cooking facilities shall be constructed or used therein except by submission of a written agreement with the town stating that such accessory structure will be used only by family members or household staff and approval of the planning, zoning and building director or his designee.
- (6) Accessory structures in the R-A district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.
- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed two meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on a building lot. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed eight feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed eight feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.
- (8) One dock, as defined in section 134-2 and as regulated in sections 62-74, 62-75 and 134-1697, shall be unenclosed accessory structures as defined in this section.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-98, § 9, 2-9-98; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 1-02, § 5, 3-12-02; Ord. No. 17-2019, § 2, 6-12-19; Ord. No. 16-2021, § 3, 8-11-21)

Sec. 134-842. - Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from

principal structure.

In the R-A estate residential district, no accessory structure shall be used as or converted to a dwelling unit. Further, if any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure and use is established on the lot on which the accessory structure and use is located.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94)

Sec. 134-843. - Lot, yard and area requirements—Generally.

- (a) *Schedule of regulations.* In the R-A estate residential district, the schedule of lot, yard and area requirements is as given in this section:
- (1) *Lot area.* The minimum lot area is 20,000 square feet.
 - (2) *Lot width.* The minimum lot width is 125 feet.
 - (3) *Lot depth.* The minimum lot depth is 150 feet.
 - (4) *Density.* The maximum density is two dwelling units per acre.
 - (5) *Front yard.* The minimum front yard setback is 35 feet.
 - (6) *Angle of vision.* The building angle of vision (front setback) is 100 degrees.
 - a. Building angle of vision is not applicable to lots fronting on cul-de-sacs.
 - b. No portion of any individual building shall extend beyond a line drawn from the front property line 50 degrees either side of a line drawn perpendicular or radial to the front yard property line. For lots exceeding the minimum required width, the base angle of vision (50 degrees on either side of the line) shall be increased by two degrees for each ten feet of increased lot width over the minimum up to a maximum additional width of 50 feet in the R-A district.
 - c. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building angle of vision shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.
 - d. In the case of other corner or through lots, the building angle of vision shall be applied only to the front yard as determined by the orientation of the building.
 - e. For exceptions to these regulations, see section 134-845.
 - f. For the purposes of determining application of the building angle of vision, an accessory structure shall be considered part of the principal structure when it is separated from the principal structure by a distance of less than 25 feet. When an accessory structure is separated by a distance of 25 feet or more from the principal structure, it shall be treated as a separate structure and individually subject to the building angle of vision.
 - (7) *Building height plane.* The building height plane regulations are as follows: two feet of front setback for each one foot in building height.
 - a. No portion of any building or building roof system shall extend beyond a height limiting plane extending at an inclined angle from the intersection of the front yard property line and the zero datum grade for a lot or the minimum flood elevation as established in chapter 50, whichever is higher, as defined by height

of building and overall height of building.

- b. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building height plane shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.
 - c. In the case of other corner or through lots, the building height plane shall be applied only to the front yard as determined by the orientation of the building.
 - d. The granting of a variance for measurement for building height for ground levels above the minimum flood elevation as required in chapter 50 or zero datum grade is not intended to modify the location of the building height plane.
 - e. For exceptions to these regulations, see section 134-846.
- (8) *Side yard.* The minimum side yard setback is 15 feet, except that for lots of 60,000 square feet or more in area, the minimum side yard setback shall be 30 feet.
- (9) *Rear yard.* The minimum rear yard setback is 15 feet.
- (10) *Height and overall height.*
- a. The maximum building height is 25 feet, not to exceed two stories.
 - b. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (11) *Lot coverage.*
- a. The maximum lot coverage for one-story buildings is 25 percent.
 - b. The maximum lot coverage for two-story buildings is 25 percent.
- (12) *Landscaped open space.*
- a. The minimum landscaped open space is 50 percent.
 - b. Additionally, not less than 45 percent of the required front yard must be landscaped open space in the R-A district.
- (b) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-A zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

(Ord. No. 2-74, schedule A, §§ 5.11, 5.15(c), 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord.

No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 1-93, § 3(a), 2-8-93; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 10-95, § 1(a), 1-23-95; Ord. No. 1-96, §§ 8, 11, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 6, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-01, § 1, 2-19-01; Ord. No. 1-02, § 6, 3-12-02; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-03, § 15, 3-11-03; Ord. No. 1-04, § 14, 3-9-04; Ord. No. 4-2016, § 3, 4, 4-13-16; Ord. No. 15-2017, § 3, 7-12-2017)

Sec. 134-844. - Same—Existing single-family dwelling development.

(a) A single-family dwelling located in the R-A estate residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district, may be enlarged with a first story and/or second story addition, provided:

- (1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and
- (2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under the current schedule of lot, yard and bulk regulations for this district.

(b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.

(c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

(Ord. No. 2-74, § 5.17, 3-26-74; Ord. No. 3-77, § 3, 3-29-77; Ord. No. 7-82, § 4(a), 3-31-82; Ord. No. 1-86, § 3(b), 2-10-86; Ord. No. 1-87, § 3(b), 2-9-87; Ord. No. 1-90, § 3(a), 2-5-90; Ord. No. 1-92, § 3(a), 2-3-92; Ord. No. 1-93, § 3(b), 2-8-93; Ord. No. 1-04, § 5, 3-9-04)

Sec. 134-845. - Same—Exceptions to yard regulations.

In the R-A estate residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Chimneys, cornices, eaves, bay windows and balconies may extend 24 inches from the main and/or accessory building into the yard area. Chimneys and bay windows shall not exceed ten feet in the horizontal, measured parallel to the building wall, and the total linear dimension for such projection shall not exceed 25 percent of the total dimension along the building wall from which such chimney and/or bay window may project.
- (2) A first floor unenclosed front entry ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed first floor entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.
- (3) In this district an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Awnings and/or trellises so erected may not be converted to permanent additions to the principal structure if such conversion will increase lot coverage of the principal structure above the allowed percentage.
- (4) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (5) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area.

(Ord. No. 2-74, § 5.31, 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 19-2021, § 2, 9-13-21)

Sec. 134-846. - Exceptions to height limitations.

- (a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-A large estate residential district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. Solar material shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission.
- (b) In the R-A zoning district, observation towers may be constructed as an integral part of a single-family dwelling. The height of such tower may exceed the allowable building height limit and overall building height limit of the dwelling by ten feet. The area of such tower shall not exceed one percent of the gross floor area of the dwelling. It is also the intent that this subsection not apply to entry facades or parapets.

(Ord. No. 2-74, § 5.22, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 7-79, § 9, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(c), 3-31-82; Ord. No. 2-83, § 4(c), 2-23-83; Ord. No. 1-84, § 3(a), 3-1-84; Ord. No. 1-85, § 3(a), 2-11-85; Ord. No. 1-90, § 3(b)—(d), 2-5-90; Ord. No. 1-96, §§ 12, 13, 2-5-96; Ord. No. 1-98, § 7, 2-9-98; Ord. No. 1-04, § 47, 3-9-04; Ord. No. 2-05, § 5, 5-10-05; Ord. No. 7-09, §§ 2, 6, 5-13-09; Ord. No. 16-09, § 8, 11-12-09; Ord. No. 04-2018, § 13, 4-11-18)

Editor's note— Section 6 of Ord. No. 7-09, adopted May 13, 2009, states the following: "Section 6. The newly adopted provisions contained herein relating to flag poles and flags shall not be applicable retrospectively to flags or flag poles permitted prior to the adoption of Ordinance No. 7-09 or, in the event not granted by permit, which have been in continuous existence for a period of three years or more prior to the adoption of this ordinance."

Sec. 134-847. - Lot grade, topography and drainage.

In the R-A, estate residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600 which meets the paving and drainage requirements of the town. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 2-74, § 5.18, 3-26-74; Ord. No. 7-82, § 4(b), 3-31-82; Ord. No. 1-92, § 3(b), 2-3-92; Ord. No. 1-94, § 3(a), 2-7-94; Ord. No. 26-10, § 34, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

Sec. 134-848. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the R-A estate residential district are contained in article VIII of this chapter.

Sec. 134-849. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the R-A estate residential district are contained in article IX of this chapter.

Sec. 134-850. - Signs.

The sign regulations which may be applicable in the R-A estate residential district are contained in article XI of this chapter.

Sec. 134-851. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Secs. 134-852—134-885. - Reserved.

DIVISION 4. - R-B LOW DENSITY RESIDENTIAL DISTRICT

Sec. 134-886. - Purpose.

The purpose of the R-B low density residential district is to provide for low density single-family residential use, as that term is defined in section 134-2, of moderately spacious character together with publicly operated recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. This district is located to protect and preserve existing development of this character and contains vacant land considered appropriate for such development in the future.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-887. - Permitted uses.

The permitted uses in the R-B low density residential district are as follows:

- (1) Single-family dwellings.
- (2) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord.

No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 2-05, § 10, 5-10-05; Ord. No. 10-2012, § 3, 9-11-12; Ord. No. 16-2012, § 3, 12-12-12)

Sec. 134-888. - Accessory uses.

The accessory uses in the R-B low density residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.
- (5) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the town's municipal limits provided such parking is located a minimum of 75 feet from a single-family home and is separated from a street by a landscape island.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business except such uses as may be associated with the town's operation of its municipal dock, golf course and tennis court facilities.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 1-01, § 2, 2-19-01; Ord. No. 2-05, § 11, 5-10-05; Ord. No. 26-10, § 18, 12-15-10; Ord. No. 04-2018, § 14, 4-11-18)

Sec. 134-889. - Prohibited uses.

The specific prohibited uses of buildings or land in the R-B low density residential district are as follows:

- (1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the town. No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited.
- (3) Executive/employee/group, vacation/retreats are prohibited in this zoning district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord.

No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 04-2018, § 15, 4-11-18)

Sec. 134-890. - Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the R-B low density residential district are as follows:

- (1) Planned unit development, PUD(1) (see article V of this chapter for standards).
- (2) Public structures, including essential services west of Lake Trail.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Beach houses intended for the use of family and guests.
- (5) Public and private academic schools.
- (6) Private social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996.
- (7) Churches and synagogues and other houses of worship.
- (8) Required off-street parking in accordance with subsection 134-2177(3) and supplemental parking, allowed only in a manner consistent with the zoning of the district in which it is located.
- (9) Nonprofit cultural centers.
- (10) Municipally owned or operated parking areas.
- (11) Museums occupying buildings of unique value as historical landmarks, as determined by the landmarks preservation commission and the town council, and for which it is demonstrated that no permitted use is economically viable.
- (12) Group home with up to six occupants.
- (13) Foster care facility with up to six occupants.
- (14) Pedestrian access tunnel to the beach as an accessory use provided that the applicant owns the land on both sides of the roadway, provides unity of title, and provides prior written approval from all governmental.
- (15) Municipally owned and operated parks and recreation centers.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 5, 2-5-96; Ord. No. 1-99, § 9, 4-5-99; Ord. No. 16-2012, § 11, 12-12-12; Ord. No. 04-2018, § 16, 4-11-18; Ord. No. 02-2019, § 5, 3-19-19)

Sec. 134-891. - Accessory structures.

- (a) *Accessory structures in R-B district.* Accessory structures in the R-B low density residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-B district.* Accessory structures without kitchen facilities may be erected in

accordance with the following requirements:

- (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.

Lot Size (square feet)	Maximum Story Height	Maximum Building Height
Up to 20,000	1	15 feet overall
20,000 [and more]	2	25 feet overall, provided unity of title deed restriction is furnished prohibiting any division of the lot which would leave less than 20,000 square feet

- (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed or partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
- (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear setback with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
- (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and enclosed accessory structures as for the principal structure, with the exception of a one-story garage in a street side yard based on [section 134-1576](#) of this chapter and garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
- (5) In the R-B district, nothing contained in this section shall prohibit the construction of an enclosed accessory building containing bedrooms with bath facilities to be used in connection with and as a part of the main residence within the building lines as provided in this chapter. Such enclosed accessory building shall be used only for the occupancy of nonpaying guests of the owners of the main residence or bona fide members of the family or servants, and no kitchen or cooking facilities shall be constructed or used therein except by submission of a written agreement with the town stating that such accessory structure will be used only by family members or household staff and approval of the planning, zoning and building director or his designee.
- (6) Accessory structures in the R-B district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.
- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed two meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be

permitted on a building lot. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed eight feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed eight feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

- (8) One dock, as defined in section 134-2 and as regulated in sections 62-74, 62-57 and 134-1697, shall be unenclosed accessory structures as defined in this section.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-98, § 9, 2-9-98; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 1-02, § 5, 3-12-02; Ord. No. 2-05, § 7, 5-10-05; Ord. No. 17-2019, § 3, 6-12-19; Ord. No. 16-2021, § 4, 8-11-21)

Sec. 134-892. - Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.

In the R-B low density residential district, no accessory structure shall be used as or converted to a dwelling unit. Further, if any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure and use is established on the lot on which the accessory structure and use is located.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94)

Sec. 134-893. - Lot, yard and area requirements—Generally.

- (a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling and/or accessory buildings on a lot 75 feet or less in width are exempt from the lot, yard, and area requirements as set forth in this section if redeveloped substantially on the same footprint as existed prior to demolition provided the following conditions are met:

- (1) The proposed single-family dwelling and/or accessory buildings are of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated, as determined by the architectural commission.
- (2) The proposed single-family dwelling and/or accessory building(s) shall meet the requirements in subsection

(c) of this section.

- (3) If the existing footprint of the single-family dwelling and/or accessory building(s) lay within five feet of a side or rear lot line, the replacement footprint must be shifted such that an absolute minimum five foot side and rear lot line setback is created, and further the redeveloped home must be situated at least ten feet apart from any structure on a neighboring lot.
 - (4) The height and overall height from the point of measurement of the proposed single-family dwelling and/or accessory buildings are no higher than the dwelling and/or accessory buildings being demolished.
 - (5) Any square footage added to the proposed single-family dwelling and/or accessory buildings shall meet all lot, yard and bulk zoning requirements in the Code.
 - (6) If using the provisions of this subsection (a) above, no variances can be requested for any new additions which add additional square footage or cubic content than existed prior to demolition of a single-family dwelling and/or accessory buildings.
- (b) *Schedule of regulations.* In the R-B low density residential district, the schedule of lot, yard and area requirements is as given in this section:
- (1) *Lot area.* The minimum lot area is 10,000 square feet. For lots of 20,000 or more square feet in the R-B district, except for those lots between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth, the following shall apply:
 - a. When the width of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum side yard setback and angle of vision provisions of the R-A district.
 - b. When the width of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the angle of vision provisions of the R-AA district, and lots of 150 feet or more in width shall have the following side yard setbacks: Lots of 150-154 feet in width are required to have a 17.5 foot setback; lots of 155—159 feet in width are required to have a 20-foot setback; and for lots of 160 feet or more in width the setback shall be 22 feet plus two feet for each additional ten feet in width in excess of 169 feet, to a maximum side yard setback of 30 feet.
 - c. When the depth of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-A district.
 - d. When the depth of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-AA district.
 - e. When the area of a lot in the R-B district is equal to or greater than 20,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-A district, except that the maximum allowable lot coverage for single-story development shall be 30 percent.
 - f. When the area of the lot is equal to or greater than 60,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-AA district, except the minimum allowable lot coverage for single-story development shall be 30 percent.
 - g. The provisions in subsections (1)a. through f. above do not apply to lots 20,000 square feet or greater in area between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth.

- (2) *Lot width.* The minimum lot width is 100 feet.
- (3) *Lot depth.* The minimum lot depth is 100 feet.
- (4) *Density.* The maximum density is four dwelling units per acre.
- (5) *Front yard.*
 - a. The minimum front yard setback for the first story is 25 feet, however the front yard setback may be reduced to a minimum of 20 feet, or portion thereof, provided the required rear yard setback for the first story is increased by the amount of reduction in the front yard.
 - b. The minimum front yard setback for the second story is 30 feet, however the front yard setback may be reduced to a minimum of 25 feet, or portion thereof, provided the required rear yard setback for the first and second story is increased by the amount of reduction in the front yard.
- (6) *Angle of vision.*
 - a. The building angle of vision (front setback) for one-story buildings is 100 degrees.
 - b. The building angle of vision (front setback) for two-story buildings is 100 degrees.
 - c. Building angle of vision is not applicable to lots fronting on cul-de-sacs.
 - d. No portion of any individual building shall extend beyond a line drawn from the front property line 50 degrees either side of a line drawn perpendicular or radial to the front yard property line. For lots exceeding the minimum required width, the base angle of vision (50 degrees on either side of the line) shall be increased by two degrees for each ten feet of increased lot width over the minimum up to a maximum additional width of 40 feet in the R-B district.
 - e. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building angle of vision shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.
 - f. In the case of other corner or through lots, the building angle of vision shall be applied only to the front yard as determined by the orientation of the building.
 - g. For exceptions to these regulations, see section 134-895.
 - h. For the purposes of determining application of the building angle of vision, an accessory structure shall be considered part of the principal structure when it is separated from the principal structure by a distance of less than 25 feet. When an accessory structure is separated by a distance of 25 feet or more from the principal structure, it shall be treated as separate structure and individually subject to the building angle of vision.
- (7) *Side yard.*
 - a. The minimum side yard setback for the first story shall be 12½ feet.
 - b. The minimum side yard setback for the second story shall be 15 feet.
- (8) *Rear height plane setback.* 25 feet.
- (9) *Rear yard.*
 - a. The minimum rear yard setback for the first story is ten feet except as provided for in subsection (5)a.
 - b. The minimum rear yard setback for the second story is 15 feet except as provided for in subsection (5)b.
- (10) *Height and overall height.*

- a. For one-story buildings, the maximum building height is 14 feet.
- b. For two-story buildings, the maximum building height is 22 feet.
- c. Maximum overall height of a building in the R-B district shall be the maximum allowable building height plus three feet for a flat roof and eight feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(11) *Lot coverage.*

- a. The maximum lot coverage for one-story buildings is 40 percent.
- b. The maximum lot coverage for two-story buildings is 30 percent.

(12) *Landscape open space.*

- a. The minimum landscaped open space is 45 percent, of which 50 percent of that percentage is required to be perimeter landscaping within ten feet of the property line. The perimeter landscaped open space requirement shall not apply to lots 20,000 square feet or more in area.
- b. Additionally, not less than 40 percent of the required front yard must be landscaped open space in the R-B district.

(13) *Cubic content ratio.*

- a. The maximum cubic content ratio shall be as follows:
 1. For lots of less than 10,000 square feet, the maximum allowable CCR shall be calculated as follows:
 $4.00 + [(10,000 - \text{the lot size}) \div 10,000]$.
 2. For lots between 10,000 and 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be calculated as follows:
 $3.50 + [(60,000 - \text{the lot size}) \div 50,000] \times 0.5$.
 3. For lots of greater than 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be 3.50.
 4. For lots of 20,000 square feet or greater which are adjacent to the waters of Lake Worth from Dunbar Road to Reef Road, the maximum allowable CCR shall be 4.50. For purposes of determining whether a lot is adjacent to the waters of Lake Worth, the traversing of all or a portion of the lot by Lake Trail shall not be considered when determining that adjacency.
- (5) Exceptions. One architectural tower feature involving no habitable space, as otherwise permitted under subsection 134-896(b), shall not be counted in calculating the cubic content of the structure. Unenclosed loggias, pergolas, porches, terraces and covered patios located on the first floor shall be excluded from the calculation of total cubic content up to 5% of allowable cubic content. Portions of unenclosed structures in excess of the 5% maximum, as well as those located above the first floor, shall be included in the calculation of total cubic content. Such appurtenances so erected may not in the future be enclosed or converted to permanent additions to the structure if such conversion would increase the cubic content of the structure beyond that allowed by the applicable cubic content ratio.
- b. For purposes of calculating the cubic content ratio, lot size shall be rounded to the nearest 100 square feet. For purposes of computing the resultant cubic content, the cubic content ratio shall be rounded to two decimal places. A table illustrating the cubic content ratio and associated cubic content for varying

lots sizes resulting from the application of the above formulas is provided as attachment A to this chapter. This table also provides approximations of the likely floor areas achievable at varying average building heights.

- (c) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-B zoning district if the lot is less than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

(Ord. No. 2-74, schedule A, §§ 5.11, 5.15(c), 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 1-93, § 3(a), 2-8-93; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 10-95, § 1(a), 1-23-95; Ord. No. 1-96, §§ 8, 11, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 6, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-99, §§ 12—16, 4-5-99; Ord. No. 1-01, §§ 1, 3, 4, 2-19-01; Ord. No. 1-02, § 7, 3-12-02; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-03, §§ 16, 20, 3-11-03; Ord. No. 1-05, § 4, 3-8-05; Ord. No. 5-09, § 37, 4-15-09; Ord. No. 12-09, §§ 1, 2, 6-10-09; Ord. No. 16-09, § 2, 11-12-09; Ord. No. 4-10, § 3, 2-10-10; Ord. No. 3-2012, § 2, 4-11-12; Ord. No. 4-2016, §§ 3, 4, 4-13-16; Ord. No. 16-2016, § 1, 12-14-16; Ord. No. 15-2017, § 4, 7-12-2017; Ord. No. 04-2018, § 17, 4-11-18)

Sec. 134-894. - Same—Existing single-family dwelling development.

- (a) A single-family dwelling located in the R-B low density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district, may be enlarged with a first story and/or second story addition, provided:
- (1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and
 - (2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under the current schedule of lot, yard and bulk regulations for this district.
- (b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.
- (c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

(Ord. No. 2-74, § 5.17, 3-26-74; Ord. No. 3-77, § 3, 3-29-77; Ord. No. 7-82, § 4(a), 3-31-82; Ord. No. 1-86, § 3(b), 2-10-86; Ord. No. 1-87, § 3(b), 2-9-87; Ord. No. 1-90, § 3(a), 2-5-90; Ord. No. 1-92, § 3(a), 2-3-92; Ord. No. 1-93, § 3(b), 2-8-93; Ord. No. 1-04, § 5, 3-9-04)

Sec. 134-895. - Same—Exceptions to yard regulations.

In the R-B low density residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Chimneys, cornices, eaves, bay windows and balconies may extend 24 inches from the main and/or accessory building into the yard area. Chimneys and bay windows shall not exceed ten feet in the horizontal, measured parallel to the building wall and the total linear dimension for such projection shall not exceed 25 percent of the total dimension along the building wall from which such chimney and/or bay window may project.
- (2) A first floor unenclosed front entry ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed first floor entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback
- (3) First floor main entrance covered ramps porches, open terraces, and/or steps may extend six feet into the required front yard setback. In addition, entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required setback.
- (4) In this district an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Said awnings and/or trellises so erected shall not count in the cubic content ratio calculations and shall not be converted to permanent additions to the principal structure if such conversion would increase lot coverage of the principal structure above the allowed percentage.
- (5) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (6) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area.

(Ord. No. 2-74, § 5.31, 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 04-2018, § 18, 4-11-18; Ord. No. 19-2021, § 2, 9-13-21)

Sec. 134-896. - Special exceptions to height limitations.

- (a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-B low density district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. Solar [material] shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission.
- (b) In the R-B zoning district, one architectural tower feature may be constructed as an integral part of a single-family dwelling provided that it does not exceed the allowable overall building height by five feet and is setback an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower has no usable floor area. The area of such tower shall not exceed two percent of the gross floor area of the dwelling. It is

the intention of this section to allow only one tower as an architectural feature on a house and not to allow habitable space in upper areas of a tower on a house in the R-B zoning district. It is also the intent that this subsection not apply to entry facades or parapets.

(Ord. No. 2-74, § 5.22(a), 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 7-79, § 9, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(c), 3-31-82; Ord. No. 2-83, § 4(c), 2-23-83; Ord. No. 1-84, § 3(a), 3-1-84; Ord. No. 1-85, § 3(a), 2-11-85; Ord. No. 1-90, § 3(b)—(d), 2-5-90; Ord. No. 1-96, §§ 12, 13, 2-5-96; Ord. No. 1-98, § 7, 2-9-98; Ord. No. 1-99, § 17, 4-5-99; Ord. No. 7-09, §§ 3, 6, 5-13-09; Ord. No. 16-09, § 9, 11-12-09; Ord. No. 04-2018, § 20, 4-11-18)

Editor's note— Section 6 of Ord. No. 7-09, adopted May 13, 2009, states the following: "Section 6. The newly adopted provisions contained herein relating to flag poles and flags shall not be applicable retrospectively to flags or flag poles permitted prior to the adoption of Ordinance No. 7-09 or, in the event not granted by permit, which have been in continuous existence for a period of three years or more prior to the adoption of this ordinance."

Sec. 134-897. - Special exceptions to height regulations.

- (a) In the R-B low density residential district, in order to encourage meritorious architectural design, variety in the setback of structures, increased open space and landscaped open space, reduced lot coverage, and reduced cubic content ratio, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height requirements in sections 134-1606 and 134-1607 in the R-B zoning district, provided the special exception meets the standards of sections 134-227 through 134-233 and the goals, standards, and guidelines set forth in this section. The town council shall find that:
- (1) The proposed increase in height for a contemplated special exception structure is in the public interest.
 - (2) The structure is compatible with the site, adjacent properties and the neighborhood after consideration of:
 - a. The general form of the land before and after development or redevelopment;
 - b. The spatial relationships of the structures and open spaces to nearby land uses, including positioning of the building, transition in height and number of stories, garage placement, landscaping, and other site improvements;
 - c. The appearance, including building bulk, proportion, scale, massing, materials, colors, and architectural details, of buildings and open spaces as they contribute to the surrounding area; and
 - d. The protection of neighboring owners and uses by ensuring that reasonable provision has been made for such matters as surface water drainage, sound and sight buffers, the preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.
- (b) The maximum allowable overall height under this section shall be 35 feet for a two-story structure with a pitched roof and 30 feet for a two-story structure with a flat roof, provided the following standards are met:
- (1) A maximum of 50 percent of the second story may be requested for a special exception to permitted overall height requirements. In addition, a minimum of 50 percent of the first floor shall be retained as one story, with the height not to exceed 20 feet overall for pitched roofs and 17 feet overall for flat roofs. (Note: It is not the intent of this section to discourage other portions of the second story to be built at 30 feet for pitched roofs and 27 for flat roofs or less, which would permit three or more roof levels.)
 - (2) The minimum rear yard setback for all parts of the second-story portion of construction shall be 15 feet. The minimum rear yard setback for first-story portions shall be ten feet.

- (3) The minimum side yard setback for all parts of the second-story portion of construction shall be 17.5 feet. The minimum side yard setback for first-story portions shall be 12.5 feet.
- (4) The minimum front yard, street side yard, and street rear yard setbacks shall be 35 feet for the second-story portion over 30 feet overall height for pitched roofs and over 27 feet overall height for flat roofs.
- (5) Lot coverage for lots in excess of 15,000 square feet in area shall be limited to a maximum 22.5 percent.
- (6) Garages shall be designed so that the opening will not face a street or shall be sight-screened by landscaping.
- (7) The maximum permitted cubic content ratio (CCR) shall be one percent less than the permitted FAR for the R-B zoning district.
- (8) All other R-B zoning district regulations shall apply.

(Ord. No. 2-74, § 5.48(II), 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 1-97, § 4, 2-17-97; Ord. No. 1-99, § 2, 4-5-99)

Sec. 134-898. - Lot grade topography and drainage.

In the R-B, low density residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 2-74, § 5.18, 3-26-74; Ord. No. 7-82, § 4(b), 3-31-82; Ord. No. 1-92, § 3(b), 2-3-92; Ord. No. 1-94, § 3(a), 2-7-94; Ord. No. 26-10, § 35, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

Sec. 134-899. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the R-B low density residential district are contained in article VIII of this chapter.

Sec. 134-900. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the R-B low density residential district are contained in article IX of this chapter.

Sec. 134-901. - Signs.

The sign regulations which may be applicable in the R-B low density residential district are contained in article XI of this chapter.

Sec. 134-902. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Secs. 134-903—134-940. - Reserved.

DIVISION 5. - R-C MEDIUM DENSITY RESIDENTIAL DISTRICT

Sec. 134-941. - Purpose.

The purpose of the R-C medium density residential district is to maintain a generally spacious environment for residential uses, as that term is defined in section 134-2, but, at the same time, permit a desirable variety of housing types. Population, density and height of buildings are low enough to be compatible with neighboring single-family development. Permitted community facilities, such as park and recreation areas, public schools and essential services, are the same as for the single-family residential districts.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-942. - Permitted uses.

The permitted uses in the R-C medium density residential district are as follows:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Townhouses.
- (4) Multi-family dwellings. (Site plan review shall be required. See article III of this chapter.)
- (5) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 26-10, § 19, 12-15-10; Ord. No. 16-2012, § 4, 12-12-12)

Sec. 134-943. - Accessory uses.

The accessory uses in the R-C medium density residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.
- (5) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 1-02, § 16, 3-12-02)

Sec. 134-944. - Prohibited uses.

The specific prohibited uses of buildings or land in the R-C medium density residential district are as follows:

- (1) No person shall use any portion of any building or accessory building or any land in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose, including but not limited to corporate meetings, banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) The use of any portion of any building or accessory building or any land in this district for the accessory use as a museum or frequent or continuing display to the public is prohibited.
- (3) Executive/employee/group, vacation/retreats are prohibited in this zoning district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94)

Sec. 134-945. - Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the R-C medium density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Public or private academic schools.
- (5) Churches, synagogues and other houses of worship.
- (6) Supplemental parking.
- (7) Nonprofit cultural centers.
- (8) Municipally owned or operated parking areas.
- (9) Beach houses intended for the use of family and guests only.
- (10) Museums occupying buildings of unique value as historical landmarks as determined by the landmarks preservation commission and the town council and for which it is demonstrated that no permitted use is economically viable.
- (11) Roof-deck automobile parking.

- (12) Group home.
- (13) Foster care facility.
- (14) Pedestrian access tunnel to the beach as an accessory use provided that the applicant owns the land on both sides of the roadway, provides unity of title, and provides prior written approval from all governmental agencies having jurisdiction.
- (15) Municipally owned and operated parks and recreation areas.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 6, 2-5-96; Ord. No. 1-99, § 9, 4-5-99; Ord. No. 16-2012, § 12, 12-12-12; Ord. No. 02-2019, § 6, 3-19-19)

Sec. 134-946. - Accessory structures.

- (a) *Accessory structures in R-C district.* Accessory structures in the R-C medium density residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-C district.* Accessory structures without kitchen facilities may be erected in accordance with the following requirements:
 - (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.
 - (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed or partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
 - (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear setback with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
 - (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and enclosed accessory structures as for the principal structure, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter, and except that in the R-C district, enclosed accessory structures may be permitted to be located within that portion of a required side yard that is in excess of the minimum side yard of 20 feet.
 - (5) An accessory structure in the R-C district may be located within that portion of a required front yard that is in excess of the minimum 25-foot front yard.
 - (6) Accessory structures in the R-C district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of

buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.

- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.
- (8) One dock, as defined in section 134-2 and as regulated in sections 62-74, 62-75 and 134-1697, shall be unenclosed accessory structures as defined in this section.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-98, § 9, 2-9-98; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 17-2019, § 4, 6-12-19; Ord. No. 16-2021, § 5, 8-11-21)

Sec. 134-947. - Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.

In the R-C medium density residential district, no accessory structure shall be used as or converted to a dwelling unit. Further, if any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure and use is established on the lot on which the accessory structure and use is located.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94)

Sec. 134-948. - Lot, yard and area requirements—Generally.

In the R-C medium density residential district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.*
- a. For single-family uses, the minimum lot area is 10,000 square feet.
 - b. For two-family uses, the minimum lot area is 13,333 square feet.

- c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter
 - d. For multifamily uses, the minimum lot area is 20,000 square feet.
- (2) *Lot width.*
- a. For single-family uses, the minimum lot width is 75 feet.
 - b. For two-family uses, the minimum lot width is 75 feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot width is 100 feet.
- (3) *Lot depth.*
- a. For single-family uses, the minimum lot depth is 100 feet.
 - b. For two-family uses, the minimum lot depth is 100 feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot depth is 100 feet.
- (4) *Density.*
- a. For single-family uses, the maximum density is four dwelling units per acre.
 - b. For two-family uses, the maximum density is six dwelling units per acre.
 - c. For townhouses, the maximum density is six dwelling units per acre. See article III of this chapter for site plan review requirements.
 - d. For multifamily uses, the maximum density is six dwelling units per acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
- a. For single-family uses, the minimum front yard setback is 25 feet.
 - b. For two-family uses the minimum front yard setback is 25 feet. If garage doors face a street, at least 40 percent of the entire structure facing said street shall have a setback at least 20 feet greater than the minimum setback otherwise required. Where two-family structure is located on corner lots, the foregoing requirement shall apply only to that street on which the garage fronts. However, in no instance shall a two-family structure have less than 25 percent of the frontage of the building along any street frontage set back less than an additional ten feet beyond the street yard setback otherwise required.
 - c. For town houses the minimum front yard setback is 25 feet. If garage doors face a street, at least 40 percent of the entire structure facing said street shall have a setback at least 20 feet greater than the minimum setback otherwise required. Where two-family structure is located on corner lots, the foregoing requirement shall apply only to that street on which the garage fronts. However, in no instance shall a townhouse structure have less than 25 percent of the frontage of the building along any street frontage set back less than an additional ten feet beyond the street yard setback otherwise required.
 - d. For multifamily uses, the front yard setback shall be either 25 feet or the height of the building, whichever is the greater. When more than one street yard exists (as provided in sections 134-1576 and 134-1577) and the height of a building exceeds 25 feet, the total amount of street yard setbacks shall equal the

height of the building times the number of street yards, and any individual street yard setback shall be not less than 25 feet. See also requirements in sections 134-1576 and 134-1577.

(6) *Side yard.*

- a. For single-family uses, the minimum side yard setback is ten feet.
- b. For two-family uses, the minimum side yard setback is ten feet for the one-story portion and 15 feet for the two-story portion.
- c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
- d. For multifamily uses, the side yard setback shall be 20 feet or the height of the building, whichever is greater.

(7) *Rear yard.*

- a. For single-family uses, the minimum rear yard setback is 15 feet.
- b. For two-family uses, the minimum rear yard setback is 15 feet.
- c. For townhouses, the minimum rear yard setback is 15 feet.
- d. For multifamily uses, the minimum rear yard setback is 30 feet.

(8) *Height and overall height.*

- a. For single-family uses, the maximum building height is two stories, not to exceed 23½ feet.
- b. For two-family uses, the maximum building height is two stories, not to exceed 23½ feet.
- c. For townhouses, the maximum building height is two stories, not to exceed 23½ feet.
- d. For multifamily uses, the maximum building height of a one or two-story building is 23½ feet; See special exception provisions in sections 134-227 through 134-233, section 134-952, and article III of this chapter.
- e. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus three feet for a flat roof and eight feet for all other roof styles. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(9) *Lot coverage.*

- a. For single-family uses, the maximum lot coverage is 30 percent.
- b. For two-family uses, the maximum lot coverage is 30 percent.
- c. For townhouses, the maximum lot coverage is 35 percent.
- d. For multifamily uses, the maximum lot coverage is 30 percent.

(10) *Dimensions.* For multifamily building maximum dimensions, see section 134-1871 et seq.

(11) *Landscaped open space.*

- a. For single-family uses, the minimum landscaped open space is 45 percent, of which 50 percent of that percentage is required to be perimeter landscaping within ten feet of the property line. The perimeter landscaped open space requirement shall not apply to lots 20,000 square feet or more in area.
- b. For two-family uses the minimum landscape open space is 40 percent.
- c. For townhouses, the minimum landscaped open space is 35 percent.
- d. For multi-family uses, the minimum landscaped open space is 35 percent.
- e. Additionally, not less than 40 percent of the required front yard must be landscaped open space for

single-family and two-family homes in the R-C district and not less than 35 percent must be landscaped open space for all other type of development.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-99, §§ 18—20, 4-5-99; Ord. No. 1-01, § 1, 2-19-01; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-02, § 15, 3-12-02; Ord. No. 1-03, § 17, 3-11-03; Ord. No. 1-05, § 5, 3-8-05; Ord. No. 3-2012, § 3, 4-11-12; Ord. No. 4-2016, § 4, 4-13-16)

Sec. 134-949. - Same—Existing single-family dwelling development.

- (a) A single-family dwelling located in the R-C medium density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district; may be enlarged with a first story and/or second story addition, provided the addition complies with the current schedule of lot, yard and bulk regulations for this district;
- (b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.
- (c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

(Ord. No. 2-74, § 5.17, 3-26-74; Ord. No. 3-77, § 3, 3-29-77; Ord. No. 7-82, § 4(a), 3-31-82; Ord. No. 1-86, § 3(b), 2-10-86; Ord. No. 1-87, § 3(b), 2-9-87; Ord. No. 1-90, § 3(a), 2-5-90; Ord. No. 1-92, § 3(a), 2-3-92; Ord. No. 1-93, § 3(b), 2-8-93; Ord. No. 1-04, § 5, 3-9-04; Ord. No. 26-10, § 22, 12-15-10)

Sec. 134-950. - Same—Exceptions.

In the R-C medium density residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Cornices, roof eave overhangs, architectural features, not including balconies or habitable floors, and chimneys may extend 48 inches from the main and/or accessory building into any yard areas.
- (2) Areaways, ramps, or steps to the basement may extend into the side or rear yard area within 24 inches from the adjacent property line, provided no part is over 36 inches above the grade.
- (3) Decorative screens and other architectural features projecting into the rear, side or front yard areas as provided in subsection (1) of this section shall be perforated in a manner so that any vertical projection is at least 50 percent open in area in a vertical plane at any given point.
- (4) There shall be no weather enclosures or other solid enclosures of any nature constructed or installed on or in conjunction with the permitted building projections as provided in subsection (1) of this section. Such prohibited installations shall include, but not be limited to, windows; storm shutters, including fixed or moveable type, roll-down curtains of metal, plastic, fabric or other material; insect screening; or any other temporary or permanent enclosures of any nature. Such prohibited enclosures as described in this subsection shall also not be installed or constructed on any existing open balcony.
- (5) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (6) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height

of eight feet nor cover more than 15 square feet in area.

- (7) First floor ramps, landings, open terraces, and/or steps may extend six feet into the required front, street side and street rear yard setbacks. In addition, unenclosed entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.

(Ord. No. 2-74, § 5.32, 3-26-74; Ord. No. 3-77, §§ 4, 5, 3-29-77; Ord. No. 7-82, § 4(d), 3-31-82; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 2, 7-9-02; Ord. No. 19-2021, § 4, 9-13-21)

Sec. 134-951. - Awnings or trellises in side or rear yards.

In the R-C medium density residential district, as an exception to the yard regulations in section 134-1548, an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Awnings and/or trellises so erected may not be converted to permanent additions to the principal structure if such conversion would increase lot coverage of the principal structure above the allowed percentage.

(Ord. No. 2-74, § 5.31(c), 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93)

Sec. 134-952. - Exemption to height limitations.

In the R-C zoning district, one architectural tower feature may be constructed as an integral part of a single-family or two-family dwelling provided that it does not exceed the allowable overall building height by five feet and is setback an additional five (5) feet on the front, rear, side, and street side and street rear yards; and, such tower has no usable floor area. The area of such tower shall not exceed two percent of the gross floor area of the dwelling. For a two-family dwelling each unit is allowed one architectural tower feature and said tower feature may not exceed 2% of the individual dwelling unit floor area. It is the intention of this section to allow only one tower as an architectural feature on a house and not to allow habitable space in upper areas of a tower on a house. It is also the intent that this section not apply to entry facades or parapets.

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 1-99, § 17, 4-5-99)

Sec. 134-953. - Lot grade, topography and drainage.

In the R-C, medium density residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 2-74, § 5.18, 3-26-74; Ord. No. 7-82, § 4(b), 3-31-82; Ord. No. 1-92, § 3(b), 2-3-92; Ord. No. 1-94, § 3(a), 2-7-94; Ord. No. 26-10, § 36, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

Sec. 134-954. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the R-C medium density residential district are contained in article VIII of this chapter.

Sec. 134-955. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the R-C medium density residential district are contained in article IX of this chapter.

Sec. 134-956. - Signs.

The sign regulations which may be applicable in the R-C medium density residential district are contained in article XI of this chapter.

Sec. 134-957. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Secs. 134-958—134-995. - Reserved.

DIVISION 6. - R-D(1) MODERATE DENSITY RESIDENTIAL DISTRICT

Sec. 134-996. - Purpose.

The purpose of the R-D(1) moderate density residential district is to provide for residential uses, as that term is defined in section 134-2, and a variety of housing types at a moderate population density compatible with neighboring housing areas of lower density.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-997. - Permitted uses.

The permitted uses in the R-D(1) moderate density residential district are as follows:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Townhouses.
- (4) Multi-family dwellings. (Site plan review shall be required. See article III of this chapter.)
- (5) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 26-10, § 20, 12-15-10; Ord. No. 16-2012, § 5, 12-12-12)

Sec. 134-998. - Accessory uses.

The accessory uses in the R-D(1) moderate density residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Charitable events specifically approved by the town manager.
- (5) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(3), (4), 2-7-94; Ord. No. 1-02, § 16, 3-12-02)

Sec. 134-999. - Prohibited uses.

The specific prohibited uses of buildings or land in the R-D(1) moderate density residential district are as follows:

- (1) No person shall use any portion of any building or accessory building or any land used for residential purposes in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose (with the sole exception of meetings of the corporate ownership of the premises involved), banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) Executive/employee/group, vacation/retreats are prohibited in this zoning district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(3), (4), 2-7-94)

Sec. 134-1000. - Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the R-D(1) moderate density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Public or private academic schools.
- (5) Churches, synagogues and other houses of worship.
- (6) Supplemental parking.
- (7) Roof-deck automobile parking.
- (8) Municipally owned or operated parking areas.
- (9) Beach houses intended for the use of family and guests only.
- (10) Group home.
- (11) Foster care facility.
- (12) Municipally owned and operated parks and recreation areas.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 6, 2-5-96; Ord. No. 16-2012, § 13, 12-12-12; Ord. No. 02-2019, § 7, 3-19-19)

Sec. 134-1001. - Accessory structures.

- (a) *Accessory structures in R-D(1) district.* Accessory structures in the R-D(1) moderate density residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-D(1) district.* Accessory structures without kitchen facilities may be erected in accordance with the following requirements:
 - (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.
 - (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed or partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
 - (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height may be located within ten feet of a side or rear lot line, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
 - (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and enclosed accessory structures as for the principal structure, with the exception of garden walls and

fences, which are regulated by division 5 of article VIII of this chapter, and except that in the R-D(1) district, enclosed accessory structures may be permitted to be located within that portion of a required side yard that is in excess of the minimum side yard of 30 feet.

- (5) An accessory structure in the R-D(1) district may be located within that portion of a required front yard that is in excess of the minimum 25-foot front yard.
- (6) Accessory structures in the R-D(1) district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.
- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.
- (8) One dock, as defined in section 134-2 and as regulated in sections 62-62-74, 62-75 and 134-1697, shall be unenclosed accessory structures as defined in this section.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-98, § 9, 2-9-98; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 16-2021, § 6, 8-11-21)

Sec. 134-1002. - Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.

In the R-D(1) moderate density residential district, no accessory structure shall be used as or converted to a dwelling unit. If any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated

until a new principal structure and use is established on the lot on which the accessory structure and use is located.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94)

Sec. 134-1003. - Accessory uses in multifamily dwellings.

Incidental services used in connection with multifamily structures in the R-D(1) moderate density residential district, including cigar or candy stands, delicatessens, personal service shops and similar uses, may be permitted provided the following conditions are fulfilled:

- (1) At least 25 dwelling units shall be contained within the building group.
- (2) Not more than five percent of the total floor area within the building shall be so used.
- (3) All such incidental services shall be situated within the interior of the building, so that no part thereof shall be directly accessible to the street or public way.
- (4) No sign or window display shall be discernible from the sidewalk or public way.
- (5) No exterior or external advertising shall be permitted.

(Ord. No. 2-74, § 6.13, 3-26-74)

Sec. 134-1004. - Lot, yard and area requirements—Generally.

In the R-D(1) moderate density residential district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.*
 - a. For single-family uses, the minimum lot area is 10,000 square feet.
 - b. For two-family uses, the minimum lot area is 10,000 square feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot area is 40,000 square feet.
- (2) *Lot width.*
 - a. For single-family uses, the minimum lot width is 75 feet.
 - b. For two-family uses, the minimum lot width is 75 feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot width is 150 feet.
- (3) *Lot depth.*
 - a. For single-family uses, the minimum lot depth is 100 feet.
 - b. For two-family uses, the minimum lot depth is 100 feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot depth is 200 feet.
- (4) *Density.*

- a. For single-family uses, the maximum density is four dwelling units per acre.
 - b. For two-family uses, the maximum density is eight dwelling units per acre.
 - c. For townhouses, the maximum density is ten dwelling units per acre. See article III of this chapter for site plan review requirements.
 - d. For multifamily uses, the maximum density is ten dwelling units per acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
- a. For single-family uses, the minimum front yard setback is 25 feet.
 - b. For two-family uses, the minimum front yard setback is 25 feet.
 - c. For townhouses, the minimum front yard setback is 25 feet.
 - d. For multifamily uses, the front yard setback shall be either 25 feet or the height of the building, whichever is the greater. When more than one street yard exists (as provided in sections 134-1576 and 134-1577) and the height of a building exceeds 25 feet, the total amount of street yard setbacks shall equal the height of the building times the number of street yards, and any individual street yard setback shall be not less than 25 feet. See also requirements in sections 134-1576 and 134-1577.
- (6) *Side yard.*
- a. For single-family uses, the minimum side yard setback is ten feet.
 - b. For two-family uses, the minimum side yard setback is 12½ feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the side yard setback shall be 30 feet or the height of the building, whichever is greater.
- (7) *Rear yard.*
- a. For single-family uses, the minimum rear yard setback is 15 feet.
 - b. For two-family uses, the minimum rear yard setback is 15 feet.
 - c. For townhouses, the minimum rear yard setback is 15 feet.
 - d. For multifamily uses, the minimum rear yard setback is 30 feet.
- (8) *Height and overall height.*
- a. For single-family uses, the maximum building height is two stories or 25 feet.
 - b. For two-family uses, the maximum building height is two stories or 25 feet.
 - c. For townhouses, the maximum building height is two stories or 25 feet.
 - d. For multifamily uses, the maximum building height of two-story buildings is 25 feet; the maximum building height of three-story buildings is 35 feet. In this district, the maximum building height for multifamily uses is three stories, with provision for a special exception for up to five stories. See special exception provisions in sections 134-227 through 134-233, section 134-1008, and article III of this chapter.
 - e. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (9) *Lot coverage.*

- a. For single-family uses, the maximum lot coverage is 30 percent.
- b. For two-family uses, the maximum lot coverage is 30 percent.
- c. For townhouses, the maximum lot coverage is 35 percent.
- d. For multifamily uses, the maximum lot coverage is 35 percent.

(10) *Dimensions.* For multifamily building maximum dimensions, see section 134-1871 et seq.

(11) *Landscaped open space.*

- a. For single-family uses, the minimum landscaped open space is 40 percent.
- b. For two-family uses, the minimum landscaped open space is 40 percent.
- c. For townhouses, the minimum landscaped open space is 35 percent.
- d. For multifamily uses, the minimum landscaped open space is 35 percent.
- e. Additionally, not less than 40 percent of the required front yard must be landscaped open space for single-family and two-family homes in the R-D(1) district and not less than 35 percent of the required front yard must be landscaped open space for all other type of development.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-01, § 1, 2-19-01; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-02, § 15, 3-12-02; Ord. No. 1-03, § 18, 3-11-03; Ord. No. 4-2016, § 4, 4-13-16)

Sec. 134-1005. - Same—Existing single-family dwelling development.

- (a) A single-family dwelling located in the R-D(1) moderate density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district; may be enlarged with a first story and/or second story addition, provided the addition complies with the current schedule of lot, yard and bulk regulations for this district;
- (b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.
- (c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

(Ord. No. 2-74, § 5.17, 3-26-74; Ord. No. 3-77, § 3, 3-29-77; Ord. No. 7-82, § 4(a), 3-31-82; Ord. No. 1-86, § 3(b), 2-10-86; Ord. No. 1-87, § 3(b), 2-9-87; Ord. No. 1-90, § 3(a), 2-5-90; Ord. No. 1-92, § 3(a), 2-3-92; Ord. No. 1-93, § 3(b), 2-8-93; Ord. No. 1-04, § 5, 3-9-04; Ord. No. 26-10, § 23, 12-15-10)

Sec. 134-1006. - Same—Exceptions.

In the R-D(1) moderate density residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Cornices, roof eave overhangs, architectural features, not including balconies or habitable floors, and chimneys may extend 48 inches from the main and/or accessory building into any yard areas.
- (2) Areaways, ramps, or steps to the basement may extend into the side or rear yard area within 24 inches from the adjacent property line, provided no part is over 36 inches above the grade.
- (3) Decorative screens and other architectural features projecting into the rear, side or front yard areas as

provided in subsection (1) of this section shall be perforated in a manner so that any vertical projection is at least 50 percent open in area in a vertical plane at any given point.

- (4) There shall be no weather enclosures or other solid enclosures of any nature constructed or installed on or in conjunction with the permitted building projections as provided in subsection (1) of this section. Such prohibited installations shall include, but not be limited to, windows; storm shutters, including fixed or moveable type, roll-down curtains of metal, plastic, fabric or other material; insect screening; or any other temporary or permanent enclosures of any nature. Such prohibited enclosures as described in this subsection shall also not be installed or constructed on any existing open balcony.
- (5) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (6) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area.
- (7) First floor ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.

(Ord. No. 2-74, § 5.32, 3-26-74; Ord. No. 3-77, §§ 4, 5, 3-29-77; Ord. No. 7-82, § 4(d), 3-31-82; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 2, 7-9-02; Ord. No. 19-2021, § 4, 9-13-21)

Sec. 134-1007. - Awnings or trellises in side or rear yards.

In the R-D(1) moderate density residential district, as an exception to the yard regulations in section 134-1548, an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Awnings and/or trellises so erected may not be converted to permanent additions to the principal structure if such conversion would increase lot coverage of the principal structure above the allowed percentage.

(Ord. No. 2-74, § 5.31(c), 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93)

Sec. 134-1008. - Special exception to height regulations; special exception structures.

- (a) In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the R-D(1) moderate density residential district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the following goals and guidelines:
 - (1) Four-story guidelines. Lot coverage not more than 25 percent.
 - (2) Five-story guidelines. Lot coverage not more than 20 percent.
- (b) In no event shall the building height in an R-D(1) zoning district exceed five stories and 55 feet, unless increased to a maximum of 62½ feet as follows:
 - (1) Three-story/35 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches, up to a maximum of 37 feet six inches.

(2) Four-story/45 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches maximum of 50 feet.

(3) Five-story/55 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches, up to a maximum of 62 feet six inches.

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92)

Sec. 134-1009. - Lot grade topography and drainage.

In the R-D(1), moderate density residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 2-74, § 5.18, 3-26-74; Ord. No. 7-82, § 4(b), 3-31-82; Ord. No. 1-92, § 3(b), 2-3-92; Ord. No. 1-94, § 3(a), 2-7-94; Ord. No. 26-10, § 37, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

Sec. 134-1010. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the R-D(1) moderate density residential district are contained in article VIII of this chapter.

Sec. 134-1011. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the R-D(1) moderate density residential district are contained in article IX of this chapter.

Sec. 134-1012. - Signs.

The sign regulations which may be applicable in the R-D(1) moderate density residential district are contained in article XI of this chapter.

Sec. 134-1013. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Sec. 134-1014. - Exemption to height limitations.

In the R-D(1) zoning district, one architectural tower feature may be constructed as an integral part of a single-family or two-family dwelling provided that it does not exceed the allowable overall building height by five feet and is setback an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower has no usable floor area. The area of such tower shall not exceed two percent of the gross floor area of the dwelling. For a two-family dwelling each unit is allowed one architectural tower feature and said tower feature may not exceed two percent of the individual

dwelling unit floor area. It is the intention of this section to allow only one tower as an architectural feature on a house and not to allow habitable space in upper areas of a tower on a house. It is also the intent that this section not apply to entry facades or parapets.

(Ord. No. 1-99, § 17, 4-5-99)

Secs. 134-1015—134-1050. - Reserved.

DIVISION 7. - R-D(2) HIGH DENSITY RESIDENTIAL DISTRICT

Sec. 134-1051. - Purpose.

The purpose of the R-D(2) high density residential district is to provide for residential uses, as that term is defined in section 134-2, of a variety of dwelling types, and under carefully controlled conditions, hotels and timesharing uses. Permitted population density falls in the lower range of what is generally considered high density development.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1052. - Permitted uses.

The permitted uses in the R-D(2) high density residential district are as follows:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Townhouses.
- (4) Multi-family dwellings. (Site plan review shall be required. See article III of this chapter.)
- (5) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 26-10, § 21, 12-15-10; Ord. No. 16-2012, § 6, 12-12-12)

Sec. 134-1053. - Accessory uses.

The accessory uses in the R-D(2) high density residential district are as follows:

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.

- (4) Newsstands, dining rooms, bars, beauty shops and similar personal service uses for the convenience of tenants and their bona fide guests in a multifamily dwelling.
- (5) Charitable events specifically approved by the town manager.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(3), (4), 2-7-94; Ord. No. 1-02, § 16, 3-12-02; Ord. No. 5-09, § 2, 4-15-09; Ord. No. 16-2021, § 7, 8-11-21)

Sec. 134-1054. - Prohibited uses.

The specific prohibited uses of buildings or land in the R-D(2) high density residential district are as follows:

- (1) No person shall use any portion of any building or accessory building or any land used for residential purposes in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose (with the sole exception of meetings of the corporate ownership of the premises involved), banquets or entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.
- (2) Executive/employee/group, vacation/retreats are prohibited in this zoning district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1, 2-9-93; Ord. No. 1-94, § 2(b)(3), (4), 2-7-94)

Sec. 134-1055. - Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the R-D(2) high density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Public or private academic schools.
- (5) Churches, synagogues and other houses of worship.
- (6) Supplemental parking.
- (7) Accessory commercial uses to hotel uses.
- (8) Municipally owned or operated parking areas.
- (9) Beach houses intended for the use of family and guests only.

- (10) Hotels.
- (11) Timesharing uses.
- (12) Roof-deck automobile parking.
- (13) Group home.
- (14) Foster care facility.
- (15) Pedestrian access tunnel to the beach as an accessory use provided that the applicant owns the land on both sides of the roadway, provides unity of title, and provides prior written approval from all governmental agencies having jurisdiction.
- (16) Outdoor cafe seating for dining purposes related to hotels, condo-hotels and dining rooms provided that all requirements and conditions contained in sections 134-2104 and 134-2108 are met.
- (17) Condo-hotels in accordance with section 134-2110.
- (18) Municipally owned and operated parks and recreation areas.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 6, 2-5-96; Ord. No. 1-99, § 9, 4-5-99; Ord. No. 5-09, §§ 3, 19, 4-15-09; Ord. No. 16-2012, § 14, 12-12-12; Ord. No. 02-2019, § 8, 3-19-19; Ord. No. 16-2021, § 8, 8-11-21)

Sec. 134-1056. - Reserved.

Editor's note— Ord. No. 16-2021, § 9, adopted August 11, 2021, repealed § 134-1056, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 5-09, § 4, 4-15-09.

Sec. 134-1057. - Accessory structures.

- (a) *Accessory structures in R-D(2) district.* Accessory structures in the R-D(2) high density residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-D(2) district.* Accessory structures without kitchen facilities may be erected in accordance with the following requirements:
 - (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.
 - (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the R-D(2) zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed or partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
 - (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height may be located within ten feet of a side or rear lot line, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.

- (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and accessory structures as for the principal structure, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter, and except that in the R-D(2) district enclosed accessory structures may be permitted to be located within that portion of a required side yard that is in excess of the minimum side yards.
- (5) An accessory structure in the R-D(2) district may be located within that portion of a required front yard that is in excess of the minimum 25-foot front yard.
- (6) Accessory structures in the R-D(2) district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.
- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One (1) meter in the metric system of measurement equals 39.37 inches or 3.28 feet.
- (8) One dock, as defined in section 134-2 and as regulated in sections 62-74, 62-75 and 134-1697, shall be unenclosed accessory structures as defined in this section.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-98, § 9, 2-9-98; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 5-09, § 4, 4-15-09; Ord. No. 16-2021, § 10, 8-11-21)

Editor's note— See note at section 134-1056.

Sec. 134-1058. - Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.

In the R-D(2) high density residential district, no accessory structure shall be used as or converted to a dwelling unit. Further, if any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure and use is established on the lot on which the accessory structure and use is located.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94; Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Sec. 134-1059. - Accessory uses in apartment houses, hotels and condo-hotels.

Incidental services used in connection with either apartment houses, hotels or condo-hotels in an R-D(2) high density residential district, including cigar or candy stands, delicatessens, personal service shops and similar uses, may be permitted provided the following conditions are fulfilled:

- (1) At least 25 dwelling units shall be contained within the building group.
- (2) Not more than five percent of the total floor area within the building shall be so used.
- (3) All such incidental services shall be situated within the interior of the building, so that no part thereof shall be directly accessible to the street or public way, except for outdoor seating for dining purposes in accordance with sections 134-2104 through 134-2108 and section 134-1906.
- (4) No sign or window display shall be discernible from the sidewalk or public way.
- (5) No exterior or external advertising shall be permitted.

(Ord. No. 2-74, § 6.13, 3-26-74; Ord. No. 5-09, §§ 4, 20, 4-15-09)

Editor's note— Ord. No. 5-09, § 4, renumbered the former section 134-1058 as section 134-1059. Subsequently, section 20 of said ordinance changed the title of section 134-1059 from "Accessory uses in apartment houses and hotels" to "Accessory uses in apartment houses, hotels and condo-hotels."

Sec. 134-1060. - Lot, yard and area requirements—Generally.

In the R-D(2) high density residential district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.*
 - a. For single-family uses, the minimum lot area is 10,000 square feet.
 - b. For two-family uses, the minimum lot area is 10,000 square feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot area is 40,000 square feet.
 - e. For timesharing uses, the minimum lot area is 40,000 square feet.
 - f. For hotels and condo-hotels, the minimum lot area is 40,000 square feet.
- (2) *Lot width.*
 - a. For single-family uses, the minimum lot width is 75 feet.
 - b. For two-family uses, the minimum lot width is 75 feet.

- c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter
 - d. For multifamily uses, the minimum lot width is 150 feet.
 - e. For timesharing uses, the minimum lot width is 150 feet.
 - f. For hotels and condo-hotels, the minimum lot width is 150 feet.
- (3) *Lot depth.*
- a. For single-family uses, the minimum lot depth is 100 feet.
 - b. For two-family uses, the minimum lot depth is 100 feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot depth is 200 feet.
 - e. For timesharing uses, the minimum lot depth is 200 feet.
 - f. For hotels and condo-hotels, the minimum lot depth is 200 feet.
- (4) *Density.*
- a. For single-family uses, the maximum density is four dwelling units per acre.
 - b. For two-family uses, the maximum density is eight dwelling units per acre.
 - c. For townhouses, the maximum density is ten dwelling units per acre. See article III of this chapter for site plan review requirements.
 - d. For multifamily uses, the maximum density is 13 dwelling units per acre. See article III of this chapter for site plan review requirements.
 - e. For timesharing uses, the maximum density is nine dwelling units per acre. See article III of this chapter for site plan review requirements.
 - f. For hotels, the maximum density is 26 dwelling units per acre. See article III of this chapter for site plan review requirements.
 - g. For condo-hotels, the maximum density is 20 dwelling units per acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
- a. For single-family uses, the minimum front yard setback is 25 feet.
 - b. For two-family uses, the minimum front yard setback is 25 feet.
 - c. For townhouses, the minimum front yard setback is 25 feet.
 - d. For multifamily uses, the front yard setback shall be either 25 feet or the height of the building, whichever is the greater. When more than one street yard exists (as provided in sections [134-1576](#) and [134-1577](#)) and the height of a building exceeds 25 feet, the total amount of street yard setbacks shall equal the height of the building times the number of street yards, and any individual street yard setback shall be not less than 25 feet. See also requirements in sections [134-1576](#) and [134-1577](#).
 - e. For timesharing uses, the minimum front yard setback is 25 feet.
 - f. For hotels, the minimum front yard setback is 25 feet.
- (6) *Side yard.*
- a. For single-family uses, the minimum side yard setback is ten feet.

- b. For two-family uses, the minimum side yard setback is 12½ feet.
- c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
- d. For multifamily uses, the side yard setback shall be 30 feet or the height of the building, whichever is greater.
- e. For timesharing uses, the minimum side yard setback is 30 feet.
- f. For hotels, the minimum side yard setback is 30 feet.

(7) *Rear yard.*

- a. For single-family uses, the minimum rear yard setback is 15 feet.
- b. For two-family uses, the minimum rear yard setback is 15 feet.
- c. For townhouses, the minimum rear yard setback is 15 feet.
- d. For multifamily uses, the minimum rear yard setback is 30 feet.
- e. For timesharing uses, the minimum rear yard setback is 30 feet.
- f. For hotels, the minimum rear yard setback is 30 feet.

(8) *Height and overall height.*

- a. For single-family uses, the maximum building height is two stories or 25 feet.
- b. For two-family uses, the maximum building height is two stories or 25 feet.
- c. For townhouses, the maximum building height is two stories or 25 feet.
- d. For multifamily uses, the maximum building height of two-story buildings is 25 feet; the maximum building height of three-story buildings is 35 feet. In this district, the maximum building height for multifamily uses is three stories, with provision for a special exception for up to five stories. See special exception provisions in sections 134-227 through 134-233, section 134-1063, and article III of this chapter.
- e. For timesharing uses, the maximum building height is three stories or 35 feet.
- f. For hotels, the maximum building height is three stories or 35 feet.
- g. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(9) *Lot coverage.*

- a. For single-family uses, the maximum lot coverage is 30 percent.
- b. For two-family uses, the maximum lot coverage is 30 percent.
- c. For townhouses, the maximum lot coverage is 35 percent.
- d. For multifamily uses, the maximum lot coverage is 40 percent.
- e. For timesharing uses, the maximum lot coverage is 45 percent.
- f. For hotels, the maximum lot coverage is 45 percent.

(10) *Dimensions.* For multifamily building maximum dimensions, see section 134-1871 et seq.

(11) *Landscaped open space.*

- a. For single-family uses, the minimum landscaped open space is 40 percent.
- b. For two-family uses, the minimum landscaped open space is 40 percent.

- c. For townhouses, the minimum landscaped open space is 35 percent.
- d. For multifamily uses, the minimum landscaped open space is 35 percent.
- e. For timesharing uses, the minimum landscaped open space is 35 percent.
- f. For hotels, the minimum landscaped open space is 35 percent.
- g. Additionally, not less than 40 percent of the required front yard must be landscaped open space for single-family and two-family homes in the R-D(1) district and not less than 35 percent of the required front yard must be landscaped open space for all other type of development.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-01, § 1, 2-19-01; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-02, § 15, 3-12-02; Ord. No. 1-03, § 19, 3-11-03; Ord. No. 1-04, § 35, 3-9-04; Ord. No. 5-09, §§ 4, 21, 4-15-09; Ord. No. 4-2016, § 4, 4-13-16)

Editor's note— See note at section 134-1056.

Sec. 134-1061. - Same—Existing single-family dwelling development.

- (a) A single-family dwelling located in the R-D(2) high density residential district, which dwelling is nonconforming with any of the schedule of lot, yard and bulk regulations for this district; may be enlarged with a first story and/or second story addition, provided the addition complies with the current schedule of lot, yard and bulk regulations for this district;
- (b) This section shall not apply to a dwelling that is demolished by more than 50 percent, as determined by cubic footage, in preparation for any proposed addition, exterior renovation, or exterior reconstruction.
- (c) It is the intent of this section to allow a partial exemption to sections 134-416 and 134-417.

(Ord. No. 2-74, § 5.17, 3-26-74; Ord. No. 3-77, § 3, 3-29-77; Ord. No. 7-82, § 4(a), 3-31-82; Ord. No. 1-86, § 3(b), 2-10-86; Ord. No. 1-87, § 3(b), 2-9-87; Ord. No. 1-90, § 3(a), 2-5-90; Ord. No. 1-92, § 3(a), 2-3-92; Ord. No. 1-93, § 3(b), 2-8-93; Ord. No. 1-04, § 5, 3-9-04; Ord. No. 5-09, § 4, 4-15-09; Ord. No. 26-10, § 24, 12-15-10)

Editor's note— See note at section 134-1056.

Sec. 134-1062. - Same—Exceptions.

In the R-D(2) high density residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Cornices, roof eave overhangs, architectural features, not including balconies or habitable floors, and chimneys may extend 48 inches from the main and/or accessory building into any yard areas.
- (2) Areaways, ramps, or steps to the basement may extend into the side or rear yard area within 24 inches from the adjacent property line, provided no part is over 36 inches above the grade.
- (3) Decorative screens and other architectural features projecting into the rear, side or front yard areas as provided in subsection (1) of this section shall be perforated in a manner so that any vertical projection is at least 50 percent open in area in a vertical plane at any given point.
- (4) There shall be no weather enclosures or other solid enclosures of any nature constructed or installed on or in

conjunction with the permitted building projections as provided in subsection (1) of this section. Such prohibited installations shall include, but not be limited to, windows; storm shutters, including fixed or moveable type, roll-down curtains of metal, plastic, fabric or other material; insect screening; or any other temporary or permanent enclosures of any nature. Such prohibited enclosures as described in this subsection shall also not be installed or constructed on any existing open balcony.

- (5) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (6) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area.
- (7) First floor ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.

(Ord. No. 2-74, § 5.32, 3-26-74; Ord. No. 3-77, §§ 4, 5, 3-29-77; Ord. No. 7-82, § 4(d), 3-31-82; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 2, 7-9-02; Ord. No. 5-09, § 4, 4-15-09; Ord. No. 19-2021, § 4, 9-13-21)

Editor's note— See note at section 134-1056.

Sec. 134-1063. - Awnings or trellises in side or rear yards.

In the R-D(2) high density residential district, as an exception to the yard regulations in section 134-1548, an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Awnings and/or trellises so erected may not be converted to permanent additions to the principal structure if such conversion would increase lot coverage of the principal structure above the allowed percentage.

(Ord. No. 2-74, § 5.31(c), 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93; Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Sec. 134-1064. - Special exception to height regulations; special exception structures.

- (a) In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the R-D(2) high density residential district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the following goals and guidelines:
 - (1) Four-story guidelines. Lot coverage not more than 27 percent.
 - (2) Five-story guidelines. Lot coverage not more than 22 percent.

- (b) In no event shall the building height in an R-D(2) zoning district exceed five stories and 55 feet, unless increased to a maximum of 62½ feet as follows:
 - (1) Three-story/35 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches, up to a maximum of 37 feet six inches.

(2) Four-story/45 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches maximum of 50 feet.

(3) Five-story/55 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches, up to a maximum of 62 feet six inches.

(Ord. No. 2-74, § 5.48(l), 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Sec. 134-1065. - Lot grade topography and drainage.

In the R-D(2), high density residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 2-74, § 5.18, 3-26-74; Ord. No. 7-82, § 4(b), 3-31-82; Ord. No. 1-92, § 3(b), 2-3-92; Ord. No. 1-94, § 3(a), 2-7-94; Ord. No. 5-09, § 4, 4-15-09; Ord. No. 26-10, § 38, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

Editor's note— See note at section 134-1056.

Sec. 134-1066. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the R-D(2) high density residential district are contained in article VIII of this chapter.

(Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Sec. 134-1067. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the R-D(2) high density residential district are contained in article IX of this chapter.

(Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Sec. 134-1068. - Signs.

The sign regulations which may be applicable in the R-D(2) high density residential district are contained in article XI of this chapter.

(Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Sec. 134-1069. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99; Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Sec. 134-1070. - Exemption to height limitations.

In the R-D(2) zoning district, one architectural tower feature may be constructed as an integral part of a single-family or two-family dwelling provided that it does not exceed the allowable overall building height by five feet and is setback an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower has no usable floor area. The area of such tower shall not exceed two percent of the gross floor area of the dwelling. For a two-family dwelling each unit is allowed one architectural tower feature and said tower feature may not exceed two percent of the individual dwelling unit floor area. It is the intention of this section to allow only one towers as an architectural feature on a house and not to allow habitable space in upper areas of a tower on a house. It is also the intent that this section not apply to entry facades or parapets.

(Ord. No. 1-99, § 17, 4-5-99; Ord. No. 5-09, § 4, 4-15-09)

Editor's note— See note at section 134-1056.

Secs. 134-1071—134-1105. - Reserved.

DIVISION 8. - C-TS TOWN-SERVING COMMERCIAL DISTRICT

Footnotes:

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Cross reference— *Businesses, ch. 22.*

Sec. 134-1106. - Purpose and limitations.

The purposes of the C-TS town-serving commercial district are to:

- (1) Create, preserve and enhance areas of attractive, small-scale, retail, personal and professional/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons.
- (2) Enhance the general character of the district and its compatibility with its residential surroundings, and, therefore, signs are limited to those accessory to businesses conducted on the premises, including the number, area and types; retail drive-in facilities are not permitted, and, in order to maintain the town-serving nature of the district, limitations on gross leasable floor (GLA) area are imposed.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord.

No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1107. - Permitted uses.

- (a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:
- (1) Retail and service establishments, such as hardware stores, food stores, clothing stores, drugstores, barbershops, beauty salons and jewelry stores.
 - (2) Offices, executive office suites, professional services, business services, excluding veterinarian offices, and securities and financial brokerage and trust companies above the first floor.
 - (3) Offices, professional services, business services and securities and financial brokerage and trust companies in the 200 block of Peruvian Avenue and Bradley Place.
 - (4) Nonprofit cultural centers.
 - (5) Professional and studio type schools.
 - (6) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.
 - (7) Essential services.
 - (8) Public parks.
 - (9) Residence(s) above the first floor.
 - (10) Supplemental off-site shared parking as provided for in sections 134-2177 and 134-2182. This use will sunset on March 13, 2024, unless extended or modified by town council.
- (b) *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 8,000 square feet exists in the C-TS district and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 4, 2-5-96; Ord. No. 1-98, § 5, 2-9-98; Ord. No. 1-02, § 9, 3-12-02; Ord. No. 1-04, §§ 17, 22, 3-9-04; Ord. No. 1-05, § 2, 3-8-05; Ord. No. 4-08, § 8, 4-7-08; Ord. No. 5-2011, § 3, 3-9-11; Ord. No. 2-2011, § 3, 7-13-11; Ord. No. 7-2014, § 5, 5-14-14; Ord. No. 13-2015, § 1, 5-13-15; Ord. No. 8-2017, § 1, 4-12-17; Ord. No. 17-2019, § 5, 6-12-19; Ord. No. 01-2021, § 2, 2-10-21; Ord. No. 12-2021, § 1, 6-9-21; Ord. No. 20-2021, § 2, 9-13-21)

Editor's note— Ord. No. 7-2014, § 5, adopted May 14, 2014, set out provisions amending subsection 134-1108(a)(2). To correct a scrivener's error, and at the editor's discretion, these provisions have been included as amending subsection 134-1107(a)(2).

Sec. 134-1108. - Accessory uses.

The accessory uses in the C-TS town-serving commercial district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 5, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

Sec. 134-1109. - Special exception uses.

(a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:

- (1) Public or private parking lots or storage garages.
- (2) Auto rental lots.
- (3) Private social, swimming, golf, tennis and yacht clubs.
- (4) Service stations.
- (5) Public structures/uses.
- (6) Essential services related to town-owned municipal buildings and structures.
- (7) Supplemental parking per sections 134-2177 and 134-2182.
- (8) Public or private academic schools.
- (9) Drive-in business service facilities.
- (10) Churches, synagogues or other houses of worship.
- (11) Permitted uses, or uses not specifically enumerated under permitted uses in section 134-1107 but having

traffic, patronage and intensity of use characteristics similar to those uses cited therein, which are greater than 3,000 square feet gross leasable area.

- (12) Banks and financial institutions, excluding securities or financial brokerage and trust companies.
 - (13) Roof-deck automobile parking.
 - (14) Outdoor cafe seating is permitted only for restaurants, retail specialty food including the sale of prepared food for takeout only, and private, social, swimming, golf, tennis and yacht clubs, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
 - (15) Veterinarian offices above the first floor.
 - (16) Museums occupying building of unique value as designated historical landmarks, as determined by the landmarks preservation commission and the town council.
 - (17) Nightclubs.
 - (18) Except as provided for in subsection 134-1107(3), offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there are at least 50 percent existing office uses on all floors of the building in which the office use is proposed and more than 50 percent existing office uses on the first floor within 300 feet of the proposed office use within the same zoning district.
 - (19) Private parks.
 - (20) Medical marijuana treatment centers and medical marijuana dispensaries are prohibited, however, should state law preempt said prohibition, said uses shall be permitted subject to the requirements in sections 134-2113 through 134-2114 of this chapter.
 - (21) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.
 - (22) Restaurants, excluding formula restaurants, as defined in section 134-2 and bars/lounges.
- (b) An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-96, § 3, 2-5-96; Ord. No. 1-98, § 5, 2-9-98; Ord. No. 1-02, § 8, 3-12-02; Ord. No. 1-03, § 2, 3-11-03; Ord. No. 1-04, § 28, 3-9-04; Ord. No. 1-07, § 3, 4-10-07; Ord. No. 5-09, § 6, 4-15-09; Ord. No. 5-2011, § 4, 3-9-11; Ord. No. 2-2011, § 4, 7-13-11; Ord. No. 3-2012, § 4, 4-11-12; Ord. No. 7-2014, § 5, 5-14-14; Ord. No. 13-2015, § 2, 5-13-15; Ord. No. 24-2016, § 2, 1-11-17; Ord. No. 30-2017, § 2, 1-10-18; Ord. No. 02-2019, § 9, 3-19-19; Ord. No. 17-2019, § 6, 6-12-19; Ord. No. 01-2021, § 3, 2-10-21; Ord. No. 12-2021, § 2, 6-9-21; Ord. No. 16-2021, § 12, 8-11-21)

Editor's note— Ord. No. 13-2015, § 2, adopted May 13, 2015, set out provisions intended for use as subsection 134-1109(a)(15). To maintain the current subsection 134-1109(a)(15) as added by Ord. No. 7-2014, § 5, adopted May 14, 2014, and at the editor's discretion, these provisions have been included herein as subsection 134-1109(a)(19).

Sec. 134-1110. - Accessory structures.

- (a) *Generally.* Enclosed accessory structures in the C-TS town-serving commercial district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *Dish antennas.* A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99)

Sec. 134-1111. - Reserved.

Editor's note— Ord. No. 16-2021, § 13, adopted August 11, 2021, repealed § 134-111, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 2-74, § 6.61, 3-26-74; Ord. No. 3-77, § 14, 3-29-77; Ord. No. 1-89, 4(f), 2-6-89; Ord. No. 1-04, § 15, 3-9-04; Ord. No. 5-09, § 7, 4-15-09.

Sec. 134-1112. - Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1107 which involve more than 2,000 square feet of building floor area of buildings in the C-TS town-serving commercial district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85)

Sec. 134-1113. - Lot, yard and area requirements—Generally.

In the C-TS town-serving commercial district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 4,000 square feet.
- (2) *Lot width.* The minimum lot width is 30 feet.
- (3) *Lot depth.* The minimum lot depth is 90 feet.
- (4) *Density.* A single dwelling unit, or multiple dwelling units not to exceed six dwelling units per gross acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
 - a. For one-story buildings, the minimum front yard setback is five feet.
 - b. For two-story buildings, the minimum front yard setback is five feet.
 - c. All buildings shall be set back so as to provide at least a ten-foot-wide pedestrian walkway between the street curblin and the building, exclusive of beautification strips, not more than five feet of which may be on the town street right-of-way, where appropriate, and addition-ally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard building setback is approved or required, two feet of the required ten-foot-wide pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible.
 - d. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (6) *Side yard.*
 - a. There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided. When the side yard of a C-TS property adjoins property zoned in any R district, a ten-foot side yard is required on that side.
 - b. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (7) *Rear yard.*
 - a. For one-story buildings, the minimum rear yard setback is ten feet.
 - b. For two-story buildings, the minimum rear yard setback is ten feet.
 - c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (8) *Height and overall height.*
 - a. For one-story buildings, the maximum building height is 15 feet.
 - b. For two-story buildings, the maximum building height is 25 feet.
 - c. In this district, the maximum building height allows one story, with provision for a special exception for two stories. See special exception provisions in sections 134-227 through 134-233 (special exception use), section 134-1115 relating to allowable height and lot coverage, and article III of this chapter (site plan review).

- d. Maximum overall height of a building shall be the maximum allowable building height, as defined in section feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building defined in section 134-2, the building overall height will be calculated based on the flat roof style identified a walls extending above the maximum allowable building height shall have appropriate architectural treatment

(9) *Lot coverage.*

- a. For one-story buildings, the maximum lot coverage is 70 percent.
b. For two-story buildings, the maximum lot coverage is 70 percent.

(10) *Length.*

- a. For one-story buildings, the maximum building length is 150 feet.
b. For two-story buildings, the maximum building length is 150 feet.
c. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each, be considered as a separate building for the purpose of calculating building length.

(11) *Landscaped open space.*

- a. For one-story buildings, the minimum landscaped open space is 15 percent.
b. For two-story buildings, the minimum landscaped open space is 25 percent.
c. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-TS district.

(12) *Floor area.*

- a. For one-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
b. For two-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
c. Sub-basements shall be exempt from the maximum floor area requirements. Individual building elements extending above ground from, a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-04, § 31, 3-9-04; Ord. No. 16-2016, § 2, 12-14-16)

Sec. 134-1114. - Same—Exceptions.

- (a) In the C-TS town-serving commercial district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.

- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.
- (f) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area; and, does not block a sidewalk or walkway.

(Ord. No. 2-74, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02)

Sec. 134-1115. - Special exception to height regulations; special exception structures.

In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the C-TS town-serving commercial district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the following goals and guidelines:

Two-story guidelines. Lot coverage not more than 35 percent.

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92)

Sec. 134-1116. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-TS town-serving commercial district are contained in article VIII of this chapter.

Sec. 134-1117. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-TS town-serving commercial district are contained in article IX of this chapter.

Sec. 134-1118. - Signs.

The sign regulations which may be applicable in the C-TS town-serving commercial district are contained in article XI of this chapter.

Sec. 134-1119. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Sec. 134-1120. - Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

Sec. 134-1121. - Lot grade topography and drainage.

In the C-TS, commercial town serving district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 19-2021, § 5, 9-13-21)

Secs. 134-1122—134-1155. - Reserved.

DIVISION 9. - C-WA WORTH AVENUE DISTRICT

Footnotes:

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Cross reference— *Businesses, ch. 22.*

Sec. 134-1156. - Purpose.

The purpose of the C-WA Worth Avenue district is to preserve and enhance an area of unique quality and character oriented to pedestrian comparison shopping and providing a wide range of retail and service establishments, to be developed whether as a unit or as individual parcels, serving the shortterm and longterm needs of townpersons. Drive-in retail facilities are not permitted. Further it shall be the intent of this district to enhance the town-serving character of the area through use of limitations on maximum gross leasable area (GLA), thereby reducing the problems of parking and traffic congestion determined to result from establishments of a region-serving scale.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-05, § 1, 3-8-05)

Sec. 134-1157. - Permitted uses.

- (a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet of gross leasable area (GLA), are as follows:
- (1) Antiques.
 - (2) Apparel and accessories.
 - (3) Art galleries.
 - (4) Art services.
 - (5) Bed and bath boutiques.
 - (6) Cards/gifts.
 - (7) Crafts.
 - (8) Drugstore/pharmacy.
 - (9) Fabrics.
 - (10) Flowers/florist.
 - (11) Furniture.
 - (12) Hair styling/beauty salon.
 - (13) Interior decorating sales/services.
 - (14) Jewelry.
 - (15) Kitchenwares.
 - (16) Luggage/leather goods.
 - (17) News/books.
 - (18) Optical goods.
 - (19) Perfumery.
 - (20) Photographic services/studios.
 - (21) Shoes.
 - (22) Stationery.
 - (23) Essential services.
 - (24) Tobacconist.
 - (25) Toys.
 - (26) TV and electronic items.
 - (27) Offices and professional and business services, including banks and financial institutions, and executive offices above the first floor, excluding veterinarian offices.
 - (28) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.
 - (29) Residence(s) above the first floor.
 - (30) Combinations of the uses in subsections (a)(1) through (28) of this section.
 - (31) Supplemental off-site shared parking as provided for in sections 134-2177 and 134-2182 This use will sunset

on March 13, 2024, unless extended or modified by town council.

- (b) *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 4,000 square feet, in a district with a 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 10,000 square feet exists in the C-WA district and the owner wishes to change to an antique store of the same size of subdivide into two 5,000 square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 4,000 square feet.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-02, § 11, 3-12-02; Ord. No. 1-04, §§ 18, 23, 3-9-04; Ord. No. 1-05, § 3, 3-8-05; Ord. No. 2-2011, § 5, 7-13-11; Ord. No. 7-2014, § 6, 5-14-14; Ord. No. 8-2017, § 2, 4-12-17; Ord. No. 17-2019, § 7, 6-12-19; Ord. No. 01-2021, § 4, 2-10-21; Ord. No. 12-2021, § 3, 6-9-21; Ord. No. 20-2021, § 3, 9-13-21)

Sec. 134-1158. - Accessory uses.

The accessory uses in the C-WA Worth Avenue district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 8, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

Sec. 134-1159. - Special exception uses.

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-WA Worth Avenue district are as follows:
- (1) Pay parking.
 - (2) Public or private parking or storage garages.
 - (3) Private social, swimming, tennis or yacht clubs.
 - (4) Public structures/uses.
 - (5) Essential services related to town-owned municipal buildings and structures.
 - (6) Supplemental parking per sections 134-2177 and 134-2182.
 - (7) Restaurants, nightclubs, lounges/bars, excluding formula restaurants as defined in section 134-2.
 - (8) Museums and nonprofit cultural centers.
 - (9) Permitted uses cited under permitted uses in section 134-1157 which contain greater than 4,000 square feet GLA gross leasable area.
 - (10) Uses not specifically enumerated under permitted uses in section 134-1157 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein.
 - (11) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.
 - (12) Roof deck automobile parking.
 - (13) Outdoor cafe seating is permitted only for restaurants, retail specialty food including the sale of prepared food for takeout only, and private, social, swimming, golf, tennis and yacht clubs, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
 - (14) Retail specialty foods, including incidental sale of prepared foods for takeout.
- (b) An owner or tenant of a property, located within the C-WA district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(5), 2-7-94; Ord. No. 1-96, § 17, 2-5-96; Ord. No. 2-98, § 3, 2-27-98; Ord. No. 1-02, § 10, 3-12-02; Ord. No. 1-03, § 3, 3-11-03; Ord. No. 1-04, § 29, 3-9-04; Ord. No. 4-08, § 9, 4-7-08; Ord. No. 5-09, § 9, 4-15-09; Ord. No. 2-2011, § 6, 7-13-11; Ord. No. 3-2012, § 5, 4-11-12; Ord. No. 10-2012, § 4, 9-11-12; Ord. No. 30-2017, § 3, 1-10-18; Ord. No. 02-2019, § 10, 3-19-19; Ord. No. 17-2019, § 8, 6-12-19; Ord. No. 01-2021, § 5, 2-10-21; Ord. No. 12-2021, § 4, 6-9-21; Ord. No. 16-2021, § 12, 8-11-21)

Sec. 134-1160. - Accessory structures.

- (a) *Generally*. Enclosed accessory structures in the C-WA Worth Avenue district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *Dish antennas*. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not

exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99)

Sec. 134-1161. - Reserved.

Editor's note— Ord. No. 16-2021, § 12, adopted August 11, 2021, repealed § 134-1161, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 2-74, § 6.61, 3-26-74; Ord. No. 3-77, § 14, 3-29-77; Ord. No. 1-89, § 4(f), 2-6-89; Ord. No. 1-04, § 16, 3-9-04; Ord. No. 5-09, § 10, 4-15-09.

Sec. 134-1162. - Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1157 which involve more than 2,000 square feet of building floor area of buildings in the C-WA Worth Avenue district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85)

Sec. 134-1163. - Lot, yard and area requirements—Generally.

In the C-WA Worth Avenue district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area*. The minimum lot area is 4,000 square feet.
- (2) *Lot width*. The minimum lot width is 30 feet.
- (3) *Lot depth*. The minimum lot depth is 90 feet.
- (4) *Density*. A single dwelling unit, or multiple dwelling units not to exceed ten dwelling units per gross acre as

provided for in the Worth Avenue design guidelines which are on file in the town clerk's office, and which are incorporated and adopted as part of this chapter as if fully set forth in this chapter. See article III of this chapter for site plan review requirements.

- (5) *Front yard.* All buildings shall be set back so as to provide at least a ten-foot-wide pedestrian walkway between the street curblin and the building, exclusive of beautification strips, not more than five feet of which may be on the town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard building setback is approved or required, two feet of the required ten-foot-wide pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible. Within the C-WA district, arcades or colonnades may be constructed subject to approval as a special exception over the sidewalks in the required front yard setback, provided they meet the requirements of [section 134-1213\(e\)](#).
- (6) *Side yard.* There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided.
- (7) *Rear yard.* The minimum rear yard setback is ten feet.
- (8) *Height and overall height.*
 - a. For one-story buildings, the maximum building height is 15 feet.
 - b. For two-story buildings, the maximum building height is 25 feet, allowable as a special exception.
 - c. Maximum overall height of a building shall be the maximum allowable building height, as defined in [section 134-2](#), plus five feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building height, as defined in [section 134-2](#), the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
 - d. Refer to Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
- (9) *Lot coverage.*
 - a. For one-story buildings, the maximum lot coverage is 75 percent.
 - b. For two-story buildings, the maximum lot coverage is 35 percent for the first floor and 35 percent for the second floor. See special exception provisions in sections [134-227](#) through [134-233](#) (special exception use), [section 134-1165](#) relating to allowable height and lot coverage, and article III of this chapter (site plan review).
 - c. Refer to Worth Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
- (10) *Length.*
 - a. For one-story buildings, the maximum building length is 150 feet.
 - b. For two-story buildings, the maximum building length is 150 feet.
 - c. For each multifamily building maximum dimensions, see [section 134-1871](#) et seq.
 - d. Refer to Work Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.

- e. Sub-basements are exempt from the maximum building length, requirement. Individual building elements above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building length.

(11) *Landscaped open space.*

- a. For one-story buildings, the minimum landscaped open space is 15 percent.
- b. For two-story buildings, the minimum landscaped open space is 25 percent.
- c. For three-story buildings, the minimum landscaped open space is 25 percent.

(12) *Floor area.*

- a. For one-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
- b. For two-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
- c. Refer to Work Avenue Design Guidelines for special exception requirements providing for special allowances to coverage, height, building length and gross floor area limitations.
- d. Sub-basements are exempt from the maximum, building length, requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-04, § 32, 3-9-04; Ord. No. 16-2016, § 3, 12-14-16)

Sec. 134-1164. - Same—Exceptions.

- (a) In the C-WA Worth Avenue district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) Within the C-WA district, arcades or colonnades may be constructed, subject to approval as a special exception, over sidewalks or ways, provided that they shall not project nearer than three feet to the face of the street curblin or more than ten feet, but not less than seven feet, from the exterior wall as measured from the exterior

face of the building to the exterior face of the arcade or colonnade, and provided that no support shall be nearer than three feet to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance. The design of such arcades or colonnades shall be based upon the Worth Avenue Design Guidelines and shall be subject to review and approval by the architectural commission. The Worth Avenue Design Guidelines are incorporated and adopted as part of this chapter as if fully set forth in this chapter.

(Ord. No. 2-74, § 5.33, 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91)

Sec. 134-1165. - Special exception to height regulations; special exception structures.

(a) *Criteria for granting.* In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the C-WA Worth Avenue district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the goals and guidelines in this section.

(b) *Two-story and three-story construction.* The following shall be applicable to two-story and three-story construction in the C-WA district:

(1) First story coverage not more than 35 percent and second story coverage not more than 35 percent.

Additional coverage and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.

(2) A third story and other special allowances may be granted if the structure is built in accordance with the Worth Avenue Design Guidelines in conformance with section 134-233.

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 2-98, § 4, 2-27-98; Ord. No. 1-01, § 6, 2-19-01)

Cross reference— Applicability of Worth Avenue design guidelines in C-WA district, § 134-233.

Sec. 134-1166. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-WA Worth Avenue district are contained in article VIII of this chapter.

Sec. 134-1167. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-WA Worth Avenue district are contained in article IX of this chapter.

Sec. 134-1168. - Signs.

The sign regulations which may be applicable in the C-WA Worth Avenue district are contained in article XI of this chapter.

Sec. 134-1169. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Sec. 134-1170. - Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

Sec. 134-1171. - Lot grade topography and drainage.

In the C-WA, commercial worth avenue district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 19-2021, § 5, 9-13-21)

Secs. 134-1172—134-1205. - Reserved.

DIVISION 10. - C-OPI OFFICE, PROFESSIONAL AND INSTITUTIONAL DISTRICT

Footnotes:

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Cross reference— *Businesses, ch. 22.*

Sec. 134-1206. - Purpose.

The purpose of the C-OPI office, professional and institutional district is to provide locations for administrative, professional business and institutional offices which are adequate for the town's needs and convenient for use by town citizens.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1207. - Permitted uses.

The permitted uses in the C-OPI office, professional and institutional district are as follows:

- (1) Offices and professional and business services and executive offices, excluding veterinarian offices.
- (2) Brokerage and trust companies.
- (3) Yacht Brokerage with no display of merchandise on premises.
- (4) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.
- (5) Residence(s) above the first floor.
- (6) Essential services.
- (7) Supplemental off-site shared parking as provided for in sections 134-2177 and 134-2182 This use will sunset on March 13, 2024, unless extended or modified by town council.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-97, § 3, 2-17-97; Ord. No. 1-00, § 3, 2-22-00; Ord. No. 1-04, § 24, 3-9-04; Ord. No. 7-2014, § 7, 5-14-14; Ord. No. 8-2017, § 3, 4-12-17; Ord. No. 17-2019, § 9, 6-12-19; Ord. No. 01-2021, § 6, 2-10-21; Ord. No. 12-2021, § 5, 6-9-21; Ord. No. 20-2021, § 4, 9-13-21)

Sec. 134-1208. - Accessory uses.

The accessory uses in the C-OPI office, professional and institutional district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 11, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

Sec. 134-1209. - Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-OPI office, professional and institutional district are as follows:

- (1) Public or private parking lot or storage garages.
- (2) Auto rental lot.
- (3) Public structures/uses.
- (4) Essential services related to town-owned municipal buildings and structures.
- (5) Supplemental parking per sections 134-2177 and 134-2182.

- (6) Restaurants, excluding formula restaurants as defined in section 134-2.
- (7) Lounges/bars when associated with full-service restaurants.
- (8) Banks and financial institutions, excluding brokerage and trust companies.
- (9) Institutions.
- (10) Roof-deck automobile parking.
- (11) Outdoor cafe seating for only restaurants, and dining rooms, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
- (12) Dining rooms when not more than 15 percent of the gross floor area of the structure; no exterior or external advertising to be permitted.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-97, § 3, 2-17-97; Ord. No. 1-03, § 4, 3-11-03; Ord. No. 1-04, §§ 9, 30, 3-9-04; Ord. No. 4-08, § 10, 4-7-08; Ord. No. 5-09, § 12, 4-15-09; Ord. No. 02-2019, § 11, 3-19-19; Ord. No. 17-2019, § 10, 6-12-19; Ord. No. 01-2021, § 7, 2-10-21; Ord. No. 12-2021, § 6, 6-9-21; Ord. No. 16-2021, § 15, 8-11-21)

Sec. 134-1210. - Reserved.

Editor's note— Ord. No. 16-2021, § 13, adopted August 11, 2021, repealed § 134-1210, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 5-09, § 13, 4-15-09.

Sec. 134-1211. - Accessory structures.

- (a) *Generally.* Enclosed accessory structures in the C-OPI office, professional and institutional district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *Dish antennas.* A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In

addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1212. - Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1207 which involve more than 2,000 square feet of building floor area of buildings in the C-OPI office, professional and institutional district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85; Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1213. - Lot, yard and area requirements—Generally.

In the C-OPI office, professional and institutional district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area*. The minimum lot area is 4,000 square feet.
- (2) *Lot width*. The minimum lot width is 30 feet.
- (3) *Lot depth*. The minimum lot depth is 90 feet.
- (4) *Density*. A single dwelling unit, or multiple dwelling units not to exceed six dwelling units per gross acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard*.
 - a. For one-story buildings, the minimum front yard setback is five feet.
 - b. For two-story buildings, the minimum front yard setback is five feet.
 - c. For three-story buildings, the minimum front yard setback is five feet.
 - d. All buildings shall be set back so as to provide at least a ten-foot-wide pedestrian walkway between the street curblin and the building, exclusive of beautification strips, not more than five feet of which may be on the town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard building setback is approved or required, two feet of the required ten-foot-wide

pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible.

- e. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.

(6) *Side yard.*

- a. There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided. When the side yard of a C-OPI property adjoins property zoned in any R district, a ten-foot side yard is required on that side.
- b. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.

(7) *Rear yard.*

- a. For one-story buildings, the minimum rear yard setback is ten feet.
- b. For two-story buildings, the minimum rear yard setback is ten feet.
- c. For three-story buildings, the minimum rear yard setback is ten feet.
- d. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.

(8) *Height and overall height.*

- a. For one-story buildings, the maximum building height is 15 feet.
- b. For two-story buildings, the maximum building height is 25 feet.
- c. For three-story buildings, the maximum building height is 35 feet.
- d. In this district, the maximum building height is two stories, with provision for a special exception for three stories. See special exception provisions in sections 134-227 through 134-233, section 134-1214, and article III of this chapter.
- e. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(9) *Lot coverage.*

- a. For one-story buildings, the maximum lot coverage is 70 percent.
- b. For two-story buildings, the maximum lot coverage is 35 percent.
- c. For three-story buildings, the maximum lot coverage is 25 percent.

(10) *Length.*

- a. For one-story buildings, the maximum building length is 150 feet.
- b. For two-story buildings, the maximum building length is 150 feet.
- c. For three-story buildings, the maximum building length is 150 feet.
- d. Sub-basements are exempt from the maximum, building length requirement. Individual building

elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building length.

(11) *Landscaped open space.*

- a. For one-story buildings, the minimum landscaped open space is 15 percent.
- b. For two-story buildings, the minimum landscaped open space is 25 percent.
- c. For three-story buildings, the minimum landscaped open space is 30 percent.
- d. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-OPI district.

(12) *Floor area.*

- a. For one-story buildings, the maximum gross floor area of buildings is 30,000 square feet.
- b. For two-story buildings, the maximum gross floor area of buildings is 30,000 square feet.
- c. For three-story buildings, the maximum gross floor area of buildings is 30,000 square feet.
- d. Sub-basements are exempt from the maximum building length, requirement. Individual building elements extending above ground from a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-04, § 33, 3-9-04; Ord. No. 5-09, § 13, 4-15-09; Ord. No. 16-2016, § 4, 12-14-16)

Editor's note— See note at section 134-1210.

Sec. 134-1214. - Same—Exceptions.

- (a) In the C-OPI office, professional and institutional district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curbline or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a

height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.

- (f) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area; and, does not block a sidewalk or walkway.

(Ord. No. 2-74, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02; Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1215. - Exception to height regulations; special exception structures.

In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the C-OPI office, professional and institutional district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the following goals and guidelines:

Three-story guidelines. Lot coverage not more than 25 percent.

(Ord. No. 2-74, § 5.48, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-82, § 4(g), 3-31-82; Ord. No. 2-83, § 4(d), 2-23-83; Ord. No. 1-84, § 3(e), 3-1-84; Ord. No. 1-85, § 3(d), 2-11-85; Ord. No. 1-91, § 3(e), 4-23-91; Ord. No. 1-92, § 3(d), 2-3-92; Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1216. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-OPI office, professional and institutional district are contained in article VIII of this chapter.

(Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1217. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-OPI office, professional and institutional district are contained in article IX of this chapter.

(Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1218. - Signs.

The sign regulations which may be applicable in the C-OPI office, professional and institutional district are contained in article XI of this chapter.

(Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1219. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in [section 134-1728](#) and [134-1729](#).

(Ord. No. 1-99, § 11, 4-5-99; Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1220. - Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00; Ord. No. 5-09, § 13, 4-15-09)

Editor's note— See note at section 134-1210.

Sec. 134-1221. - Lot grade topography and drainage.

In the C-OPI, office, professional and institutional district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in [section 134-1600](#). The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

([Ord. No. 19-2021](#), § 5, 9-13-21)

Secs. 134-1222—134-1255. - Reserved.

DIVISION 11. - C-PC PLANNED CENTER DISTRICT

Footnotes:

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Cross reference— *Businesses, ch. 22.*

Sec. 134-1256. - Purpose and intent.

It is the intent of the C-PC planned center district to preserve and enhance an area of unique character oriented toward a combination of office, professional and retail uses to be developed either as a unit or as individual parcels. Further, it is the intent of this district to enhance the town-serving character of the area through limitation on maximum gross leasable area (GLA).

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1257. - Permitted uses.

- (a) The permitted uses in the C-PC planned center district with no limitations on gross leasable area (GLA) are as follows:
- (1) Appliance services.
 - (2) Bookstore/newsstand.
 - (3) Business and professional offices/services and executive office suites, excluding veterinarian offices.
 - (4) Churches, synagogues and other houses of worship.
 - (5) Dance instruction/studio.
 - (6) Drugstore/pharmacy.
 - (7) Florist.
 - (8) Formal wear rental.
 - (9) Furniture.
 - (10) Hardware/home improvements.
 - (11) Hobby shop.
 - (12) Laundry/dry cleaning.
 - (13) Locksmith.
 - (14) Medical services.
 - (15) Optician/optometrist.
 - (16) Picture framing.
 - (17) Photocopying.
 - (18) Photographic studio.
 - (19) Print shop.
 - (20) Secretarial services.
 - (21) Shoe repair.
 - (22) Tobacconist.
 - (23) Tailor/dressmaker.
 - (24) Temporary help.
 - (25) Travel agent.
 - (26) Yard goods. (1)
 - (27) Essential services.
 - (28) Maximum 3,000 square feet of GLA. All other retail shops, personal services and banks and financial institutions not specifically cited under the permitted uses in subsection.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter). However, all future changes of use shall be limited to those uses listed as permitted uses in subsection (a) of this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office professional and business services; or banks and financial institutions) to another, or from one generic use (residential commercial, public/private group use) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000-square-foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area regulation may occupy additional space within 1,500 feet of the existing licensed businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-04, § 25, 3-9-04; Ord. No. 7-2014, § 8, 5-14-14; Ord. No. 3-2017, § 1, 4-12-17; Ord. No. 12-2021, § 7, 6-9-21)

Sec. 134-1258. - Accessory uses.

The accessory uses in the C-PC planned center district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Drive-in business service facilities.
- (4) Accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1259. - Special exception uses.

(a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-PC planned center district are as follows:

- (1) Public or private parking or storage garages.
- (2) Private, social, swimming, tennis and yacht clubs.
- (3) Public structures/uses.

- (4) Essential services related to town-owned municipal buildings and structures.
 - (5) Supplemental parking per sections 134-2177 and 134-2182.
 - (6) Restaurants, excluding formula restaurants as defined in section 134-2, theaters, nightclubs, lounges/bars.
 - (7) Museums.
 - (8) Veterinarian/animal clinic.
 - (9) Auto rental.
 - (10) Banks and financial institutions.
 - (11) All retail and personal service activities exceeding 3,000 square feet gross leasable area not specifically cited under the permitted uses in subsection 134-1257(a)(2).
 - (12) Timesharing uses at a maximum of nine units per acre and hotels at a maximum of 26 units per acre.
 - (13) Roof-deck automobile parking.
 - (14) Nonprofit cultural centers.
 - (15) Veterinarian offices.
 - (16) Outdoor seating in conjunction to permitted restaurants. See section 134-1260 for additional conditions.
 - (17) Outdoor cafe seating is permitted only for restaurants, retail specialty food including the sale of prepared food for takeout only, and private, social, swimming, golf, tennis and yacht clubs, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
 - (18) Dining rooms when not more than 15 percent of the gross floor area of a building; no exterior or external advertising to be permitted.
 - (19) Retail specialty foods, including incidental sale of prepared foods for takeout.
- (b) An owner or tenant of a property, located within the C-PC district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-03, § 5, 3-11-03; Ord. No. 4-08, § 11, 4-7-08; Ord. No. 2-2011, § 7, 7-13-11; Ord. No. 3-2012, § 6, 4-11-12; Ord. No. 7-2014, § 8, 5-14-14; Ord. No. 1-2017, § 1, 2-15-17; Ord. No. 3-2017, § 2, 4-12-17; Ord. No. 30-2017, § 4, 1-10-18; Ord. No. 02-2019, § 12, 3-19-19; Ord. No. 01-2021, § 8, 2-10-21; Ord. No. 12-2021, § 8, 6-9-21; Ord. No. 16-2021, § 12, 8-11-21)

Sec. 134-1260. - Reserved.

Editor's note— Ord. No. 16-2021, § 12, adopted August 11, 2021, repealed § 134-1260, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 1-2017, § 2, 2-15-17. Formerly § 134-1260, pertained to accessory structures, and derived from Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-

84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99.

Sec. 134-1261. - Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1257 which involve more than 2,000 square feet of building floor area of buildings in the C-PC planned center district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85)

Sec. 134-1262. - Lot, yard and area requirements—Generally.

In the C-PC planned center district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 4,000 square feet.
- (2) *Lot width.* The minimum lot width is 30 feet.
- (3) *Lot depth.* The minimum lot depth is 90 feet.
- (4) *Density.* See article III of this chapter for site plan review requirements.
- (5) *Front yard.* All buildings shall be set back so as to provide at least a ten-foot-wide pedestrian walkway between the street curblin and the building, exclusive of beautification strips, not more than five feet of which may be on the town street right-of-way, where appropriate, and additionally, to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard building setback is approved or required, two feet of the required ten-foot-wide pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible.
- (6) *Side yard.* There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided.
- (7) *Rear yard.*
 - a. For one-story buildings, the minimum rear yard setback is ten feet.
 - b. For two-story buildings, the minimum rear yard setback is ten feet.
- (8) *Height and overall height.*
 - a. For one-story buildings, the maximum building height is 15 feet.
 - b. For two-story buildings, the maximum building height is 25 feet.
 - c. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be

calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(9) *Lot coverage.*

- a. For one-story buildings, the maximum lot coverage is 70 percent.
- b. For two-story buildings, the maximum lot coverage is 35 percent.

(10) *Length.* The maximum building length is 150 feet.

(11) *Landscaped open space.*

- a. For one-story buildings, the minimum landscaped open space is 15 percent.
- b. For two-story buildings, the minimum landscaped open space is 25 percent.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-04, § 45, 3-9-04)

Sec. 134-1263. - Same—Exceptions.

- (a) In the C-PC planned center district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblines or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.
- (f) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area; and, does not block a sidewalk or walkway.

(Ord. No. 2-74, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02)

Sec. 134-1264. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-PC planned center district are contained in article VIII of this chapter.

Sec. 134-1265. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-PC planned center district are contained in article IX of this chapter.

Sec. 134-1266. - Signs.

The sign regulations which may be applicable in the C-PC planned center district are contained in article XI of this chapter.

Sec. 134-1267. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in [section 134-1728](#) and [134-1729](#).

(Ord. No. 1-99, § 11, 4-5-99)

Sec. 134-1268. - Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

Sec. 134-1269. - Lot grade topography and drainage.

In the C-PC, planned center district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in [section 134-1600](#). The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

([Ord. No. 19-2021](#), § 5, 9-13-21)

Secs. 134-1270—134-1300. - Reserved.

DIVISION 12. - C-B COMMERCIAL DISTRICT

Footnotes:

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Cross reference— *Businesses, ch. 22.*

Sec. 134-1301. - Purpose.

The purpose of the C-B commercial district is to create an environment especially suited to a group of professional and administrative offices compatible in appearance with single-family housing.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1302. - Permitted uses.

- (a) Enumeration; maximum gross leasable area. The permitted uses in the C-B commercial district require a site plan and review as required in article III of this chapter.
- (b) The permitted uses in the C-B commercial district are as follows:
 - (1) Business and professional offices/services and executive office suites, excluding veterinarians.
 - (2) Banks and financial institutions.
 - (3) Churches, synagogues or other houses of worship.
 - (4) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.
 - (5) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-04, § 26, 3-9-04; Ord. No. 2-2011, § 8, 7-13-11; Ord. No. 7-2014, § 9, 5-14-14; Ord. No. 8-2017, § 4, 4-12-17; Ord. No. 12-2021, § 9, 6-9-21)

Sec. 134-1303. - Accessory uses.

- (a) The accessory uses in the C-B commercial district require a site plan and review as provided in article III of this chapter.
- (b) The accessory uses in the C-B commercial district are as follows:
 - (1) Off-street parking and loading.
 - (2) Signs.
 - (3) Accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 5-09, § 14, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

Sec. 134-1304. - Special exception uses.

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:
- (1) Public or private parking lots or storage garages.
 - (2) Auto rental lot.
 - (3) Supplemental parking.
 - (4) Public or private academic schools.
 - (5) Hotels at a maximum of 26 units per acre.
 - (6) Timesharing uses at a maximum of nine units per acre.
 - (7) Roof-deck automobile parking.
 - (8) Permitted uses, or uses not specifically enumerated under permitted uses in section 134-1302 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein, which are greater than 3,000 square feet gross leasable area.
 - (9) Nonprofit cultural centers.
 - (10) Outdoor cafe seating for only hotels, condo-hotels, dining rooms, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
 - (11) Condo-hotels at a maximum of 17 units per acre, in accordance with section 134-2110.
 - (12) Essential services related to town-owned municipal buildings and structures.
 - (13) Dining rooms when not more than 15 percent of the gross floor area of a building; no exterior or external advertising to be permitted.
- (b) An owner or tenant of a property, located within the C-B district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-03, § 6, 3-11-03; Ord. No. 5-09, §§ 15, 22, 4-15-09; Ord. No. 2-2011, § 9, 7-13-11; Ord. No. 3-2012, § 7, 4-11-12; Ord. No. 02-2019, § 13, 3-19-19; Ord. No. 17-2019, § 11, 6-12-19; Ord. No. 12-2021, § 10, 6-9-21; Ord. No. 16-2021, § 14, 8-11-21)

Sec. 134-1305. - Reserved.

Editor's note— Ord. No. 16-2021, § 13, adopted August 11, 2021, repealed § 134-134-1305, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 5-09, § 16, 4-15-09.

Sec. 134-1306. - Accessory structures.

- (a) *Generally.* Enclosed accessory structures in the C-B commercial district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property

line than ten feet.

- (b) *Dish antennas.* A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade; shall be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this commercial zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 2-74, § 5.51, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 7-79, § 11, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(i), (k), 3-31-82; Ord. No. 1-84, § 3(h), 3-1-84; Ord. No. 1-85, § 3(e), 2-11-85; Ord. No. 1-86, § 3(d), 2-10-86; Ord. No. 1-87, § 3(e), 2-9-87; Ord. No. 1-90, § 3(g), 2-5-90; Ord. No. 1-92, § 3(e), 2-3-92; Ord. No. 1-93, § 3(g), 2-8-93; Ord. No. 1-94, § 3(c), 2-7-94; Ord. No. 1-95, § 1(b), 1-23-95; Ord. No. 1-97, § 5, 2-17-97; Ord. No. 1-99, § 10, 4-5-99; Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1307. - Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1302 which involve more than 2,000 square feet of building floor area of buildings in the C-B commercial district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85; Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1308. - Lot, yard and area requirements—Generally.

In the C-B commercial district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 15,000 square feet.
- (2) *Lot width.* The minimum lot width is 100 feet.

- (3) *Lot depth.* The minimum lot depth is 150 feet.
- (4) *Density.*
 - a. The maximum density for hotels within C-B commercial district shall be 26 dwelling units per acre.
 - b. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
 - a. For one-story buildings, the minimum front yard setback is ten feet.
 - b. For two-story buildings, the minimum front yard setback is ten feet.
 - c. The minimum front yard setback is 25 feet when applied to hotel uses and timesharing uses permitted as a special exception in a C-B district.
 - d. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (6) *Side yard.*
 - a. For one-story buildings, the minimum side yard setback is ten feet.
 - b. For two-story buildings, the minimum side yard setback is ten feet.
 - c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (7) *Rear yard.*
 - a. For one-story buildings, the minimum rear yard setback is 15 feet.
 - b. For two-story buildings, the minimum rear yard setback is 15 feet.
 - c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (8) *Height and overall height.*
 - a. For one-story buildings, the maximum building height is 15 feet.
 - b. For two-story buildings, the maximum building height is 25 feet.
 - c. Maximum overall height of a building shall be the maximum allowable building height, as defined in [section 134-2](#), plus five feet for a flat roof and ten feet for all other roof styles. When a parapet is used above the maximum building height, as defined in [section 134-2](#), the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (9) *Lot coverage.*
 - a. For one-story buildings, the maximum lot coverage is 60 percent.
 - b. For two-story buildings, the maximum lot coverage is 30 percent.
 - c. The maximum lot coverage for two-story buildings is 50 percent when applied to hotel uses and timesharing uses permitted as a special exception in a C-B district.
- (10) *Length.*
 - a. For one-story buildings, the maximum building length is 150 feet.
 - b. For two-story buildings, the maximum building length is 150 feet.

- c. Sub-basements are exempt from the maximum building length, requirement. Individual building elements above ground from a single sub-basement shall each, be considered as a separate building for the purpose building length.

(11) *Landscaped open space.*

- a. For one-story buildings, the minimum landscaped open space is 20 percent.
- b. For two-story buildings, the minimum landscaped open space is 30 percent.
- c. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-B district.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 5-09, § 16, 4-15-09; Ord. No. 16-2016, § 5, 12-14-16; Ord. No. 04-2018, § 21, 4-11-18)

Editor's note— See note at section 134-1305.

Sec. 134-1309. - Same—Exceptions.

- (a) In the C-B commercial district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.
- (f) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area; and, does not block a sidewalk or walkway.
- (g) First floor ramps, landings, open terraces, and/or steps may extend six feet into the required front street side and street rear yard setbacks. In addition, unenclosed entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.

(Ord. No. 2-74, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02; Ord. No. 5-09, § 16, 4-15-09; Ord. No. 19-2021, § 4, 9-13-21)

Editor's note— See note at section 134-1305.

Sec. 134-1310. - Commercial buildings.

In addition to the site plan review required by article III of this chapter, the town council shall consider the following guidelines and development requirements in connection with such review of commercial buildings in the C-B commercial zoning district:

- (1) *Maximum dimension.* The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.
- (2) *Distance between buildings.* The side of any building shall be no closer to the side, front, or rear of any other building than 20 feet.

(Ord. No. 2-74, § 6.55(a), 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85; Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1311. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-B commercial district are contained in article VIII of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1312. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-B commercial district are contained in article IX of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1313. - Signs.

The sign regulations which may be applicable in the C-B commercial district are contained in article XI of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1314. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99; Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1315. - Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00; Ord. No. 5-09, § 16, 4-15-09)

Editor's note— See note at section 134-1305.

Sec. 134-1316. - Lot grade topography and drainage.

In the C-B commercial district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 19-2021, § 5, 9-13-21)

Secs. 134-1317—134-1350. - Reserved.

DIVISION 13. - C CONSERVATION DISTRICT

Footnotes:

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Cross reference— *Natural resource protection, ch. 66.*

Sec. 134-1351. - Purpose.

The purpose of the C conservation district is to preserve and protect existing undeveloped lands, including the protection of wildlife and ecological habitat and other unique environmental characteristics of the land.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1352. - Permitted uses.

There are no permitted uses in the C conservation district.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 16-2012, § 7, 12-12-12)

Sec. 134-1353. - Accessory uses.

The accessory uses in the C conservation district are other accessory uses customarily incident to approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 12-2017, § 1, 5-10-17)

Sec. 134-1354. - Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C conservation district are as follows:

- (1) Municipally owned and operated parks and recreation areas.
- (2) All essential services, excluding wireless telecommunication towers and distribution electrical substations.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 4-08, § 5, 4-7-08; Ord. No. 16-2012, § 15, 12-12-12; Ord. No. 12-2017, § 2, 5-10-17; Ord. No. 02-2019, § 14, 3-19-19)

Sec. 134-1355. - Prohibited activity.

It shall be unlawful for any person, organization or governmental entity to use, remove, relocate or plant any landscape material on uplands within the conservation district without a permit pursuant to chapter 66 of this Code. This includes the use of mulch, removal of exotic plant material and/or the planting of native landscape material. It shall be unlawful to make any alterations for the purpose of allowing or promoting the use of conservation land for any public or private purpose other than that allowed by special exception use.

(Ord. No. 12-2017, § 3, 5-10-17)

Secs. 134-1356—134-1390. - Reserved.

DIVISION 14. - PUD PLANNED UNIT DEVELOPMENT DISTRICT

Sec. 134-1391. - Purpose.

The purpose of a PUD planned unit development district is to:

- (1) Encourage flexibility in the design and development of land in order to encourage its most appropriate use;
- (2) Facilitate the adequate and economic provision of streets, utilities and public spaces; and
- (3) Preserve the natural and scenic qualities of open areas.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1392. - Procedure for approval of planned unit development.

The procedure and requirements for approval of a planned unit development is in article V of this chapter.

Sec. 134-1393. - Permitted uses.

The permitted uses in the PUD planned unit development district are as follows:

- (1) Planned unit development, as provided in article V of this chapter.
- (2) Golf course.
- (3) Single-family dwellings.
- (4) Essential services.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 16-2012, § 8, 12-12-12)

Sec. 134-1394. - Accessory uses.

The accessory uses in the PUD planned unit development district are accessory uses customarily incident to the permitted or approved special exception uses.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93)

Sec. 134-1395. - Special exception uses.

The special exception uses require a site plan and review as provided in article III of this chapter. The special exception uses in the PUD planned unit development zoning district are as follows:

- (1) Private social, swimming, golf, tennis and yacht clubs.
- (2) Municipally owned and operated parks and recreations areas.

(Ord. No. 2-74, schedule B, 3-26-74; Ord. No. 3-77, § 2, 3-29-77; Ord. No. 5-78, §§ 10, 15, 3-31-78; Ord. No. 7-79, §§ 2, 5, 7, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(a)—(d), (g), (h), 3-31-81; Ord. No. 7-82, § 3(a)—(d), 3-31-82; Ord. No. 2-83, § 3(c), 2-23-83; Ord. No. 1-84, § 2(f)—(h), 3-1-84; Ord. No. 1-85, § 2(g)—(k), 2-11-85; Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 16-2012, § 16, 12-12-12)

Sec. 134-1396. - Lot, yard and area requirements.

In the PUD district, the schedule of lot, yard and area requirements as given in this section apply to single-family permitted uses which are not a part of a PUD application. See article V of this chapter for appropriate standards for all PUD districts.

- (1) *Lot area*. The minimum lot area is 20,000 square feet.
- (2) *Lot width*. The minimum lot width is 100 feet.
- (3) *Lot depth*. The minimum lot depth is 150 feet.
- (4) *Density*. The maximum density is two dwelling units per acre.
- (5) *Front yard*. The minimum front yard setback is 30 feet.
- (6) *Side yard*. The minimum side yard setback is 15 feet.
- (7) *Rear yard*. The minimum rear yard setback is 15 feet.
- (8) *Height and overall height*. The maximum building height is 25 feet, not to exceed two stories.
- (9) *Lot coverage*. The maximum lot coverage is 35 percent.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98)

Sec. 134-1397. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the PUD planned unit development district are contained in article VIII of this chapter.

Sec. 134-1398. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the PUD planned unit development district are contained in article IX of this chapter.

Sec. 134-1399. - Signs.

The sign regulations which may be applicable in the PUD planned unit development district are contained in article XI of this chapter.

Sec. 134-1400. - Accessory structures.

Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in the PUD zoning districts shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One meter in the metric system of measurement equals 39.37 inches or 3.28 feet.

(Ord. No. 1-99, § 10, 4-5-99)

Sec. 134-1401. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99)

Sec. 134-1402. - Lot grade topography and drainage.

In the PUD, planned unit development district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

(Ord. No. 19-2021, § 5, 9-13-21)

Secs. 134-1403—134-1470. - Reserved.

DIVISION 15. - BEACH AREA

Footnotes:

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Cross reference— *Beaches and aquatic activities, § 74-136 et seq.*

Sec. 134-1471. - Location.

Certain lands in the town lying along the Atlantic Ocean and indicated on the zoning map are defined to be beach area, and are subject to the provisions of this division (see the accompanying zoning map as defined by section 134-752 for the specific location of the beach area).

(Ord. No. 2-74, § 5.47, 3-26-74; Ord. No. 5-78, § 4, 3-31-78; Ord. No. 7-82, § 4(f), 3-31-82; Ord. No. 1-89, § 3(b), 2-6-89; Ord. No. 1-90, § 3(f), 2-5-90; Ord. No. 1-91, § 3(d), 4-23-91; Ord. No. 1-92, § 3(c), 2-3-92; Ord. No. 1-93, § 3(f), 2-8-93)

Sec. 134-1472. - Permitted uses and structures.

The permitted uses and structures in the Beach Area district are as follows:

- (1) Swimming pools and associated appurtenances associated with a permitted use within 1,500 feet.
- (2) Beach chairs and umbrellas.
- (3) Seawalls, dune cross overs and stairs.
- (4) Special events as defined in section 106-256, and approved by the town.

(Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1473. - Special exception uses and structures.

(a) The special exception uses and structures require a site plan review as provided in article III of this chapter. The special exception uses in the B-A, Beach Area district are as follows:

- (1) One beach house structure.
- (2) Beach concessions related to an abutting hotel use and only for the use of hotel guests, visitors or those persons associated with the hotel, including the sale of sunblock and lotions; food and drink service; kayak, canoe, paddle board, surfboard, and similar non-motorized watercraft rentals.
- (3) Public structures.
- (4) Essential services.

(Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1474. - Height, width and length limit for properties adjacent to properties in the R-B district.

- (a) No structure or beach building more than one story or exceeding eight feet in height as measured from the natural grade or crown of the road, whichever is less, to the underside of the roof, plus four feet in height to the highest point of the roof, with maximum dimensions no greater than ten feet by 20 feet but occupying not more than 20 percent of the width of the lot shall be constructed on the privately owned property lying east of Ocean Boulevard, except as provided for by special exception under subsection (b). However, this restriction shall not be deemed to apply to public structures and/or buildings approved by the town council, jetties or groins, or other structures for the protection of the beachfront.
- (b) For properties lying east of Ocean Boulevard and having a lot frontage of 125 feet or greater, the maximum size of a beach house may be increased, by approval of a special exception, up to the maximum size set forth in the following table; and, provided further that all other conditions and standards set forth in this section are met, and the special exception is found to meet the standards of sections 134-227 through 134-233.

	ON LOTS OF 125 BUT LESS THAN 150 FEET IN WIDTH	ON LOTS 150 FEET OR GREATER IN WIDTH
a.	Maximum Size: 350 square feet	Maximum Size: 500 square feet
b.	Neither width nor depth shall exceed 20 feet	Maximum dimensions: 20 feet by 25 feet

- (c) Except to the extent that any of the regulations below are in conflict with state statute or DEP rules and regulations or with requirements of the U.S. Fish and Wildlife Commission, all properties described herein shall comply with the following requirements. In regard to the requirements referenced below, in the event of an allegation of conflict between the town rules and the state statute and state rules regarding same, the town shall contact the state and the state will make the final determination in regard to the extent of any conflict.
- (1) No walls, fences, hedges or other structures or growth shall be erected or grown eastwardly of Ocean Boulevard to a height greater than four feet above the surface of the Ocean Boulevard pavement along which such wall, fence or growth is maintained.
 - (2) Beach houses in excess of 200 square feet permitted and constructed subsequent to February 8, 1993, shall provide an ocean vista equal to 50 percent of the lot width. Within the vista area, no structure or vegetation shall exceed 30 inches in height measured above Ocean Boulevard.
 - (3) To ensure the ecological integrity of the beach area and enhance the ocean vista, all pest plants recognized as category I and category II invasive exotic species by the Florida Exotic Pest Plant Council shall be removed from the property as a part of a construction permit or as provided in section 66-311. The property shall, thereafter, be maintained free of all these species.
 - (4) Any trimming required to bring hedges into compliance with this section shall be effectuated no later than September 30, 2009, unless a DEP permit is required, in which case the provisions of subsection (6) shall apply.
 - (5) Existing canopy trees exceeding six feet in height should be trimmed to a height of six feet in accordance with DEP rules. Palm trees shall have a minimum of four feet of clear trunk at the time of planting. Compliance shall be met no later than September 30, 2009, unless a DEP permit is required, in which case the provisions of subsection (6) shall apply.
 - (6) The applicant shall provide the town with a coastal construction control line (CCCL) permit from the DEP where trimming and maintenance of vegetation requires a CCCL permit. When CCCL permitting is required through the DEP, the property owner shall request the DEP to issue a CCCL permit that will attain the town ocean vista standards to the maximum extent possible and within the shortest time allowable. Any DEP permit conditions, such as plant height specifications, that may deviate from the town's ocean vista regulations shall take precedence over the town requirements. In the event a permit is required, compliance shall be extended to a date five days subsequent to the date upon which the permit is finally acted on by DEP.
 - (7) The potential for the trespass of artificial light to marine nesting habitat shall be taken into consideration for any trimming of existing vegetation.

(8) No parking will be allowed in the beach area district.

(Ord. No. 2-74, § 5.47(a)(1), 3-26-74; Ord. No. 5-78, § 4, 3-31-78; Ord. No. 7-82, § 4(f), 3-31-82; Ord. No. 1-89, § 3(b), 2-6-89; Ord. No. 1-90, § 3(f), 2-5-90; Ord. No. 1-91, § 3(d), 4-23-91; Ord. No. 1-92, § 3(c), 2-3-92; Ord. No. 1-93, § 3(f), 2-8-93; Ord. No. 1-97, § 10, 2-17-97; Ord. No. 1-04, § 1, 3-9-04; Ord. No. 8-09, § 1, 8-12-09; Ord. No. 4-10, § 4, 2-10-10; Ord. No. 31-2011, § 1, 1-11-12; Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1475. - Height, width and length limit for properties adjacent to properties in districts other than R-B.

- (a) No structure or beach building more than one story, but not to exceed 16 feet in height to the highest point of the roof, as measured from the natural grade or crown of the road, whichever is less, with maximum dimensions no greater than 20 feet by 25 feet shall be constructed on the privately owned property lying east of Ocean Boulevard, except as provided for by special exception under subsection (b). However, this restriction shall not be deemed to apply to public structures and/or buildings approved by the town council, jetties or groins or other structures for the protection of the beachfront.
- (b) For properties lying east of Ocean Boulevard and having a lot frontage in excess of two times the minimum required under section 134-1474, the maximum size of a beach house may be increased up to a maximum 2,000 square feet, provided however that:
 - (1) The maximum width of the structure along the frontage of Ocean Boulevard shall not exceed 45 feet.
 - (2) The required ocean vista shall exist from the front to rear lot lines equal to 75 percent of the lot width;
 - (3) The beach house structure shall be set back not less than 35 feet from the west property line; and
 - (4) All other requirements of sections 134-1473 and 134-1474 are met and the special exception is found to meet the standards of sections 134-227 through 134-233.
- (c) Except to the extent that any of the regulations below are in conflict with state statute or DEP rules and regulations or with requirements of the U.S. Fish and Wildlife Commission, all properties described herein shall comply with the following requirements. In regard to the requirements referenced below, in the event of an allegation of conflict between the town rules and the state statute and state rules regarding same, the town shall contact the state and the state will make the final determination in regard to the extent of any conflict.
 - (1) No walls, fences, hedges or other structures or growth shall be erected or grown eastwardly of Ocean Boulevard to a height greater than four feet above the surface of the Ocean Boulevard pavement along which such wall, fence or growth is maintained.
 - (2) Beach houses in excess of 200 square feet permitted and constructed subsequent to February 8, 1993, shall provide an ocean vista equal to 50 percent of the lot width. Within the vista area, no structure or vegetation shall exceed 30 inches in height measured above Ocean Boulevard.
 - (3) To ensure the ecological integrity of the beach area and enhance the ocean vista, all pest plants recognized as category I and category II invasive exotic species by the Florida Exotic Pest Plant Council shall be removed from the property as a part of a construction permit or as provided in section 66-311. The property shall, thereafter, be maintained free of all these species.
 - (4) Any trimming required to bring hedges into compliance with this section shall be effectuated no later than September 30, 2009, unless a DEP permit is required, in which case the provisions of subsection (6) shall apply.
 - (5) Existing canopy trees exceeding six feet in height should be trimmed to a height of six feet in accordance with

DEP rules. Palm trees shall have a minimum of four feet of clear trunk at the time of planting. Compliance shall be met no later than September 30, 2009, unless a DEP permit is required, in which case the provisions of subsection (6) shall apply.

- (6) The applicant shall provide the town with a coastal construction control line (CCCL) permit from the DEP where trimming and maintenance of vegetation requires a CCCL permit. When CCCL permitting is required through the DEP, the property owner shall request the DEP to issue a CCCL permit that will attain the town ocean vista standards to the maximum extent possible and within the shortest time allowable. Any DEP permit conditions, such as plant height specifications, that may deviate from the town's ocean vista regulations shall take precedence over the town requirements. In the event a permit is required, compliance shall be extended to a date five days subsequent to the date upon which the permit is finally acted on by DEP.
- (7) The potential for the trespass of artificial light to marine nesting habitat shall be taken into consideration for any trimming of existing vegetation.
- (8) No parking will be allowed in the beach area district.

(Ord. No. 2-74, § 5.47(a)(2), 3-26-74; Ord. No. 5-78, § 4, 3-31-78; Ord. No. 7-82, § 4(f), 3-31-82; Ord. No. 1-89, § 3(b), 2-6-89; Ord. No. 1-90, § 3(f), 2-5-90; Ord. No. 1-91, § 3(d), 4-23-91; Ord. No. 1-92, § 3(c), 2-3-92; Ord. No. 1-93, § 3(f), 2-8-93; Ord. No. 1-97, § 10, 2-17-97; Ord. No. 1-02, § 1, 3-12-02; Ord. No. 1-04, §§ 2, 3, 3-9-04; Ord. No. 2-05, § 8, 5-10-05; Ord. No. 8-09, § 1, 8-12-09; Ord. No. 4-10, § 5, 2-10-10; Ord. No. 31-2011, § 2, 1-11-12; Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1476. - Number of beach house buildings and setback.

- (a) Not more than one beach house structure shall be erected on property under single ownership, and not more than one beach house structure shall be erected on a lot in accordance with the following minimum lot frontage requirement:

Beach Area Property Adjacent To	Minimum Lot Frontage (feet)
R-B district	100
R-A district	125
R-AA district	150
All other districts	150

- (b) Beach house structures shall be set back not less than ten feet from the north property line and shall be set back not less than ten feet from the south property line and shall be setback not less than ten feet from the west property line. However, these restrictions shall not be deemed to apply to public structures and/or buildings approved by the town council, jetties or groins or other structures for the protection of the beachfront. No such beach house structure or lot shall ever be used for any purpose other than private bathing purposes incidental to the ownership thereof, such use to be an accessory to the residential building located directly across the street therefrom or within a radius of 1,500 feet and with unity of title thereof, or such use to be an accessory use for an association of property owners on the adjacent east-west streets and provided, further, that such beach house structure has been approved as a special exception use in conformance with sections 134-227 through 134-223.
- (c) Temporary tents shall be permitted pursuant to the dimensional and setback requirements for beach structures

in this district and the requirements set forth in chapter 18, article XV.

(Ord. No. 2-74, § 5.47(b), 3-26-74; Ord. No. 5-78, § 4, 3-31-78; Ord. No. 7-82, § 4(f), 3-31-82; Ord. No. 1-89, § 3(b), 2-6-89; Ord. No. 1-90, § 3(f), 2-5-90; Ord. No. 1-91, § 3(d), 4-23-91; Ord. No. 1-92, § 3(c), 2-3-92; Ord. No. 1-93, § 3(f), 2-8-93; Ord. No. 16-09, § 5, 11-12-09; Ord. No. 4-10, § 6, 2-10-10; Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1477. - Supplementary district regulations.

The supplementary district regulations which may be applicable to the beach area district are contained in article VIII of this chapter.

(Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1478. - Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the beach area district are contained in article IX of this chapter.

(Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1479. - Signs.

The sign regulations which may be applicable in the beach area district are contained in article XI of this chapter.

(Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1480. - Accessory structures.

Dish antennas located in the beach area zoning district shall be subject to the dish antenna regulations of the zoning district to which the beach area property is adjacent.

(Ord. No. 1-99, § 10, 4-5-99; Ord. No. 17-2019, § 12, 6-12-19)

Sec. 134-1481. - Air conditioning and generator equipment.

Air conditioners and air handlers, cooling towers, generators, swimming pool filters, pumps and heaters are regulated in section 134-1728 and 134-1729.

(Ord. No. 1-99, § 11, 4-5-99; Ord. No. 17-2019, § 12, 6-12-19)

Secs. 134-1482—134-1500. - Reserved.

ARTICLE VII. - OVERLAY DISTRICTS

Secs. 134-1501—134-1515. - Reserved.

ARTICLE VIII. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 134-1516. - Underground location of utility service lines.

- (1) Boxes housing essential services in the front, street side and street rear yard setbacks shall be screened from, view from the street in so much as possible by either a wall or hedge planted and maintained at a height the same as or greater than said essential service box. An essential service is defined in section 134-2 of this Code.
- (2) At the time that any new buildings or structures are being constructed or located on any privately owned property or at the time that any existing buildings or structures on privately owned property are being reconstructed, substantially extended and enlarged or structurally altered, such buildings or structures shall have an entirely underground location for all utility service lines, electrical distribution systems, wires and cables, which connect to and service such buildings or structures.
- (3) Boxes housing essential service, including their pads, shall not count against the maximum lot coverage or minimum landscape open space of a lot.

(Ord. No. 2-74, § 5.41, 3-26-74; Ord. No. 5-78, § 11, 3-31-78; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-84, § 3(c), (d), 3-1-84; Ord. No. 1-06, § 2, 3-14-06; Ord. No. 16-2016, § 7, 12-14-16; Ord. No. 10-2019, § 1, 5-15-19)

Editor's note— Ord. No. 1-06, § 2, adopted March 14, 2006, repealed section 134-1516 in its entirety and renumbered former sections 134-1517, 134-1518, as new sections 134-1516, 134-1517. Former section 134-1516 pertained to basements and derived from Ord. No. 2-74, § 2.10(6), adopted March 26, 1974; Ord. No. 1-84, § 1(b), adopted March 1, 1984; Ord. No. 1-91, § 1(a), adopted April 23, 1991.

Sec. 134-1517. - Places of assembly.

Applications for houses of worship, academic schools, theaters, auditoriums, nonprofit cultural centers, and private clubs, either as a special exception use or as a permitted use, shall require a site plan review in accordance with article III of this chapter. Such site plan shall show all structures, roadways, pathwalks, parking areas, recreation areas, utility and exterior lighting installations and landscaping on the site; all existing structures and uses within 200 feet of the site boundaries; and any other elements as may be deemed essential by the building official. The following shall be utilized as guidelines in reviewing the proposed development:

- (1) *Site size*. A minimum site of 20,000 square feet exists with a minimum lot width of 100 feet, except that for such uses in the C-PC and for such uses involving not more than 2,000 square feet of gross leasable area in the C-TS district, only the minimum lot area and minimum lot width for the district in which said use is located shall be required.
- (2) *Lot, yard and bulk*. Such development shall not exceed the least restrictive covenants of the schedule of lot, yard, and bulk regulations in article VI of this chapter for the appropriate district.

(Ord. No. 2-74, § 6.62, 3-26-74; Ord. No. 1-85, § 4(i), 2-11-85; Ord. No. 1-04, § 10, 3-9-04; Ord. No. 1-06, § 2, 3-14-06)

Editor's note— See Editor's note following section 134-1516.

Sec. 134-1518. - Shared mobility scooters.

The following regulations shall apply to all zoning districts in the town.

(1) Docking or storage mobility stations for shared scooters and dockless shared scooters is prohibited in the town.

(Ord. No. 10-2019, § 2, 5-15-19)

Sec. 134-1519. - Shared mobility bicycles.

The following regulations shall apply to all zoning districts in the town.

(1) Docking and parking of shared bicycles and storage stations for shared bicycles and dockless bicycles is prohibited in the Town.

(Ord. No. 17-2019, § 13, 6-12-19)

Secs. 134-1520—134-1546. - Reserved.

DIVISION 2. - LOT, YARD AND AREA REQUIREMENTS

Subdivision I. - In General

Sec. 134-1547. - Lot, yard and bulk.

- (a) Under this chapter, all lot, yard and bulk regulations for both the principal and accessory uses shall be calculated within the confines of a contiguous lot, except for a beach house constructed within the beach area where the provisions of division 15 of article VI of this chapter shall apply.
- (b) Lot, yard and bulk regulations for lots abutting the Atlantic Ocean used for other than beach houses shall be calculated utilizing the Beach Area Boundary, as set forth in division 15 of article VI of this chapter as the easterly lot line for the lot.

(Ord. No. 2-74, § 5.15(a), (b), 3-26-74; Ord. No. 1-93, § 3(a), 2-8-93; Ord. No. 1-95, § 1(a), 1-23-95)

Sec. 134-1548. - Yard regulations.

Every part of a required front, side and rear yard must be open to the sky, unobstructed, except for accessory buildings in a rear or side yard, garden walls and fences, as permitted, and except for the ordinary projections of first floor first floor entry ramps, landings, open terraces, unenclosed porches, balconies, steps, sills, belt courses, cornices and for ornamental features as identified in sections 134-795, 134-845, 134-895, 134-950, 134-951, 134-1006, 134-1007, 134-1061, 134-1062, 134-1114, 134-1164, 134-1213, 134-1263, 134-1308, 134-1576, 134-1577 and division 5 of article VIII of this chapter.

(Ord. No. 2-74, § 5.30, 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93; Ord. No. 19-2021, § 6, 9-13-21)

Secs. 134-1549—134-1575. - Reserved.

Subdivision II. - Lots

Sec. 134-1576. - Corner lots.

- (a) Where any lot is located on any street intersection or where two or more intersecting street lines outline any lot,

Sec. 134-1600. - Maximum lot fill allowed.

- (a) The lot grade of any property shall not exceed a grade elevation height of half the difference between the lowest habitable finished floor of the principal structure and the highest crown of the road in front of the lot. In case of a through or corner lot, the highest crown of road from the street determined to be on the front property line. The equation is as follows:

COR: highest crown of road where the principal structure fronts onto

FFE: Lowest habitable finished floor elevation of the principal structure

$COR - FFE \div 2 =$ Maximum amount of fill allowed on a lot.

(Ord. No. 19-2021, § 7, 9-13-21)

Secs. 134-1601—134-1605. - Reserved.

DIVISION 3. - HEIGHT AND OTHER EXCEPTIONS

Sec. 134-1606. - General application.

No building or structure shall have a greater number of stories or have an aggregate height of a greater number of feet, whichever of the two is least of the permitted heights in the district in which such building or structure is located, except as noted elsewhere in this chapter.

(Ord. No. 2-74, § 5.21, 3-26-74)

Sec. 134-1607. - Permitted exceptions.

Permitted exceptions to height regulations in this chapter in districts other than R-AA, R-A and R-B shall be as follows:

- (1) In all zoning district other than R-AA, R-A and R-B districts, structures for the housing of elevators, stairways, tanks, and skylights not exceeding ten percent in total area of the roof area on which they are placed, skylights not more than four feet in height above the roof; ventilating fans not exceeding three feet in height above the roof or similar equipment to operate and maintain a building; air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof; radio and television antennas for reception purposes only; and church steeples, flagpoles and chimneys no more than 40 percent above the height limits for the district within which they are located as prescribed by this chapter. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is set back at least 120 feet from any lot line. Such structures located upon the roof area shall not cover in the aggregate a roof area greater than 15 percent of the ground floor area of such building or structure. Radio and television antennas for reception purposes, air conditioning equipment, the housing of elevators, stairways, tanks, ventilating fans or similar

equipment to operate and maintain a building which are permitted on the roof shall be sight screened from view in so far as possible. Solar material shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission.

- (2) When any building is constructed on a tract of land extending from Lake Worth to any north-south street, for the purposes of identifying height, if there is a subbasement and a basement, the basement shall be considered a story. This subsection does not allow any increase in building or story heights as measured from the public street.

(Ord. No. 2-74, § 5.22, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 7-79, § 9, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(c), 3-31-82; Ord. No. 2-83, § 4(c), 2-23-83; Ord. No. 1-84, § 3(a), 3-1-84; Ord. No. 1-85, § 3(a), 2-11-85; Ord. No. 1-90, § 3(b)—(d), 2-5-90; Ord. No. 1-96, § 13, 2-5-96; Ord. No. 1-03, § 8, 3-11-03; Ord. No. 1-04, § 36, 3-9-04; Ord. No. 7-09, §§ 4, 6, 5-13-09; Ord. No. 16-09, §§ 6, 10, 11-12-09; Ord. No. 04-2018, § 22, 4-11-18)

Editor's note— Section 6 of Ord. No. 7-09, adopted May 13, 2009, states the following: "Section 6. The newly adopted provisions contained herein relating to flag poles and flags shall not be applicable retrospectively to flags or flag poles permitted prior to the adoption of Ordinance No. 7-09 or, in the event not granted by permit, which have been in continuous existence for a period of three years or more prior to the adoption of this ordinance."

Sec. 134-1608. - Basements.

- (a) In all zoning districts except the R-B zoning district, a basement as defined in section 134-2 shall not be considered a story with regards to height regulations contained in this chapter if the basement ceiling does not exceed plus four feet above zero datum for the subject lot.
- (b) The exterior walls of a basement shall be setback from all property lines as required for the building situated over the basement, and minimum door openings in the basement walls shall be limited to those essential to permit one automobile entry access driveway and one automobile exit driveway for each separated under building parking area, plus pedestrian lobby entries and required fire escape exit ways.

(Ord. No. 2-74, § 2.10(6), (42), 3-26-74; Ord. No. 5-78, § 1, 3-31-78; Ord. No. 1-84, § 1(b), (f), 3-1-84; Ord. No. 1-91, § 1(a), 4-23-91; Ord. No. 1-02, § 3, 3-12-02; Ord. No. 1-06, § 3, 3-14-06)

Sec. 134-1609. - Multilevel and split level structures.

- (a) Multilevel or split level structures may be constructed in the R-B district under the following conditions:
- (1) No portion of the structure may have more than two stories in vertical alignment;
 - (2) A basement entirely located under and hidden by the dune shall not count as a story; and
 - (3) The structure must meet all applicable lot, yard and bulk regulations for two-story construction in the district.
- (b) Where single-family and two-family multilevel or split level structures may be constructed in R districts, other than the R-B district, they may be so constructed under the following conditions:
- (1) No portion of the structure may have more than two habitable stories in vertical alignment;
 - (2) A basement entirely located under and hidden by the dune shall not count as a story; and
 - (3) The structure must meet all applicable lot, yard and bulk regulations for two-story construction in the district.

(Ord. No. 2-74, schedule A, 3-26-74; Ord. No. 7-79, §§ 2, 6, 3-30-79; Ord. No. 4-80, § 3, 3-31-80; Ord. No. 6-81, § 2(e), (f), 3-31-81; Ord. No. 7-82, § 3(e), 3-31-82; Ord. No. 2-83, §§ 3(a), (b), 2-23-83; Ord. No. 1-84, §§ 2(a)—(e), 3-1-84; Ord. No. 1-85, § 2(b)—(f), 2-11-85; Ord. No. 1-86, § 2(a), 2-10-86; Ord. No. 1-88, § 1, 2-8-88; Ord. No. 1-89, § 2(b)—(d), 2-6-89; Ord. No. 1-90, § 2(a)—(e), 2-5-90; Ord. No. 1-92, § 2(a)1, 2, 2-3-92; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 1-96, § 8, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-02, § 2, 3-12-02)

Sec. 134-1610. - Basement exception.

- (a) In all R zoning districts, including the R-B zoning district, a basement as defined in section 134-2 which is entirely under and hidden by the dune shall not count as a story.
- (b) A portion of a basement may be situated outside the outer walls of the main building above it provided the following conditions are met:
 - (1) The basement shall have at least 51 percent of its floor area within the confines of the outer walls of the main portion of the building located above the basement;
 - (2) The portion of the basement outside walls, outside of the outside walls of the main portion of the building located above the basement, shall be hidden from view from outside all elevations of the building;
 - (3) The developed grade outside the walls of that portion of the basement that is outside of the walls of the main portion of the building located above the basement shall not be raised or altered more than two feet above the natural grade in order to be hidden from view;
 - (4) The portion of the basement outside walls of the main building above the basement shall be excluded in the calculations for landscape open space requirements and shall count toward required setbacks and lot coverage.

(Ord. No. 1-06, § 3, 3-14-06)

Editor's note— Ord. No. 1-06, § 3, adopted March 14, 2006, amended the Code with the addition of new sections 134-1609, 134-1610. In order to avoid duplication of section numbers, the provisions of said ordinance have been included herein as sections 134-1610, 134-1611, at the discretion of the editor.

Sec. 134-1611. - Sub-basement exception.

- (1) For residential and, time-share development or redevelopment, and for commercial development within the C-PC, planned commercial district. No portion of a sub-basement may be located beyond the confines of the outer walls of the first floor above it except under the following conditions:
 - a. The sub-basement shall have at least 51 percent of its floor area within the confines of the outer walls of the main portion of the building located above the sub-basement.
 - b. The sub-basement shall be entirely hidden from view from any elevation of the building.
 - c. The developed grade outside the walls of that portion of the sub-basement that is outside the walls of the main portion of the building located above the sub-basement shall not be raised or altered in order to be hidden from view, more than two feet above the natural grade.
 - d. The portion, of the sub-basement outside of the outside walls of the main building above the sub-basement shall not be allowed to count in the calculations for landscape open space requirements and shall count toward lot coverage.

- e. The sub-basement shall be setback a minimum of five feet from a property line.
- (2) For development or redevelopment in commercial, zoning districts with the exception of the C-PC, planned commercial district, a sub-basement shall be allowed under the following conditions:
 - a. The maximum lot coverage of a proposed sub-basement shall not exceed a maximum of 70 percent. Said lot coverage shall only be for the sub-basement and shall not count toward the maximum lot coverage of the portion of the buildings above said sub-basement.
 - b. The sub-basement shall be entirely hidden from view from any elevation of the building.
 - c. The portion of the sub-basement outside of the outside walls of the main building above the sub-basement shall be allowed, to count in the calculations for landscape open space requirements.
 - d. The sub-basement shall be setback a minimum, of five feet from a property line.

(Ord. No. 1-06, § 3, 3-14-06; Ord. No. 16-2016, § 6, 12-14-16)

Editor's note— See Editor's note following section 134-1610.

Secs. 134-1612—134-1635. - Reserved.

DIVISION 4. - STREETS

Footnotes:

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Cross reference— *Streets, sidewalks and other public places, ch. 106.*

Sec. 134-1636. - Street lot lines.

Under this chapter, the front lot line, side street line or rear street line of any lot shall be the right-of-way line (the street line) of the abutting street except when the following conditions exist:

- (1) When a lot abuts a private street where the right-of-way width is not, in the opinion of the building official, clearly determined, the street lot lines, for the purposes of this chapter, shall be located 15 feet from and parallel to or concentric with the centerline of the street.
- (2) For the purpose of uniformity in administration of regulations contained in this ordinance, no portion of a public or private street right-of-way as defined herein shall be used as the front property line when calculating the required front yard, street side yard, street rear yard areas or in building angle of vision and building height plane for determining required building setbacks, nor shall any portion of a public or private street right-of-way be used in the computations of required minimum abutting lot areas. Further, cul-de-sacs and street transitions at street intersections, as shown on the town council approved subdivision plats having public or private streets therein, shall likewise not be included as a portion of required setback areas, required minimum lot area, or in the calculation of building angle of vision or building height plane.
- (3) Any structure on any lot which abuts a public or private alley or platted access walkway, except Lake Trail, shall be set back from that alley or platted walkway a distance equal to the side or rear yard setback requirements, as the case may be, for that district. A principal structure shall not front on such an alley or walkway.

(Ord. No. 2-74, § 5.14, 3-26-74; Ord. No. 6-81, § 3, 3-31-81; Ord. No. 2-83, § 4(a), 2-23-83; Ord. No. 1-86, § 3(a), 2-10-86; Ord. No. 1-91, § 3(a), 4-23-91; Ord. No. 1-99, § 22, 4-5-99)

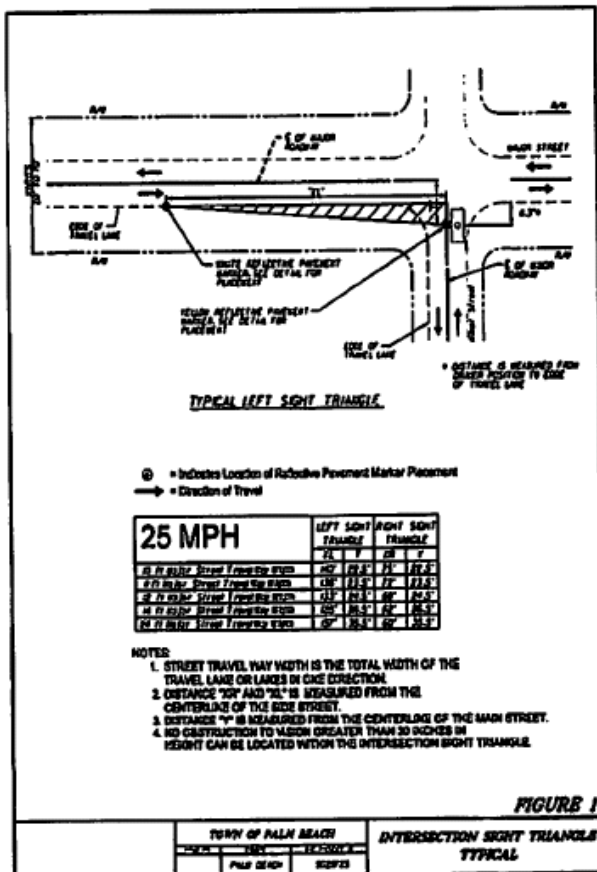
Sec. 134-1637. - Intersection sight triangle areas for residential districts.

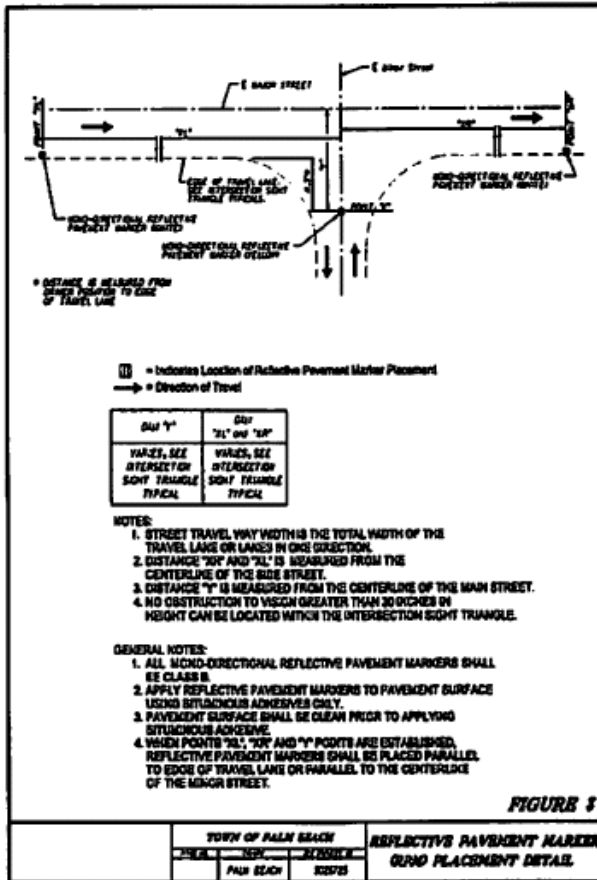
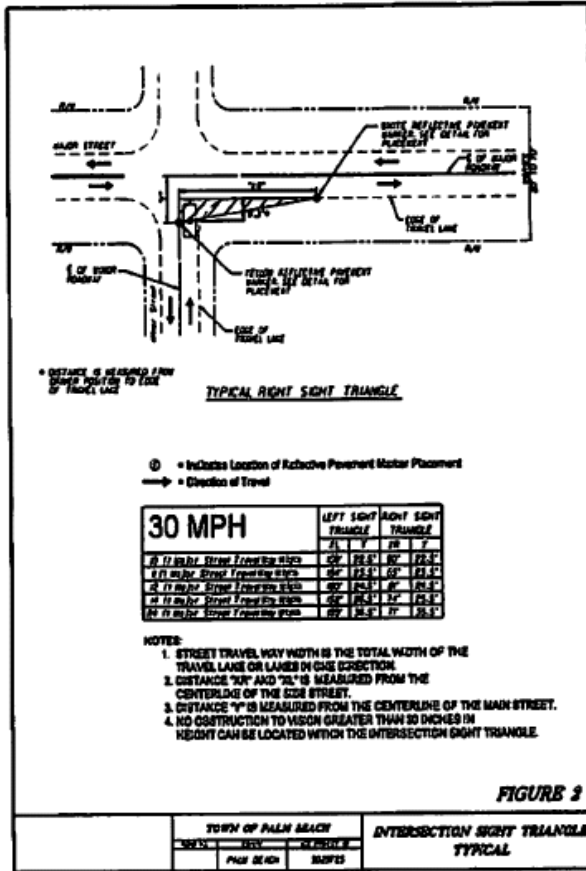
As an aid to free and safe movement of vehicles at or near street intersections and in order to promote protection for the safety of children, pedestrians, and operators of vehicles in the town, the following provisions are required.

All corner lots and street right-of-way at the intersection of a through street within all residential zoning districts shall be required to have a clear intersection sight triangle area as illustrated in figures 1 through 3 of this section as follows:

- (1) Upon construction of a new residential dwelling(s).
- (2) As an existing residential dwelling(s) is renovated, added onto, demolished, and/or reconstructed in which the value of the work is 50 percent or more of the appraised value of the structures on the property.
- (3) Notwithstanding the regulations above, the architectural commission or the landmark commission, whichever is pertinent, may grant a waiver from these provisions provided that said commission deems the existing impediment in the intersection sight triangle is of value to the aesthetics of the town and does not create a public safety issue after prior review and recommendation by the public works department.

The building permit plans for work contemplated in subsections (1) and (2) shall include the work required in the intersection sight triangle area. The property owner shall be required to install and maintain the white and yellow reflective pavement markers as identified in figures 1 through 3 which identify the intersection sight triangle area. All obstructions, vegetation or structures shall be maintained at a maximum height of 30 inches within the intersection sight triangle area, as measured from the street elevation where the yellow reflective pavement marker is placed for the intersection sight triangle area.





(Ord. No. 5-09, § 17, 4-15-09)

Editor's note— Ord. No. 5-09, § 17, adopted April 15, 2009, amended section 134-1637 in its entirety to read as herein set out. Formerly, section 134-1637 pertained to intersection vision, and derived from Ord. No. 2-74, § 5.16, adopted March 26, 1974, and Ord. No. 2-83, § 4(b), adopted February 23, 1983.

Secs. 134-1638—134-1665. - Reserved.

DIVISION 5. - WALLS AND FENCES

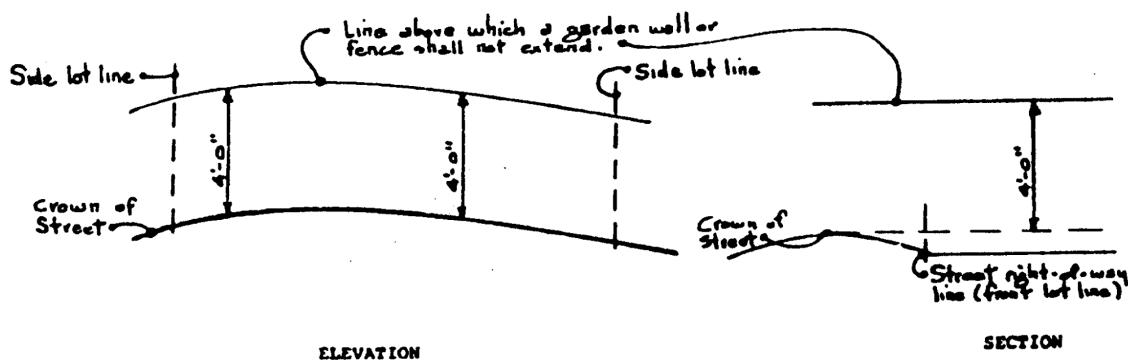
Sec. 134-1666. - Location generally; compliance.

Except as otherwise provided herein, walls or fences may be located or constructed within the required yard areas and shall conform to the following regulations except where special requirements are set forth for specific screening purposes elsewhere in this ordinance:

(Ord. No. 2-74, § 5.36, 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-98, § 8, 2-9-98; Ord. No. 1-00, § 4, 2-22-00)

Sec. 134-1667. - Front, street side or street rear yards.

- (a) All walls and/or fences located in a front, street side or street rear setback areas shall not exceed six feet in height. The height of a wall or fence located in a front, street side or street rear set back areas, fronting on a street, shall be measured on the street side of the wall or fence from the top of the wall or fence and shall not exceed six feet in height above the crown of the street at a point directly opposite such points of measurement. (See following illustration.) If the wall or fence in a front, street side or street rear setback area is not fronting on a street, said wall or fence shall be measured from the lowest grade on either side of the property line adjacent to said wall or fence. The natural grade along the side property line within the front setback area may not be artificially changed to raise the height of said wall.



- (b) Walls and fences in a required front yard, street side yard, or rear street yard more than four feet in height shall be set back three feet from the street property line and have landscaping on the street side of the wall or fence consisting of a continuous hedge at least three feet in height at the time of planting.

(Ord. No. 2-74, § 5.36(a), 3-26-74; Ord. No. 2-83, § 4(b), 2-23-83; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-98, § 8, 2-9-98; Ord. No. 1-00, § 4, 2-22-00)

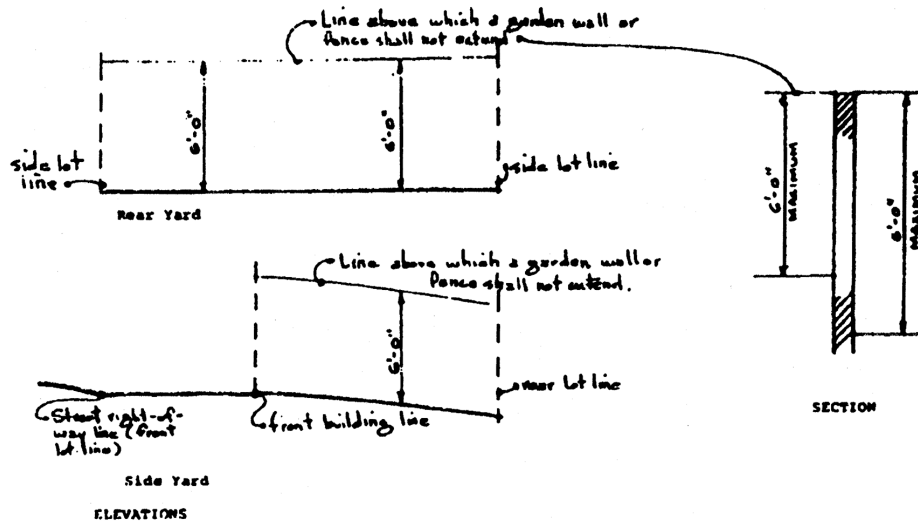
Sec. 134-1668. - Gateposts and gates located in front, street side and rear street yard areas.

Gateposts not exceeding three feet in any horizontal dimension may be erected and/or constructed in connection with the erection and/or construction of a wall, fence, or in connection with an existing or proposed hedge. Such gateposts and gates shall not exceed a height of two feet above the maximum wall height permitted in this division. If gates are to be erected at driveway entrances, the gates must be provided with a minimum driveway area in front of and perpendicular to the gates of nine feet wide by 18 feet deep, as measured from the street pavement. For a property with a driveway located on a cul-de-sac or dead-end street, the required setback may be reduced provided it is approved as a special exception by the town council under the standards of sections 134-227 through 134-233.

(Ord. No. 2-74, § 5.36(b), 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-97, § 2, 2-17-97)

Sec. 134-1669. - Side and rear yards.

All walls and/or fences located within ten feet of the side or rear property line shall not exceed seven feet in height except walls and/or fences located in a required street side yard setback of a corner lot and the required rear street yard setback for a through lot where they shall conform to the provisions of section 134-1667. The height of a wall or fence located in a side or rear yard shall be measured from the lowest grade on either side of the side or rear property line adjacent to said wall or fence to the top of the wall or fence and shall not exceed seven feet in height. This section prohibits an artificial change in the natural grade in any way to raise the height of said wall. (See the following illustration.)



HEIGHT MEASUREMENT OF GARDEN WALLS, SIDE OR REAR YARD

(Ord. No. 2-74, § 5.36(c), 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-98, § 8, 2-9-98; Ord. No. 1-00, § 4, 2-22-00)

Sec. 134-1670. - Retaining walls.

- (a) Retaining walls which front on a street and which are located in the street front, street side or street rear setback shall not exceed a maximum height of six feet as measured from the lowest grade on either side of the retaining wall to the top of said wall at that location in that setback. In addition, if a retaining wall is within ten feet of a wall and/or fence in the same front, street side or street rear yard setback, said retaining wall and wall and/or fence

shall not exceed a total combined height of nine feet as measured from the lowest grade adjacent to said retaining wall to the top of said wall and/or fence at that same location in that setback. However, in no instance shall a retaining wall, wall, fence or combination thereof exceed, or be contrary to, the maximum and minimum requirements in section 134-1667.

- (b) If a retaining wall in the front setback area is not fronting on a street, said retaining wall shall not exceed a maximum height of six feet as measured from the lowest grade on either side of the retaining wall to the top of said retaining wall at any location in that setback. In addition, if a retaining wall is within ten feet of a wall and/or fence in the same front setback not fronting a street, said retaining wall and wall and/or fence shall not exceed a total combined height of nine feet as measured from the lowest grade adjacent to the retaining wall to the top of the wall or fence at that same location in that setback nor six feet in height as measured from the abutting property. In addition, if said retaining wall, and wall and/or fence within the front setback area are within ten feet of each other and their combined height exceeds six feet, said retaining wall shall have a minimum four foot high hedge located on the inside portion of the retaining wall.
- (c) A retaining wall within ten feet of the side or rear property line shall not exceed a maximum height of seven feet from the lowest grade on either side of the retaining wall to the top of said retaining wall. In addition, if a retaining wall, and wall and/or fence is within ten feet of the side or rear property line, they shall not exceed a total combined height of ten feet as measured from the lowest grade adjacent to the retaining wall to the top of the wall or fence at that same location nor seven feet in height as measured from the abutting property.

(Ord. No. 1-00, § 4, 2-22-00; Ord. No. 1-02, § 17, 3-12-02; Ord. No. 1-04, § 44, 3-9-04)

Sec. 134-1671. - Restrictions.

In addition to the other requirements in this division, a wall or fence shall conform with section 134-1637 and shall in no case be located closer than 2½ feet of the rear lot line unless previously approved by the town engineer, and execution and recordation of an acceptable removal agreement. In addition, no fence or wall shall be located within the street right-of-way or streetward of the front lot line as provided for in section 134-1636.

(Ord. No. 2-74, § 5.36(d), 3-26-74; Ord. No. 1-84, § 3(b), 3-1-84; Ord. No. 1-86, § 3(c), 2-10-86; Ord. No. 1-87, § 3(c), 2-9-87; Ord. No. 1-90, § 3(e), 2-5-90; Ord. No. 1-93, § 3(c)—(e), 2-8-93; Ord. No. 1-00, § 4, 2-22-00; Ord. No. 1-02, § 17, 3-12-02)

Secs. 134-1672—134-1695. - Reserved.

DIVISION 6. - STRUCTURES

Subdivision I. - In General

Sec. 134-1696. - Abuse of property by excess number of inhabitants; limitation on number of basement bathrooms.

- (a) *Abuse of property by excess number of inhabitants.* The use of any property or of any building by a larger number of persons than such property or building is zoned for or designed to accommodate is declared to be a violation of this chapter.
- (b) *Limitation on number of basement bathrooms.* In a single-family dwelling the number of bathrooms and/or toilet compartments in the basement or subbasement areas shall not exceed one.

(Ord. No. 2-74, § 5.49, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 1-84, § 3(f), 3-1-84)

Sec. 134-1697. - Buildings and structures over Lake Worth.

With the exception of essential services, landing docks and piers related to town-owned municipal property, buildings, and structures, no buildings or structures shall be erected or constructed west of the established bulkhead or bulkhead line or over the water of Lake Worth except one pier or land docks on a lot, which shall meet the requirements in chapter 62, article III, sections 62-74, and 62-75, of the Code. No cooking, sleeping, or business activity shall be permitted or conducted on a dock except as associated with the town's operation of its municipal docks.

(Ord. No. 2-74, § 5.43, 3-26-74; Ord. No. 1-85, § 3(c), 2-11-85; Ord. No. 1-03, § 11, 3-11-03; Ord. No. 2-05, § 9, 5-10-05; Ord. No. 02-2019, § 15, 3-19-19; Ord. No. 16-2021, § 16, 8-11-21)

Sec. 134-1698. - Structures, signs and landscape material west of Lake Trail.

No buildings or other structures of any nature, other than buildings or structures for essential services and docks, shall be constructed upon land lying west of the Lake Trail. No signs shall be permitted west of the Lake Trail except property protection signs as approved by the Architectural Commission. In addition, a Lake Trail scenic vista shall be maintained for the entire width and depth of all properties that abut the west side of Lake Trail with the exception of those properties used to provide essential services. The following standards shall apply to such properties:

- (1) In no instance shall hedge or bush material be planted or maintained at a height greater than 30 inches above the grade of the trail.
- (2) Except for palm trees, trees shall be planted with a minimum lineal separation perpendicular to Lake Trail of 30 feet from any other tree.
- (3) The trunks of trees shall be maintained at six feet above the grade from where the tree is planted.
- (4) Palm trees may be clustered with one canopy tree and two palm trees, or a maximum of three palm trees, no further apart than eight feet, and a cluster separation perpendicular to Lake Trail of not less than 25 feet.

(Ord. No. 2-74, § 5.44, 3-26-74; Ord. No. 5-78, § 2, 3-31-78; Ord. No. 1-06, § 5, 3-14-06; Ord. No. 04-2018, § 23, 4-11-18)

Sec. 134-1699. - Lake Trail access.

No driveway shall be allowed to connect to any bicycle and pedestrian access to Lake Trail.

(Ord. No. 1-04, § 20, 3-9-04)

Editor's note— Ord. No. 1-04, § 20, adopted March 9, 2004, added a new section 134-1699 and renumbered former sections 134-1699—134-1701 as new sections 134-1700—134-1702.

Sec. 134-1700. - Structures and signs along Lake Trail.

No signs shall be permitted within said 25-foot area easterly of said lake trail except property protection signs approved by the architectural commission. No structure over four feet high (as measured on the lake trail side of the structure from the top of the structure to the crown of the existing paving of the lake trail directly opposite of such point of measurement) shall be erected or constructed along the easterly side of the Lake Trail within 25 feet of the easterly right-of-way line of said Lake Trail, as the same is now laid out, established and used, except as provided below.

A wall or fence within 25 feet of the easterly right-of-way of the Lake Trail, shall be allowed four feet in height as measured from the highest grade directly adjacent to said wall or fence to the top of the wall or fence directly opposite such point of measurement. The natural grade along the side property line within the Lake Trail setback area may not be artificially changed to raise the height of said wall or fence.

(Ord. No. 2-74, § 5.45, 3-26-74; Ord. No. 5-78, § 3, 3-31-78; Ord. No. 7-79, § 10, 3-30-79; Ord. No. 1-99, § 13, 4-5-99; Ord. No. 1-04, § 20, 3-9-04)

Editor's note— See Editor's note following section 134-1699.

Sec. 134-1701. - Structures east of ocean bulkhead line.

No structure shall be erected in the town east of the town's bulkhead line along the ocean front except erosion control devices such as jetties or groins.

(Ord. No. 2-74, § 5.46, 3-26-74; Ord. No. 1-04, § 20, 3-9-04)

Editor's note— See Editor's note following section 134-1699.

Sec. 134-1702. - Structures adjacent to ocean bulkhead.

No structure of any nature that is to be constructed on land situated southward of Southern Boulevard (State Road No. 80) shall be constructed closer than 150 feet from the designated ocean bulkhead line established in chapter 62 nor shall any such structure be constructed on land situated northward of the Southern Boulevard roadway closer than 50 feet from the designated ocean bulkhead line established in chapter 62, unless a proper ocean bulkhead exists or is constructed in conjunction with the structure at a location and of a type of construction as approved by the town council.

(Ord. No. 2-74, § 5.46a, 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 7-82, § 4(e), 3-31-82; Ord. No. 1-87, § 3(d), 2-9-87; Ord. No. 1-04, § 20, 3-9-04)

Editor's note— See Editor's note following section 134-1699.

Secs. 134-1703—134-1725. - Reserved.

Subdivision II. - Accessory Buildings and Other Structures

Sec. 134-1726. - Supplementary and incidental to principal structure and use; location.

An accessory building or structure shall be clearly supplementary and incidental to the principal structure and use on the lot and shall be located on the same lot as the principal structure and use to which it is subordinate or located on a contiguous lot when a unity of title is provided under the same ownership. Sale, rental or use, of either the accessory building or principal structure, separately from each other, is prohibited.

(Ord. No. 2-74, § 5.50(a), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94)

Sec. 134-1727. - Statue and/or sculpture.

Any statue and/or sculpture exceeding six feet in height shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the sections of this chapter applicable thereto. No statue and/or sculpture shall exceed 12 feet in height. Further, when such statue and/or sculpture exceeds six feet in height, the construction, erection or placement thereof shall require prior review and approval by the landmark commission if it is proposed to be located on landmarked property, otherwise by the architectural commission if visible from the street.

(Ord. No. 2-74, § 5.50(b), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94; Ord. No. 1-96, § 20, 2-5-96)

Sec. 134-1728. - Air conditioning and swimming pool, and fountain equipment.

- (a) *Air conditioning/chiller equipment (excluding cooling towers).* Air conditioning equipment shall not be allowed in a required front yard setback. Said equipment shall be allowed in a required side, rear, street side and street rear yard setback provided the following requirements are met:
- (1) The equipment shall have a minimum five-foot side and rear yard setback.
 - (2) The equipment shall have a minimum 20-foot street side and street rear yard setback.
 - (3) A maximum of two pieces of air conditioning equipment not exceeding six feet in height above grade or the minimum flood elevation, whichever is higher, shall be allowed.
 - (4) The equipment shall be completely screened from the neighboring property and the street by a concrete wall as high as said equipment. Said wall cannot exceed the maximum height allowed by Code. A neighbor's existing concrete wall can satisfy said requirement provided that wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enter into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.
 - (5) If the equipment and required new screening wall can be seen from the street, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining air conditioning/chiller equipment visibility.
 - (6) Where required setbacks for principal structures are increased based on a larger lot width or depth, the air conditioning equipment (not including cooling towers) shall meet the same requirements as the standard size lots in the district it is located.
- (b) *Cooling tower equipment.* Cooling tower equipment shall meet the following requirements:
- (1) The equipment and screening wall required below shall meet the same minimum required yard setbacks as the principal structure.
 - (2) The equipment shall be screened from the neighbors and/or a street by a three-sided, concrete wall at least as high as said cooling tower.
 - (3) If the equipment and required screening wall can be seen from the street without intervening landscape material, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.
- (c) *Swimming pool and fountain equipment.* Swimming pool and fountain equipment shall be allowed in a required side, rear, street side and street rear yard setback provided the following requirements are met:

- (1) Swimming pool and fountain pump and filter equipment shall have a minimum five foot side and rear yard setback shall in all situations be located no further than 25-feet from the pool or fountain water's edge.
- (2) Swimming pool heater equipment shall have a minimum ten-foot side and rear yard setback and shall in all situations be located no further than 25-feet of the swimming pool water's edge.
- (3) Swimming pool heater and pump equipment and fountain equipment (excluding filters) shall not exceed four pieces of equipment.
- (4) Swimming pool heater, pump and filter equipment and fountain equipment shall not exceed a maximum height of four feet above grade or the minimum flood elevation, whichever is higher.
- (5) All swimming pool and fountain equipment, and filter equipment, shall have a minimum 20-foot street side yard setback and in all situations shall be located no further than 25-feet from the water's edge of the swimming pool and/or fountain.
- (6) Swimming pool and fountain pump and filter equipment, excluding swimming pool heater equipment, shall be enclosed in a pump house and shall be located no further [than] 25-[feet] from the swimming pool or fountain water's edge.
- (7) Swimming pool heater equipment shall be completely screened from a neighboring property and a street by a building or concrete wall as high as said equipment. Said wall cannot exceed the maximum height allowed by Code. A neighbor's existing concrete wall can satisfy said requirement provided the wall meets the height requirement to completely screen said equipment from the adjacent neighbor and the applicant enters into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.
- (8) If the equipment and required new screening wall or pump house can be seen from the street, said equipment and wall shall be approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining swimming pool and fountain pump, heating and filter equipment visibility.
- (9) Where required setbacks for principal structures are increased based on a larger lot width or depth, the swimming pool and fountain pump, filter and heating pool equipment shall meet the same requirements as the standard size lots in the district it is located.

(Ord. No. 2-74, § 5.50(c), 3-26-74; Ord. No. 1-88, § 2, 2-8-88; Ord. No. 1-89, § 3(c), 2-6-89; Ord. No. 1-94, § 3(b), 2-7-94; Ord. No. 1-99, § 24, 4-5-99; Ord. No. 1-00, § 5, 2-22-00; Ord. No. 1-03, § 9, 3-11-03; Ord. No. 16-09, § 11, 11-12-09; Ord. No. 4-2016, § 7, 4-13-16; Ord. No. 16-2020, § 1, 12-9-20)

Sec. 134-1729. - Generators.

Except for generators serving a public purpose and owned and operated by the town or temporary generators used during or after a natural disaster such as a tropical storm or hurricane event, and which are therefore exempt from these regulations, portable or permanent generators temporarily or permanently placed on the ground, on a stand or on a trailer, shall not be placed in the required front, street side or street rear yard setbacks; provided, however, not more than one such generator shall be placed in any given within the same required side or rear yard setback.

- (1) One or a combination of more than one portable or permanent generators with combined output of not more than 60 KW shall be allowed provided only one generator is within the same required yard area. Said generator(s) shall be allowed five feet from a side or rear property line provided said generator meets the

following requirements:

- a. There is only one generator within that required yard area.
 - b. The generator(s) shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.
 - c. The highest point on the generator(s) shall not exceed a maximum of seven feet above the neighboring property owner's grade or zero datum as defined in the appropriate definition of building height in section 134-2.
 - d. The generator(s) shall be completely screened from a street and the neighboring property owners by a concrete wall the same height as the generator(s) (including the height of the exhaust muffler). An adjacent property owner's existing side or rear concrete wall that completely screens the generator from the neighbor adjacent to that generator can satisfy said requirement provided the wall meets the height requirement to screen the generator and the applicant enters into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.
 - e. If the generator(s) is visible from a street or public way, its location shall be subject to approval by the Architectural Commission or Landmarks Preservation Commission, whichever is applicable. Intervening landscape material shall not be considered when determining a generator's visibility.
 - f. The generator's exhaust shall, as much as practically feasible, be vented upwards or directed away from neighboring properties.
 - g. The generator(s) shall be used only during periods of power outages or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company or for use by power customers during periods of peak demand.
 - h. The generator(s) shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.
 - i. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.
 - j. Generators shall not be permitted on the roof of a building.
- (2) Temporary or permanent generators with a combined output of greater than 60 KW or more may be temporarily placed on the ground, on a stand or on a trailer provided, however, said generator(s) meets the following requirements:
- a. A generator(s) shall meet the minimum setback requirements applicable to a principal structure and not more than one generator shall be within the same required setback or yard area.
 - b. The generator shall not, at any time or for any purpose, exceed the maximum decibels allowed at the property line as set forth in section 42-228.
 - c. If the generator exceeds an output capacity of 100 KW or the combined output capacity of multiple generators exceeds 120 KW, said generator(s) shall be subject to site plan review as defined in sections 134-326—134-330. If any individual generator output capacity exceeds 100 KW it shall be housed in an

enclosed building with landscaping as approved by the Architectural Commission or Landmarks Preservation Commission, whichever is applicable.

- d. If the generator exceeds 60KW and is 100KW or less, it shall be screened from view at the street and from the neighboring properties by a concrete block wall, at least the same height as the generator (including the height of the exhaust muffler). An adjacent property owner's side or rear concrete wall that completely screens the generator from the neighbor adjacent to said generator can count towards screening provided that the wall meets the height requirement to screen the generator and the applicant enters into a recorded agreement with the town to construct said wall as provided for in the Code to meet the screening requirement should the neighbor remove their wall.
 - e. If the generator is visible from a street or public way, its location shall be subject to approval by the Architectural Commission or Landmarks Preservation Commission, as applicable. Intervening landscape material shall not be considered when determining a generator's visibility.
 - f. The generator'(s) exhaust shall, as much as practically feasible, be vented upwards or directed away from neighboring properties.
 - g. The generator(s) shall be used only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company.
 - h. The generator(s) shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Thursday only (excluding holidays), between the hours of 11:00 a.m. and 12:00 p.m. or 2:00 pm. and 3:00 p.m.
 - i. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.
 - j. Generators shall not be permitted on the roof of a building.
- (3) Notwithstanding subsection (a), the director or designee may grant a waiver allowing a one generator with an output capability in excess of 60KW to be located within a required side or rear yard setback, provided the applicant submits to the town a site plan and evidence or testimony substantiating each of the following conditions:
- a. The output of a 60 KW or less generator is incapable of providing enough electricity for the basic necessity of occupying a building and/or protecting interiors or possessions in a building from the damaging effects of prolonged loss of power.
 - b. The proposed location is not merely for the convenience or preference of the applicant, but that there is no other location outside of the required setbacks that will provide for safe placement of the generator.
 - c. The proposed location represents the minimum intrusion into the required setback(s) necessary to safely accommodate the generator.
- (4) If an administrative waiver is not granted pursuant to subsection (c) the applicant may appeal the administrative decision to the town council pursuant to sections 134-131—134-145.

(Ord. No. 1-99, § 25, 4-5-99; Ord. No. 1-00, § 6, 2-22-00; Ord. No. 1-03, § 10, 3-11-03; Ord. No. 5-07, § 1, 5-8-07; Ord. No. 8-07, § 4, 5-8-07; Ord. No. 4-2016, § 5, 4-13-16; Ord. No. 16-2020, § 2, 12-9-20)

Editor's note— Ord. No. 5-07, § 1, adopted May 8, 2007, enacted provisions intended for use as subsections (a)—(d). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (1)—(4).

Sec. 134-1730. - Freestanding awnings, carports, portable beach or swimming pool cabanas.

Freestanding awnings, carports, and freestanding portable beach or swimming pool cabanas are permitted provided they are not in a required setback and do not exceed the maximum lot coverage allowed for the district.

(Ord. No. 1-04, § 6, 3-9-04)

Sec. 134-1731. - Outdoor lighting equipment.

The maximum height for poles or structures for purpose of supporting lighting fixtures and lighting equipment shall be 15 feet above finished grade.

Any exterior or landscape lighting that creates the following conditions shall be deemed in violation of this section of the Code and shall be subject to action by the code enforcement board.

- (1) Lighting or fixtures that allow more than one half foot-candle to spill off the property.
- (2) Lighting that is directed or aimed in such a manner as to create a nuisance or glare to any abutting property.
- (3) Lighting that is installed and/or aimed in such a manner as to create a nuisance or glare to passers-by, either by foot or in a moving vehicle.

(Ord. No. 1-06, § 8, 3-14-06; Ord. No. 16-2016, § 8, 12-14-16; Ord. No. 24-2016, § 3, 1-11-17)

Sec. 134-1732. - Temporary storage units.

A temporary roll-off storage unit, such as a portable on demand storage unit, temporary storage unit is permitted on a property for a maximum period of five business days, three time per calendar year, provided the property owner obtains a permit from the town prior to said roll-off or portable on demand storage unit being placed on the property. The permit fee shall be established by resolution of the town council and may be amended from time to time by resolution of the town council. The time limit and permit provisions for temporary roll-off storage unit or vehicle used for storage shall be suspended for such time that a state of emergency is declared by the state or town council.

(Ord. No. 8-07, § 3, 5-8-07; Ord. No. 26-10, § 25, 12-15-10)

Sec. 134-1733. - Commercial, institutional and multi-family dumpsters and recycle containers.

- (a) *Applicability.* The requirements pertaining to the location and screening of dumpsters established in this section shall apply to all zoning districts within the town having or using dumpsters for sanitation service or recycling service. Temporary dumpsters, such as those which are placed on job sites during construction activity, are not subject to this section.
- (b) *Minimum requirements.* The location and use of dumpsters and recycle containers shall comply with the standards established below.
 - (1) *Location.* All dumpsters recycle containers shall be located so as to be reasonably accessible for trash collection by the sanitation vehicles. Dumpsters and recycle containers shall not be located within a required

front street side or street rear yard setback or right-of-way of a public street or alley.

(2) *Screening.*

- a. All dumpsters and recycle containers shall be screened from public view, from public rights-of-way and from abutting properties.
- b. Dumpsters and recycle containers shall be screened on all four sides. Gates shall be closed when the dumpster or recycle containers are not being filled or dumped, and shall be maintained in good repair.
- c. Dumpsters and recycle containers shall be screened with a minimum six-foot-high masonry wall and six-foot-high solid gates of the same architectural style, color, and materials as the principal use. Dumpster and recycle container screening enclosures shall be maintained in good repair. Landscaping is required to screen dumpster enclosures as much as feasibly possible from a public right-of-way.
- d. All dumpsters and recycle containers must be placed on a hard surface, of adequate size to accommodate the dumpster and garbage trucks.
- e. Commercial dumpsters and recycle containers shall be located a minimum of 15 feet from a residential zoning district or residential use.

(Ord. No. 26-10, § 39, 12-15-10)

Sec. 134-1734. - Playground equipment.

Playground equipment shall only be allowed in residential zoning districts. Playground equipment, including but not limited to, slides, swing sets and tether balls shall not be allowed in a required front yard setback. Said equipment shall be allowed in all residential districts with a minimum side and rear yard setback of ten feet and a street side yard and street rear yard setback of 15 feet. Said equipment shall not exceed a maximum height of 15 feet above existing grade. Said equipment shall be completely screened from a street with either a hedge, wall or other combination of wall or other landscape material. Tree houses are specifically prohibited.

(Ord. No. ~~24-2015~~, § 1, 10-14-15)

Sec. 134-1735. - Basketball goals.

Basketball goals shall only be allowed in residential zoning districts. One basketball goal shall be allowed on a property provided that it is setback a minimum of 15 feet from a front, street side or street rear property line and ten feet from a side or rear property line. In addition, said goal shall be restricted to be used only from 9:00 a.m. to 8:00 p.m. If the town receives three or more valid written noise complaints from a property owner within 200 feet of the property in which the basketball goal is located within a 12-month period, as determined by the Code Enforcement Division of the Public Safety Department, said basketball goal shall be removed no later than 30 days after written notice by the town. If three legitimate complaints are verified, said basketball goal shall be removed unless approved by special exception approval by the town council. Any decision by the staff to remove the basketball goal may be appealed to the town council based on sections ~~134-141~~ through ~~134-145~~ of the Code. In the event of the filing of an appeal or upon the filing of an application for special exception within 30 days of the decision of the administrative official, the requirement to remove the basketball goal shall be stayed until final determination by the town council in regard to the appeal or the application for special exception.

(Ord. No. ~~24-2015~~, § 2, 10-14-15)

Secs. 134-1736—134-1755. - Reserved.

DIVISION 7. - ACCESSORY USES

Subdivision I. - In General

Sec. 134-1756. - Supplemental and incidental to principal use; location.

For commercial, multi-family, townhouse and two-family uses under this chapter, an accessory use shall be clearly supplementary and incidental and shall not be separated from the principal use of the lot and shall be located on the same lot as the principal use to which it is subordinate or located on an abutting lot when a unity of title, acceptable to the town, is provided under the same ownership.

For single-family uses under this chapter, an accessory use shall be clearly supplementary and incidental and shall not be separated from the principal use of the lot and shall be located on the same lot as the principal use to which it is subordinate or located on a contiguous lot when a unity of title, acceptable to the town, is provided under the same ownership. For the purpose of this section contiguous shall mean directly across a street or public way or abutting the lot on which the principal structure is located and to which the accessory use is subordinate. If the lot on which the accessory use is located does not abut the property on which the principal use is located, said lot shall not be used in the calculation of lot, yard and bulk regulations.

(Ord. No. 2-74, § 6.11, 3-26-74; Ord. No. 1-84, § 4(a), 3-1-84; Ord. No. 1-00, § 7, 2-22-00)

Sec. 134-1757. - Swimming pools.

A swimming pool, and if applicable, infinity pool catch basin, and/or a spa/hot tub, not to be enclosed by a structure other than a fence as required or permitted by this Code, may be constructed within every yard area, except the required front yard as prescribed by this chapter. Except as provided in this subsection, no part of the pool structure may protrude more than six inches above the finished ground level. The exception is that a spa/hot tub shall not exceed a height three feet above the exterior finished grade. In addition, a swimming pool or spa/hot tub may have an infinity edge on not more than one side of said swimming pool or spa/hot tub which can be no higher than three feet above drop into a swimming pool or water trough below said infinity edge. A swimming pool, and if applicable an infinity pool catch basin, and spa/hot tub interior, shall be at least ten feet from the side and rear lot lines and 15 feet from the street side and street rear lot lines. All setbacks as set forth in this section of the Code shall be measured from the water's edge to the property line.

A swimming pool, and if applicable infinity pool catch basin, and/or spa/hot tub in the required street side or street rear yard shall be screened by a continuous hedge six feet in height at the time of planting, located adjacent to and exterior of a solid wall six feet in height and maintained at a minimum of said height. Said hedge shall be located between the street and adjacent to and exterior of a solid wall six feet in height. In the percentage of coverage of a lot by buildings, swimming pools shall not be counted in such computation.

(Ord. No. 2-74, § 6.12, 3-26-74; Ord. No. 5-78, § 5, 3-31-78; Ord. No. 1-96, § 15, 2-5-96; Ord. No. 4-2016, § 6, 4-13-16; Ord. No. 04-2018, § 24, 4-11-18)

Sec. 134-1758. - Beach houses.

A beach house shall be used only for occupancy of the legitimate nonpaying guests of the owners of the main residence to which it is accessory or bona fide members of the family or servants, and no kitchen or sleeping rooms shall be constructed or used therein. Sale, rental or use of either the beach house or principal structure, separately from each other, is prohibited.

(Ord. No. 2-74, § 6.14, 3-26-74; Ord. No. 1-84, § 4(b), 3-1-84; Ord. No. 1-88, § 3, 2-8-88)

Sec. 134-1759. - Tennis, shuffleboard and racquetball courts.

- (a) Tennis, shuffleboard and racquetball courts and similar uses shall not be counted in lot coverage computations.
- (b) Tennis courts or shuffleboard courts and similar accessory' uses, not enclosed by a structure, may be constructed within yard areas, except the required front yard, required street side yard and required street rear yard as prescribed by this chapter.
- (c) Tennis courts shall include as an integral part of the construction thereof proper fence or wall enclosures contiguous to the court. Such fence or wall enclosures are to be at least ten feet in height. Said fence or wall enclosure shall be out of the required principal structure setback if said enclosure exceeds the maximum height allowed in section 134-1666 through 134-1670 of the Code. Where visible from adjacent properties or the public or private street right-of-way, tennis courts shall be screened with plantings at least the same height as the tennis court fence enclosure.
- (d) The construction of any facility involving the use of a ball backboard or rebound wall in any district of the town shall be subject to an application for special exception as specified in section 134-227 through section 134-233.
- (e) The construction of any tennis court, shuffleboard court or similar use upon any structure in the town shall be subject to an application for special exception as specified in section 134-227 through section 134-233.
- (f) Racquetball courts shall be considered unenclosed accessory structures and may be constructed, provided the court complies with all open yard requirements for the principal structure to which it is accessory and the racquetball court shall be subject to an application for special exception. Racquetball courts shall be screened with plantings, where visible from adjacent properties or the public or private street right-of-way.
- (g) The town council may permit, as a special exception with site plan review, minimal state of the art night lighting from 9:00 a.m. to 9:00 p.m. for tennis, shuffleboard and racquetball courts, provided that the applicant shall demonstrate to the town council that the light and noise created by the tennis court, shuffleboard or racquetball court will be adequately mitigated as it relates to adjacent residential structures and vehicular right-of-way. All tennis, shuffleboard and croquet court lighting shall be equipped with a locked, light timer switch to ensure that the lighting will be controlled to operate only within the hours established in this subsection.

(Ord. No. 2-74, § 6.15, 3-26-74; Ord. No. 3-77, § 6, 3-29-77; Ord. No. 6-81, § 4, 3-31-81; Ord. No. 2-83, § 5(a), 2-23-83; Ord. No. 1-84, § 4(c), 3-1-84; Ord. No. 1-90, § 4(a), 2-5-90; Ord. No. 1-97, § 6, 2-17-97; Ord. No. 04-2018, § 25, 4-11-18)

Sec. 134-1760. - Storage facility.

A storage facility use (including, but not limited to, storage of inventory and supplies, office for shipping and receiving of merchandise, employee break room and/or employee restroom) is allowed in the C-TS, C-WA, C-OPI and C-B commercial zoning districts provided the following conditions are met.

- (1) It is related to an existing permitted or special exception use in the same zoning district;

- (2) It is not located within a tenant space which has windows fronting a main road, esplanade or via;
- (3) It is located behind a door in a manner that its contents cannot be seen from a main road, esplanade or via;
- (4) It does not independently exceed the maximum town-serving threshold for the zoning district in which it is located;
- (5) Movement of merchandise from the accessory storage facility use to the principal use shall not unduly block or otherwise interfere with orderly pedestrian movement or commercial enterprise.

(Ord. No. 8-2017, § 5, 4-12-17)

Secs. 134-1761—134-1785. - Reserved.

Subdivision II. - Drive-In Facilities

Sec. 134-1786. - Permitted as special exception use.

Drive-in facilities may be permitted by the town council as a special exception use only when the provisions of this subdivision are complied with and approved by the town.

(Ord. No. 2-74, § 6.25, 3-26-74; Ord. No. 7-79, § 8, 3-30-79)

Sec. 134-1787. - Location and arrangement of exits and entrances.

No drive-in use shall have an entrance or exit for vehicles which is located closer than 30 feet to any intersection. Individual ingress and egress drives extending across public sidewalks and curbs shall be subject to the same standards and approvals as those for off-street parking access contained within sections 134-2172 through 134-2174.

(Ord. No. 2-74, § 6.25(a), 3-26-74; Ord. No. 7-79, § 8, 3-30-79)

Sec. 134-1788. - Size and arrangement.

No drive-in use shall project into any front yard or, if applicable, street side yard further than the principal building. A maximum of three drive-in stalls are permitted and shall be so located so as not to restrict pedestrian access to any public entrance of the principal building. Any portion of the drive-in facilities, including access drives, which is located between the principal building and the required off-street parking facilities, shall have adequate pedestrian safeguards.

(Ord. No. 2-74, § 6.25(b), 3-26-74; Ord. No. 7-79, § 8, 3-30-79)

Secs. 134-1789—134-1815. - Reserved.

DIVISION 8. - AUTOMOTIVE BUSINESSES

Sec. 134-1816. - Auto rental lots.

- (a) Prior to the issuance of a permit for the use of any property as an auto rental lot, the town's engineer or other designated officer shall certify in writing that all of the conditions required as a prerequisite to the granting of

such permit have been completed in accordance with such conditions and requirements.

- (b) Servicing of the licensee's vehicles, consisting of washing and lubrication only, may be permitted on an auto rental lot, provided that the servicing facilities are housed in a building with no opening directly onto the street, and such servicing shall not be visible or audible from the street or adjoining property.
- (c) On auto rental lots an office structure, which shall include toilet facilities, shall be erected. One gas pump for the sole purpose of serving the rental vehicles owned by the licensee may be installed. Such pump shall be located not more than ten feet or less than five feet from the designated rear lot line. Where one or more lot lines abut a residential district, a wall not less than five feet in height shall be erected along such rear lot line.
- (d) No automobiles shall be sold or held for sale on an auto rental lot.

(Ord. No. 2-74, § 6.23, 3-26-74)

Sec. 134-1817. - Service stations.

- (a) *Location of exits and entrances.* No gasoline service station shall have an entrance or exit for vehicles within 350 yards, which distance shall be measured by following the curblines or edge of roadway where no curb exists, of the shortest vehicular route to the nearest point of the grounds of any school, public recreation area, church, chapel or residential district, and such access shall not be closer than 30 feet to any intersection.
- (b) *Location of oil drainage pits and hydraulic lifts.* All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than 50 feet to any property line.
- (c) *Mechanical repair.* All permitted mechanical repair work shall be conducted within an enclosed structure and shall be located no closer than 50 feet to any property line.
- (d) *Gasoline pumps.* Gasoline service stations shall have their gasoline pumps, including other service facilities, set back at least 30 feet from any street line.
- (e) *Storage of vehicles.* Service station premises shall not be permitted to be used as public or private parking lots unless so licensed by the town for motor vehicles other than those vehicles belonging to employees of the service station or those vehicles receiving or about to receive service.

(Ord. No. 2-74, § 6.24, 3-26-74; Ord. No. 4-75, § 4, 3-24-75)

Secs. 134-1818—134-1845. - Reserved.

DIVISION 9. - MULTIFAMILY DWELLINGS (APARTMENTS), TIMESHARES AND HOTELS

Subdivision I. - In General

Secs. 134-1846—134-1870. - Reserved.

Subdivision II. - Site Plan

Sec. 134-1871. - Required.

Every application for a multifamily dwelling, hotel or timesharing use shall be subject to site plan review procedures in accordance with article III of this chapter. Such site plan shall show all structures, roadways, sidewalks, parking areas, recreation areas, utility and exterior lighting installations and landscaping on the site; all existing structures and usages within 200 feet of the site boundaries; and any other elements as may be deemed to be essential by the building official. No certificate of occupancy shall be issued for any such building unless all facilities included in the site plan have been provided in accordance therewith. In addition to the findings required by article III of this chapter, the town council shall consider the guidelines and development requirements in this subdivision.

(Ord. No. 2-74, § 6.53, 3-26-74; Ord. No. 3-77, §§ 12, 13, 3-29-77; Ord. No. 5-78, § 6, 3-31-78; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-82, § 5(c), 3-31-82; Ord. No. 1-85, § 4(f), 2-11-85)

Sec. 134-1872. - Arrangement of buildings.

The site plan required by this subdivision shall show that adequate provision has been made for light, air, access, and privacy in the arrangement of the buildings to each other. Each dwelling unit shall have a minimum of one exterior exposure. Laundry facilities, including washing machines and clothes dryers, shall be available on the premises for use by all occupants of the premises. Exterior clotheslines shall not be permitted.

(Ord. No. 2-74, § 6.53)(a), 3-26-74; Ord. No. 3-77, §§ 12, 13, 3-29-77; Ord. No. 5-78, § 6, 3-31-78; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-82, § 5(c), 3-31-82; Ord. No. 1-85, § 4(f), 2-11-85)

Sec. 134-1873. - Supplemental controls.

In reviewing the proposed site plan for one or more multifamily structures or hotel buildings, the building official shall be guided by the requirements in sections 134-1874 through 134-1877.

(Ord. No. 2-74, § 6.53(b), 3-26-74; Ord. No. 3-77, §§ 12, 13, 3-29-77; Ord. No. 5-78, § 6, 3-31-78; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-82, § 5(c), 3-31-82; Ord. No. 1-85, § 4(f), 2-11-85)

Sec. 134-1874. - Maximum dimension.

Under this subdivision, the maximum dimension of any structure or group of attached structures shall not exceed 150 feet for any one building face. However, for multifamily structures where not more than four dwelling units per story are contained along the building face having the maximum dimension, the dimension may be increased to not more than 175 feet. A building group may not be so arranged as to be inaccessible by emergency vehicles. In addition to such maximum dimension contained in this section, a one-story entrance canopy or marquee, consisting of a roof only and its essential column supports, may be constructed over the main entrance to a multifamily dwelling building, provided that such canopy or marquee projects no more than 30 feet from the face of the building it serves, such canopy does not exceed 30 feet in width, and provided further that such canopy complies with all yard setbacks and percentage of lot coverage as are applicable to the principal building it is attached to. (Note: refer to sections 134-1114, 134-1164, 134-1213, 134-1262 and 134-1308 for regulation of entrance canopies and/or marquees in connection with hotels.)

(Ord. No. 2-74, § 6.53(b)(1), 3-26-74; Ord. No. 3-77, §§ 12, 13, 3-29-77; Ord. No. 5-78, § 6, 3-31-78; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-82, § 5(c), 3-31-82; Ord. No. 1-85, § 4(f), 2-11-85)

Sec. 134-1875. - Distance between buildings.

Under this subdivision, the distance between buildings shall be no less than 40 feet. This distance shall apply to the front, rear, and side of any buildings within the site development plan. Further, in order to preserve open vistas for the flow of light and air and to preserve a sense of openness, open vistas must exist from the front to rear lot lines equal to 25 percent of the aggregate width of the lot, such open spaces to be measured by their projection at 90 degrees from the front lot line. For purposes of this computation, required side yard setbacks may be included and considered as open vistas.

(Ord. No. 2-74, § 6.53(b)(2), 3-26-74; Ord. No. 3-77, §§ 12, 13, 3-29-77; Ord. No. 5-78, § 6, 3-31-78; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-82, § 5(c), 3-31-82; Ord. No. 1-85, § 4(f), 2-11-85)

Sec. 134-1876. - Distance between buildings and driveways.

Under this subdivision, no driveway or parking lot shall be closer than 25 feet to the front of any building or ten feet to the side or rear of any building, except when the story at ground level is either a basement or a story designed and used for other than residential occupancy. When an enclosed garage or carport is provided as a portion of the main structure, distance requirements for driveways providing access to these accommodations shall not apply.

(Ord. No. 2-74, § 6.53(b)(3), 3-26-74; Ord. No. 3-77, §§ 12, 13, 3-29-77; Ord. No. 5-78, § 6, 3-31-78; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-82, § 5(c), 3-31-82; Ord. No. 1-85, § 4(f), 2-11-85)

Sec. 134-1877. - Recreation space.

Under this subdivision, there shall be provided on the site of such development an area devoted to the joint recreational use of the residents thereof, of which at least 50 percent of the area shall be located outside the residential structures in other than a front yard, and of which at least 25 percent shall be unpaved and in natural cover. Such recreational space shall consist of not less than 400 square feet of space per dwelling unit. Each recreational space shall be developed with passive and active recreation facilities.

(Ord. No. 2-74, § 6.53(b)(4), 3-26-74; Ord. No. 3-77, §§ 12, 13, 3-29-77; Ord. No. 5-78, § 6, 3-31-78; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-82, § 5(c), 3-31-82; Ord. No. 1-85, § 4(f), 2-11-85)

Secs. 134-1878—134-1905. - Reserved.

Subdivision III. - Accessory Commercial Uses in Hotels

Sec. 134-1906. - Permitted as special exception uses.

Accessory commercial uses, except for outdoor seating which is permitted in accordance with sections 134-2104 through 134-2108, designed primarily but not necessarily exclusively for the convenience of hotel and condo-hotel guests may be permitted within hotels and condo-hotels in the R-C, R-D(1), R-D(2), C-TS and C-B districts as special exception uses, provided the town council shall make the following findings:

- (1) The proposed special exception uses are in conformance with sections 134-227 through 134-233.
- (2) The proposed special exception uses are and shall be located entirely within the principal building with no outside entrances thereto, and there shall be no exterior or external advertising of such uses.
- (3) The proposed special exception uses are permitted uses within the C-TS, C-WA, C-OPI or C-PC commercial

district.

- (4) The proposed special exception uses do not occupy more than 15 percent of the total floor area of the principal building; provided, however, that accessory commercial uses legally in existence on the effective date of the ordinance from which this chapter is derived within hotels located in the R-D(1) or R-D(2) district which occupy more than 15 percent of the total floor area may continue, but shall not be expanded or in any way occupy more floor space than occupied on the effective date of this chapter.
- (5) The proposed special exception uses meet all other requirements of this chapter, including but not limited to division 2 of article IX of this chapter pertaining to off-street parking and article XI of this chapter pertaining to signs.

(Ord. No. 2-74, § 6.54(a), 3-26-74; Ord. No. 1-93, § 4(a), 2-8-93; Ord. No. 1-95, § 2(c), 1-23-95; Ord. No. 5-09, § 23, 4-15-09)

Sec. 134-1907. - Display or sale of merchandise.

The display or sale of merchandise in a hotel in any zoning district on a temporary or permanent basis, unassociated with a conference or exposition being held at the hotel, shall be prohibited except in those areas of the hotel having met the requirements of section 134-1906.

(Ord. No. 2-74, § 6.54(b), 3-26-74; Ord. No. 1-93, § 4(a), 2-8-93; Ord. No. 1-95, § 2(c), 1-23-95)

Secs. 134-1908—134-1935. - Reserved.

DIVISION 10. - RESIDENTIAL USES

Subdivision I. - In General

Sec. 134-1936. - Manufactured housing.

Manufactured housing must comply with all town building codes, hurricane wind velocity codes and U.S. Department of Housing and Urban Development Body and Frame Construction Requirements as applied to hurricane resistive design standards and shall be subject to the review of the architectural commission or landmarks commission as provided in this Code.

(Ord. No. 2-74, § 2.10(37.1a), 3-26-74; Ord. No. 1-90, § 1(a), 2-5-90)

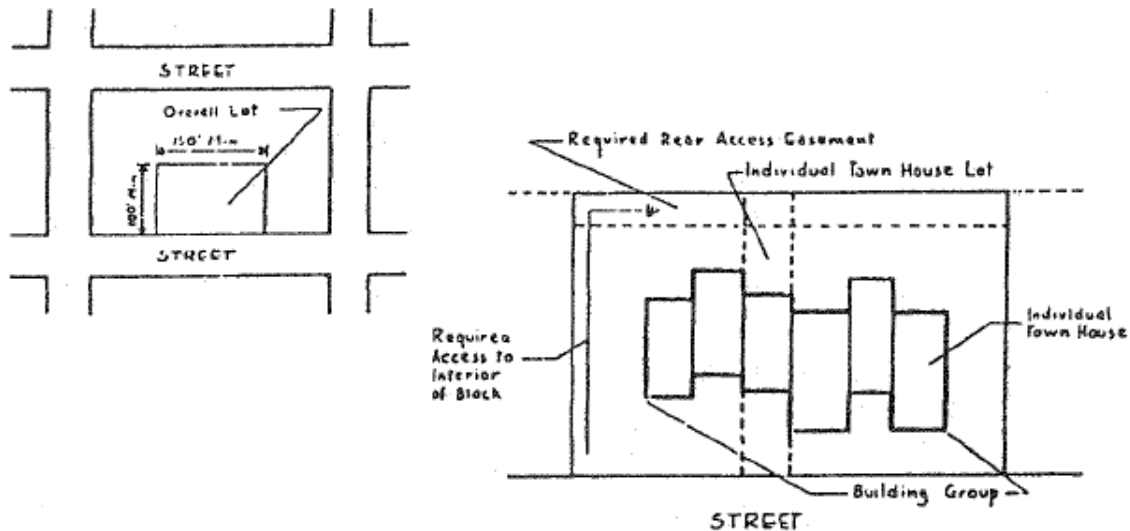
Secs. 134-1937—134-1960. - Reserved.

Subdivision II. - Townhouses

Sec. 134-1961. - Purpose.

To encourage and facilitate attractive design of townhousing, the general set of standards in this subdivision shall be used by the building official in reviewing plans for such development. The following is an illustration of the application of these general standards:

ILLUSTRATION OF TOWNHOUSE REQUIREMENTS



(Ord. No. 2-74, § 6.51, 3-26-74; Ord. No. 7-79, § 13, 3-30-79)

Sec. 134-1962. - Site plan review.

All applications for townhouses shall require concurrent site plan review in accordance with article III of this chapter.

(Ord. No. 2-74, § 6.51(h), 3-26-74; Ord. No. 7-79, § 13, 3-30-79)

Sec. 134-1963. - Density.

The overall density for townhouses shall not exceed the maximum permitted in the district as set forth in the schedule of lot, yard and bulk regulations in article VI of this chapter for each district or section 134-620.

(Ord. No. 2-74, § 6.51(a), 3-26-74; Ord. No. 7-79, § 13, 3-30-79)

Sec. 134-1964. - Lot depth, width, area and coverage.

- (a) For a townhouse, the minimum lot depth shall be 100 feet, the minimum lot width shall be 150 feet, the minimum lot area shall be 20,000 square feet and the maximum lot coverage shall be 40 percent for the building grouping.
- (b) The minimum individual lot width, if applicable, shall be 25 feet, and the maximum coverage for an individual lot, if applicable, shall be 40 percent.

(Ord. No. 2-74, § 6.51(b), (c), 3-26-74; Ord. No. 7-79, § 13, 3-30-79)

Sec. 134-1965. - Building groups; access.

- (a) No less than four townhouses shall be located within a building group, and no interconnection or overlapping between individual dwelling units shall be permitted. No part of any exterior wall of any building group shall be nearer than 20 feet to any part of any exterior wall of any other building group. No portion of a one-story portion

of any building shall be closer than ten feet and no portion of any two-story portion of any building shall be closer than 15 feet from any side lot line of the overall lot. The maximum building dimension of any building group shall not exceed 150 feet.

- (b) Each building group shall have provided on the overall lot a 20-foot access to the interior of the block with at least one such access for each 15 townhouses or portion thereof.
- (c) Each interior individual townhouse lot not having a street front access shall have a minimum access easement of ten feet provided along the rear property line of such lot.

(Ord. No. 2-74, § 6.51(d)—(f), 3-26-74; Ord. No. 7-79, § 13, 3-30-79; Ord. No. 1-99, § 26, 4-5-99)

Sec. 134-1966. - Land transfer and ownership of development.

Townhouse developments, in addition to complying with all applicable sections of this chapter, shall comply with one of the following methods of land transfer and ownership:

- (1) The subdivision of the whole tract into individual parcels in accordance with this chapter, together with the platting of the property for record in accordance with F.S. ch. 1777 plat law and division 2 of article II of chapter 110; or
- (2) Providing for the development of the entire tract in accordance with this chapter, retaining, however, title to all of the lands in the name of a condominium corporation and providing for all other usual condominium documents and procedures; or
- (3) Providing for the development of the entire tract in accordance with this chapter, retaining, however, title to all of the lands in single ownership by recording a duly executed unity of title in the office of the clerk of the circuit court of the county, thereby stipulating that the tract shall not be eligible for further subdivision.

(Ord. No. 2-74, § 6.51(g), 3-26-74; Ord. No. 7-79, § 13, 3-30-79)

Sec. 134-1967. - Reserved.

Subdivision III. - Two-Family Uses

Sec. 134-1968. - Lot area, lot coverage, and landscaped open space.

- (a) The lot area associated with each individual dwelling unit in a two-family use shall be computed as the land area lying between the center of the common wall outward to the side lot line between the front property line and the rear property line.
- (b) Neither initial construction and improvements, nor subsequent improvements, shall result in lot coverage for the lot area associated with each individual two-family unit that exceeds the maximum lot coverage for a two-family use as set forth in the zoning district in which the use is located.
- (c) Neither initial construction and improvements, nor subsequent improvements, shall result in landscaped open space for the lot area associated with each individual two-family unit that is less than the minimum landscaped open space requirements for a two-family use as set forth in the zoning district in which the use is located.

(Ord. No. 1-04, § 12, 3-9-04)

Secs. 134-1969—134-1995. - Reserved.

DIVISION 11. - COMMERCIAL USES

Sec. 134-1996. - Use of open areas of lot or vacant lots within commercial districts.

When open areas of lots or vacant lots within the commercial district are used for the open air display of merchandise or for open air seating for more than 30 consecutive calendar days or 60 total calendar days in any 12-month period, these areas shall be subject to all of the same regulations of the town's ordinances which are applicable to merchandise display areas or seating areas contained within buildings, including but not limited to the provision of off-street parking, such parking to include the number of spaces necessary to accommodate the total open air merchandise display areas or open air seating, and, further, the provision of a structure to house required toilet facilities and salesmen or attendant office space.

(Ord. No. 2-74, § 5.42(b), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-85, § 3(b), 2-11-85)

Sec. 134-1997. - Electronic banking machines.

The construction, installation and use of all electronic banking machines and/or automatic bank teller equipment shall be located only in a commercially zoned district of the town. With the exception of banks and financial institutions, such machines and equipment must be located entirely on the interior of businesses in the commercially zoned districts, and there shall be no exterior advertising provided therewith.

(Ord. No. 2-74, § 6.52, 3-26-74; Ord. No. 1-84, § 4(e), 3-1-84)

Secs. 134-1998—134-2025. - Reserved.

DIVISION 12. - TELECOMMUNICATION TOWERS AND ANTENNAS

Footnotes:

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Cross reference— *Telecommunications, ch. 116.*

Subdivision I. - In General

Sec. 134-2026. - Purpose.

- (a) The purpose of this division is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this division are to:
- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (2) Encourage the location of towers in nonresidential areas;
 - (3) Minimize the total number of towers throughout the community;
 - (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction

of additional single-use towers;

- (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
 - (7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
 - (8) Consider the public health and safety of communication towers; and
 - (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (b) In furtherance of these goals, the town shall give due consideration to the town's comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(Ord. No. 2-97, § 1(6.27), 3-11-97)

Sec. 134-2027. - Definitions.

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

Alternative tower structure means manmade trees, clock towers, bell steeples, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna means any exterior stealth designed device used for transmitting and receiving, mounted on a tower, alternative tower structure, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies excluding radar signals, wireless telecommunications signals or other communication signals. This definition does not include over-the-air reception devices which deliver television broadcast signals, direct broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services, as defined and regulated by 47 CFR 1.4000, as amended.

Backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Engineer means a registered engineer licensed in the state to provide any information of an engineering nature, whether civil, electrical or mechanical.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means, when referring to a tower or other structure, the distance measured from the zero datum of the lot, as defined in this chapter, to the highest point on the tower or other structure, including any antenna.

Preexisting tower and preexisting antenna mean any tower or antenna for which a building permit has been properly issued prior to the effective date of the ordinance from which this division derives, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Stealth design means a method that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

Tower means any ground mounted structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(Ord. No. 2-97, § 1(6.27(A)), 3-11-97)

Cross reference— Definitions generally, § 1-2.

Sec. 134-2028. - Applicability.

(a) *New towers and antennas*. All new towers or antennas in the town shall be subject to this division, except as provided in section (b) of this section.

(b) *Preexisting towers or antennas*. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this division, other than the requirements of sections 134-2096 and 134-2099.

(Ord. No. 2-97, § 1(6.27(B)), 3-11-97)

Sec. 134-2029. - Permitted or special exception use.

Towers shall be either a permitted use on town owned property or a special exception use in the town's commercial zoning districts, provided approval is granted by the architectural commission and landmark commission, whichever is pertinent.

Antennas shall be a permitted use on all town owned property and in all the town's commercial, R-D(1), R-D(2) and PUD-A zoning districts, provided approval is granted by the architectural commission or landmark commission, whichever is pertinent. In addition, antennas shall be a permitted use for all private clubs in the R-AA, R-A and R-B zoning districts provided said antennas are set back a minimum of 50 feet from all property lines; and provided approval is granted by the architectural commission or landmark commission, whichever is pertinent. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

(Ord. No. 2-97, § 1(6.27(C)(1)), 3-11-97; Ord. No. 1-05, § 6, 3-8-05; Ord. No. 1-07, § 3, 4-10-07; Ord. No. 4-08, § 2, 4-7-08)

Sec. 134-2030. - Inventory of existing sites.

Each applicant for an antenna or tower shall provide to the building official an inventory of his existing towers, antennas, or sites approved for towers or antennas that are either within the jurisdiction of the town or within one mile of the border thereof, including specific information about the location, height, and design of each tower.

(Ord. No. 2-97, § 1(6.27(C)(2)), 3-11-97)

Sec. 134-2031. - Multiple antenna/tower plan.

So as to lessen proliferation, the town encourages the users of towers and antennas to submit a single application for approval of multiple users on a single site. Applications for approval of multiple user sites shall be given priority in the review process.

(Ord. No. 2-97, § 1(6.27(C)(11)), 3-11-97)

Sec. 134-2032. - Franchises.

Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the town have been obtained and shall file a copy of all required franchises with the building official.

(Ord. No. 2-97, § 1(6.27(C)(9)), 3-11-97)

Sec. 134-2033. - Signs.

No signs shall be allowed on an antenna or tower.

(Ord. No. 2-97, § 1(6.27(C)(10)), 3-11-97)

Sec. 134-2034. - Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of two years shall be considered abandoned, and the owner of such antenna or tower shall remove the antenna or tower within 90 days of receipt of notice from the town notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within such 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, this section shall not become effective until all users cease using the tower.

(Ord. No. 2-97, § 1(6.27(G)), 3-11-97)

Sec. 134-2035. - Permitted uses.

The uses listed in this section are deemed to be permitted uses and shall not require special exception approval. An antenna or tower located on property owned, leased, or otherwise controlled by the town is a permitted use, provided:

- (1) A license or lease authorizing an antenna or tower has been approved by the town council.
- (2) Prior to the granting of a building permit for the construction of a tower, a duly noticed and advertised public hearing shall be required by the town council. Such due notice and advertisement of the public hearing shall be provided as in subsections 134-172(c) through (f), except that property owner notification shall be to all property owners within 1,000 feet from any part of the subject property on which the tower is located. These notice and public hearing requirements shall not pertain to the placement of antennas.

(Ord. No. 2-97, § 1(6.27(D)), 3-11-97)

Secs. 134-2036—134-2060. - Reserved.

Subdivision II. - Special Exception Uses, Requirements

Sec. 134-2061. - Criteria for review and approval of applications.

The following shall govern the review and approval of special exception applications for towers by the town council:

- (1) If the tower is not a permitted use, special exception approval for towers shall be allowed for the construction of a tower only in the commercial zoning districts of the town.
- (2) Applications for special exception approval under this section shall be subject to the procedures and requirements of divisions 3 and 4 of article II of this chapter, except as modified in this section.
- (3) In granting a special exception approval, the town council may impose conditions to the extent the town council concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a state-licensed professional engineer.
- (5) An applicant for a special exception use shall submit the information described in this section and a nonrefundable fee as established in the fee schedule in section 134-38 to reimburse the town for the costs of reviewing and providing legal notice for the application.

(Ord. No. 2-97, § 1(6.27(E)(1)), 3-11-97; Ord. No. 1-07, § 3, 4-10-07)

Sec. 134-2062. - Information required.

In addition to any information required for applications for special exception use approval pursuant to divisions 3 and 4 of article II of this chapter, applicants for a special exception for a tower shall submit the following information:

- (1) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning including when adjacent to other municipalities, comprehensive plan future land use designation of the site and all properties within the applicable separation distances set forth in section 134-2066, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the building official to be necessary to assess compliance with this division.
- (2) Legal description of the parent tract and leased parcel, if applicable.
- (3) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- (4) The separation distance from other towers described in the inventory of existing sites submitted pursuant to section 134-2030 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower and the owner/operator of the existing tower, if known.
- (5) A landscape plan showing specific landscape materials.
- (6) Method of providing security enclosure and finished color and, if applicable, the method of providing stealth design and illumination.
- (7) A description of compliance with all applicable federal, state or local laws including all sections of this chapter.
- (8) A notarized statement by the applicant's engineer as to whether construction of the tower will accommodate

co-location of additional antennas for future users.

- (9) Identification of the entities providing the backhaul network for the tower described in the application and other cellular sites owned or operated by the applicant in the town.
- (10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- (11) A description of the feasible locations of future towers within the town based upon existing physical, engineering, technological or geographical limitations if the proposed tower is erected.

(Ord. No. 2-97, § 1(6.27(E)(2)(a)), 3-11-97; Ord. No. 1-07, § 3, 4-10-07)

Sec. 134-2063. - Factors considered in granting special exception approval.

In addition to any standards for consideration of special exception applications pursuant to divisions 3 and 4 of article II of this chapter, the town council shall consider the following factors in determining whether to approve a special exception:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress; and
- (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in section 134-2064.

(Ord. No. 2-97, § 1(6.27(E)(2)(b)), 3-11-97; Ord. No. 1-07, § 3, 4-10-07)

Sec. 134-2064. - Availability of suitable existing towers, other structures or alternative technology.

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the town council that no reasonable alternative technology exists that can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the town council related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antennas on the existing towers or structures would cause interference with the

applicant's proposed antenna.

- (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(Ord. No. 2-97, § 1(6.27(E)(2)(c)), 3-11-97)

Sec. 134-2065. - Setbacks.

The following setback requirements shall apply to all towers for which a special exception is required:

- (1) Towers must be set back a distance equal to at least 110 percent of the height of the tower from any adjoining commercially zoned property lot line.
- (2) Towers must be set back a distance equal to at least 130 percent of the height of the tower from any adjoining residentially zoned property lot line.
- (3) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(Ord. No. 2-97, § 1(6.27(E)(2)(d)), 3-11-97)

Sec. 134-2066. - Separation.

- (a) *Applicability.* The separation requirements in this section shall apply to all towers for which a special exception approval is required.
- (b) *Separation distances between towers.* Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in table 1 as follows:

TABLE 1
EXISTING TOWERS—TYPES

	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less Than 75 Feet in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

(Ord. No. 2-97, § 1(6.27(E)(2)(e)), 3-11-97)

Sec. 134-2067. - Security enclosure.

Towers shall be enclosed with a security enclosure not less than six feet in height, and the towers shall also be equipped with an appropriate anticlimbing device.

(Ord. No. 2-97, § 1(6.27(E)(2)(f)), 3-11-97)

Sec. 134-2068. - Landscaping.

The following requirements shall govern the landscaping surrounding towers for which a special exception is required:

- (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound. The minimum landscaping within the buffer shall be a continuous four-foot-high hedge at the time of planting and an ultimate height of six feet and one tree, 12 feet in height at the time of planting, every 25 linear feet.
- (2) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Ord. No. 2-97, § 1(6.27(E)(2)(g)), 3-11-97)

Sec. 134-2069. - Nonconforming uses.

- (a) *Expansion.* Towers that are constructed and antennas that are installed in accordance with this division shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they exist pursuant to section 134-2028(b). Routine maintenance, including replacement with a new tower of like construction and height, shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this division.
- (c) *Rebuilding damaged or destroyed nonconforming towers or antennas.* Nonconforming towers and antennas that are damaged or destroyed shall be required to meet the requirements as set forth in article IV of this chapter pertaining to nonconformities.

(Ord. No. 2-97, § 1(6.27(H)), 3-11-97)

Secs. 134-2070—134-2095. - Reserved.

Subdivision III. - Requirements

Sec. 134-2096. - State or federal requirements.

All towers/antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(Ord. No. 2-97, § 1(6.27(C)(5)), 3-11-97)

Sec. 134-2097. - Aesthetics.

Towers and antennas shall meet the following requirements:

- (1) Towers shall either be maintained with a galvanized steel finish or, subject to any applicable standards of the FAA, shall be painted a color so as to reduce visual obtrusiveness.
- (2) At a tower or antenna site, the design of the buildings and related structures shall, to the maximum extent possible, have materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings. The towers, antennas, buildings and related structures shall require approval by the landmark or architectural commission, whichever is applicable.
- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be, to the maximum extent possible, of stealth design.

(Ord. No. 2-97, § 1(6.27(C)(3)), 3-11-97)

Sec. 134-2098. - Lighting.

Towers/antennas shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(Ord. No. 2-97, § 1(6.27(C)(4)), 3-11-97)

Sec. 134-2099. - Construction standards.

Prior to the issuance of a building permit to construct an antenna or tower, the owner/applicant shall provide the town with all applicable approvals from federal, state and county agencies. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the town engineer or his designee concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(Ord. No. 2-97, § 1(6.27(C)(6)), 3-11-97)

Sec. 134-2100. - Measurement of setbacks and separation distances.

Measurement of tower setbacks and separation distances shall be calculated and applied in relation to all adjacent facilities, whether located inside or outside the boundaries of in the town.

(Ord. No. 2-97, § 1(6.27(C)(7)), 3-11-97)

Sec. 134-2101. - Compliance with division.

Towers and antennas shall be regulated and permitted pursuant to this division and shall not be regulated or permitted as essential services, public utilities or private utilities.

(Ord. No. 2-97, § 1(6.27(C)(8)), 3-11-97)

Sec. 134-2102. - Equipment storage; location.

- (a) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas shall comply with the following:
- (1) The cabinet or structure shall not contain more than 350 square feet of gross floor area or be more than ten feet in overall height, assuming at all times that a structural engineer has declared that the structural integrity of the structure or rooftop will not be compromised by the cabinet or structure.
 - (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten percent of the roof area.
 - (3) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (b) *Antennas mounted on utility poles or light poles.* Antennas shall be prohibited on utility or light poles.
- (c) *Antennas located on towers.* The related unmanned equipment structure shall not contain more than 350 square feet of gross floor area or be more than 12 feet in overall height and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(Ord. No. 2-97, § 1(6.27(F)), 3-11-97)

DIVISION 13. - DISTRIBUTION ELECTRIC SUBSTATIONS

Sec. 134-2103. - Purpose.

- (a) The purpose of this division is to ensure that any proposed new substation is in an appropriate location and that any new construction, upgrade or expansion of a distribution electric substation is regulated as to setbacks, landscaping, buffering, screening, lighting and other aesthetic compatibility issues. New distribution electric substations shall be a special exception use in all zoning districts, except the conservation district where that use is prohibited.
- (b) Review and approval. Distribution electric substations shall be reviewed by the town for compliance with the applicable setback, landscaping, buffering, screening, lighting, and other established aesthetic compatibility-based standards, as well as conflicts with existing and proposed utilities. A utility requesting to construct a new electric substation within the town shall submit a special exception with site plan review application as required within this chapter.

The town council shall grant or deny the application for the special exception with site plan review to construct a distribution electric substation. In determining whether to grant or deny the application, the town council shall review the plan and the comments of the planning, zoning and building department and determine whether the proposed development plan is complete and complies with the requirements of these regulations and the purpose and intent in the code. The issuance of a permit to locate a new distribution electric substation does not relieve the applicant from complying with applicable federal or state laws or regulations and other applicable local land development, right-of-way or building regulations. The time schedule set forth in this section may be modified as agreed to in writing between the applicant and the town manager.

(c) Setbacks and landscape buffers.

- (1) Residential zoning districts. There shall be a minimum 50-foot front, street side yard, street rear yard and/or side yard and rear yard setback for any building, structure or equipment on the substation property. In addition, there shall be a minimum 100-foot separation between any building, structure or equipment on the substation property and adjacent or abutting residential dwelling. An open green space buffer shall be required which is a minimum of 25 feet in width. Said landscape material, size, quantity and location shall be reviewed and approved by the town's architectural commission.
- (2) Commercial zoning districts. There shall be a minimum 25-foot front, street side yard, street rear yard and/or side yard and rear yard setback for any building, structure or equipment on the substation property. In addition, there shall be a minimum 100-foot separation between any building, structure or equipment on the substation property and adjacent or abutting residential dwelling. An open green space buffer shall be required which is a minimum of 15 feet in width. Said landscape material, size, quantity and location shall be reviewed and approved by the town's architectural commission.

(d) Supplemental requirements. In addition to the requirements of this section, the following additional zoning requirements shall be met:

- (1) For residentially zoned property there shall be a minimum 55 percent landscape open space of which 80 percent of that percentage is required to be perimeter landscaping within 25 feet of the property line. For commercially zoned property there shall be a minimum 50 percent landscape open space of which 70 percent of that percentage is required to be perimeter landscaping within ten feet of the property line.
- (2) For residentially zoned property, a security and buffer wall of not less than eight feet high nor more than 14 feet high shall be erected and maintained around the perimeter of the substation and be setback 50 feet from all property lines. In addition, a minimum eight-foot high hedge, not more than four feet from said security and buffering wall shall be required between said wall and property line. Said wall's material and design shall be required to be reviewed and approved by the architectural commission.
- (3) An automated irrigation system shall be installed and maintained for all required landscape improvements.
- (4) Regular landscape maintenance (i.e. mowing, edging, mulching, weeding, pruning, trimming, fertilizing, replacement of dead, dying or diseased plant materials and other necessary plant and property maintenance) shall be performed in addition to the standard routine maintenance of the substation, substation structures and equipment, the buffer wall and the open green space.

(e) Substation site selection. Prior to submitting an application for a special exception with site plan review for a new electric substation in a residential zoning district, the applicant shall provide the director of the planning, zoning and building department with a preferred site justification statement, legal description and survey, evidence of title, and other documents and data supporting the applicant's preferred site, together with the same

documentation pertaining to not less than three available alternative sites ("site selection documents"), including sites within nonresidential areas that are technically and electrically capable of accommodating the load to be served. Site selection documents which are deemed to be incomplete by the director of the planning, zoning and building department will not be reviewed, and in such event, the applicant must resubmit complete site selection documents and a \$500.00 filing fee in order to proceed with the site selection process. After reviewing the site selection documents and consulting with the applicant on the proposed site and alternative sites, the director shall make a recommendation to the town council as to the location of the substation. The recommendation of the director shall be reviewed and either approved or denied by the town council within 90 days of the submission of complete site selection documents by the applicant. In the event that the applicant disagrees with the town's selection of an appropriate location, the selection of the substation site shall be submitted to mediation to be conducted pursuant to F.S. §§ 44.401—44.406, unless otherwise agreed to in writing by the parties, and the mediation shall be concluded within 30 days after notice of intent to mediate is given by one of the parties, unless extended by written agreement by both the applicant and the town. The 90-day time period within which the town council is required to render a final decision on the site location shall begin from the date a notice of intent to mediate the site selection issue is served by either the applicant or the town, until the mediation is concluded, terminated, or an impasse is declared. The town council and the applicant may agree to waive or extend this 90-day time period. Upon rendition of a final decision by the town council, the applicant may pursue available legal remedies in accordance with state law, and the matter shall be considered on an expedited basis.

(Ord. No. 4-08, § 6, 4-7-08)

DIVISION 14. - CONDITIONAL APPROVAL OF A SPECIAL EXCEPTION FOR SIDEWALK AND/OR PRIVATE PROPERTY OUTDOOR CAFE SEATING ONLY FOR RESTAURANTS, DINING ROOMS, RETAIL SPECIALTY FOOD INCLUDING THE SALE OF PREPARED FOOD FOR TAKEOUT ONLY, AND PRIVATE SOCIAL, SWIMMING, TENNIS AND YACHT CLUBS.

Footnotes:

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Editor's note— *Ord. No. 16-2021, § 17, adopted August 11, 2021, repealed the former Div. 14, §§ 134-2104—134-2109, and enacted a new Div. 14 as set out herein. The former Div. 14 pertained to administrative approval of outdoor seating and derived from Ord. No. 5-09, § 1, adopted April 15, 2009.*

Sec. 134-2104. - Requirements fees and security deposit.

- (a) It shall be unlawful for any person to provide outdoor cafe seating without an outdoor cafe seating permit from the town. Outdoor cafe seating shall only be permitted in the R-D(2), C-TS, C-WA, C-OPI, and C-B zoning districts if conditions of approval set forth in sections 134-2105 through 134-2108 are met and an outdoor cafe seating permit is issued by the town.
- (b) There is an annual outdoor cafe seating permit fee established in the town's master fee schedule and included in the annual business tax receipt.
- (c) Prior to the issuance of an outdoor cafe permit, the permittee shall provide a security deposit to the town in the amount as identified in the town's master fee schedule if any portion of the outdoor cafe seating is located within a town right-of-way or on town property.

(Ord. No. 5-09, § 1, 4-15-09; Ord. No. 16-2021, § 17, 8-11-21)

Sec. 134-2105. - Application.

After town council approval of a special exception zoning application, the applicant shall file for an outdoor cafe seating permit application to the director of the planning, zoning and building department or his or her designee (individually or collectively referred to in this chapter as "director"). The permit application shall be provided by the planning, zoning and building department.

(Ord. No. 5-09, § 1, 4-15-09; Ord. No. 16-2021, § 17, 8-11-21)

Sec. 134-2106. - Standards and criteria for special exception and outdoor cafe permit application review.

The standards and conditions required to be met as part of the special exception application and outdoor cafe seating permit approval are those provisions provided for in section 123-229 and the following criteria and conditions:

- (a) Criteria and conditions required to be met for approval of outdoor cafe seating on a street sidewalk.
 - (1) Outdoor cafe seating is not allowed to increase the capacity of a restaurant, dining room, retail specialty food including the sale prepared foods for takeout only, or private, social, swimming, golf, tennis or yacht club. The exception is that a specialty food use, including the sale of prepared foods for takeout only that is under 2,000 square feet in gross leasable area may request up to eight [additional] outdoor cafe seats over the inside capacity provided that the seating meets the conditions herein.
 - (2) Bars/lounges and nightclubs are not permitted to have outdoor cafe seating.
 - (3) An outdoor cafe seating area is restricted to the area abutting the boundary lines of the property on which the business owned by the applicant is located.
 - (4) Outdoor cafe seating shall not be allowed where the outdoor seating furniture would be placed within five feet of bus stops, loading zones, valet parking stands, sight triangles or other structures or areas determined by the director to require clearance for the public. For the purpose of this chapter outdoor cafe seating furniture is defined as tables, chairs, umbrellas, portable heaters, mist sprayers and any other customarily usual objects used in the outside cafe seating area.
 - (5) No outdoor cafe seating furniture shall be allowed within five feet of a pedestrian crosswalk.
 - (6) All outdoor cafe seating furniture shall be located in such a manner that a minimum five foot-wide unobstructed pedestrian path is maintained at all times.
 - (7) No outdoor cafe seating furniture shall be permitted around the perimeter of an outdoor seating area that would have the effect of forming a physical or visual barrier discouraging the use of the pedestrian sidewalk.
 - (8) An outdoor cafe seating area is prohibited from having music.
 - (9) No wait stations shall be allowed outside on the sidewalk. All wait stations on private property shall not be visible from a sidewalk or street.
 - (10) All kitchen equipment used to service the outdoor cafe seating shall be located within a building.
 - (11) All outdoor cafe seating furniture and associated lighting shall be aesthetically and architecturally pleasing and approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.
 - (12) An outdoor cafe seating area shall not count toward any maximum square footage limitations.

- (13) All outdoor cafe seating furniture, including all accessory appurtenances including but not limited to approved heaters, misters and portable umbrellas that are located within the outdoor seating area shall be stored inside a building after close of business.
 - (14) No outdoor cafe seating furniture located within the public right-of-way shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.
 - (15) The area covered by an outdoor cafe seating permit, and the sidewalk and street immediately adjacent to it, shall be maintained in a clean, neat and orderly appearance at all times and clear of any trash or refuse by the permittee. The area of the sidewalk, curb and gutter immediately adjacent to the sidewalk cafe shall be cleared of all debris during hours of operation and again at the close of each business day, or as may otherwise be determined by the director.
- (b) Criteria and conditions required to be met for approval of outdoor cafe seating on private property not within a street sidewalk:
- (1) Outdoor cafe seating is not allowed to increase the capacity of a restaurant, dining room, retail specialty food including the sale of prepared food for takeout only, or private, social, swimming, tennis or yacht club. The exception is that a specialty foods use, including sale of prepared foods for takeout only that is under 2,000 square feet in gross leasable area may request up to eight [additional] outdoor cafe seats over the inside capacity provided that the seating meets the conditions herein.
 - (2) Bars/lounges and nightclubs are not permitted to have outdoor cafe seating.
 - (3) Outdoor cafe seating is restricted to boundary lines of the property on which the business owned by the applicant is located.
 - (4) All tables, chairs, umbrellas, mist sprayer, space heaters or other customarily usual outdoor cafe seating furniture shall be located in such a manner that a minimum four foot-wide unobstructed pedestrian path is maintained at all times.
 - (5) No objects shall be permitted around the perimeter of an outdoor cafe seating area occupied by tables and chairs that would have the effect of forming a physical or visual barrier discouraging the use of the pedestrian path.
 - (6) An outdoor cafe seating area on private property shall only be allowed to have low-level, background music that does not exceed the maximum noise decibel requirements in sections 42-226 through 42-228 if approved by the town council as part of the special exception application approval.
 - (7) No wait stations shall be allowed outside on a street sidewalk. All wait stations on private property shall not be visible from a sidewalk or street.
 - (8) All kitchen equipment used to service the outdoor cafe seating shall be located within a building.
 - (9) All outdoor cafe seating furniture, including all accessory appurtenances including but not limited to approved space heaters, misters and portable umbrellas that are located within the outdoor seating area shall be stored inside a building after close of business.
 - (10) All outdoor cafe seating furniture, including the tables, chairs, awnings and space heater equipment shall be aesthetically and architecturally pleasing and approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.
 - (11) The area covered by an outdoor cafe seating permit, and the sidewalk and street immediately adjacent to

it, shall be maintained in a clean, neat and orderly appearance at all times and clear of any trash or refuse by the permittee. The area of the sidewalk, curb and gutter immediately adjacent to the sidewalk cafe shall be cleared of all debris during hours of operation and again at the close of each business day, or as may otherwise be determined by the director.

- (12) Areas associated with the outdoor cafe seating shall not count toward any maximum square footage limitations.

(Ord. No. 5-09, § 1, 4-15-09; Ord. No. 16-2021, § 17, 8-11-21)

Sec. 134-2107. - Liability and insurance.

- (a) Prior to the issuance of a business tax receipt the applicant shall furnish the town with a signed statement that the permit shall hold harmless the town, its officers, employees, Palm Beach County or the Florida Department of Transportation (FDOT) (if within or abutting either governmental entities rights-of-way) for claims of damages to property or injury to person which may be occasioned by any activity carried out under the terms of the business tax receipt and approved outdoor sidewalk cafe permit. The statement shall include that the permittee shall be responsible, shall indemnify and shall hold the Town, Palm Beach County and/or FDOT harmless for performance of and payment for any environmental remediation that may be necessary, as determined by the FDOT, as a result of permittee's use of the area of the outdoor sidewalk cafe.
- (b) Permittee shall furnish and maintain public liability, food products liability, liquor liability, and property damage insurance for the benefit of the Town and/or Palm Beach County or FDOT (if within or abutting either governmental entities rights-of-way) from all claims and damage to property or bodily injury, including death, which may arise from operations under the business tax receipt or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000.00 for bodily injury or death to any one person or any number of persons in any one occurrence and property damage, respectively, per occurrence, or a combined coverage of not less than \$2,000,000.00. Such insurance shall be without prejudice to coverage otherwise existing therein and shall name as additional insureds the town, Palm Beach County and/or FDOT, their officers and employees, if within or abutting either's rights-of-way and shall further provide that the policy shall not terminate or be canceled prior to the completion of the business tax receipt period without 45 days written notice to the risk manager at the address shown on the business tax receipt.
- (c) Damage to the public sidewalk or any public structure as a result of the outdoor cafe seating operation shall be the responsibility of the property owner to repair to the satisfaction of the town.
- (d) The town and its officers and employees shall not be responsible for sidewalk seating components relocated or damaged during emergencies.

(Ord. No. 5-09, § 1, 4-15-09; Ord. No. 16-2021, § 17, 8-11-21)

Editor's note— Ord. No. 16-2021, § 17, adopted August 11, 2021, amended the title of § 134-2107 to read as herein set out. The former § 134-2107 pertained to conditions specific to outdoor seating on public rights-of-way.

Sec. 134-2108. - Denial, revocation or suspension of approval.

- (a) An outdoor cafe seating permit shall be denied if all of the requirement and/or conditions in sections 134-2106 and 134-2107 are not met. An outdoor cafe seating permit may be modified, suspended or revoked by the planning, zoning and building director if it is determined that the business is violating the requirement and/or

conditions in sections 134-2106 and 134-2107 or if it is determined by the town that the outdoor cafe seating is negatively impacting neighboring property owners or tenants.

- (b) The director may require the temporary removal of sidewalk cafe outdoor seating when street, sidewalk or utility repairs necessitate such action.
- (c) If found to be necessary for the protection of the health, safety and welfare of the public, the departments of public works, police and fire-rescue or other emergency service providers may require the applicant to immediately remove or relocate all or parts of the sidewalk outdoor cafe seating and, if necessary, the town may remove or relocate same in emergency situations.

(Ord. No. 5-09, § 1, 4-15-09; Ord. No. 16-2021, § 17, 8-11-21)

Sec. 134-2109. - Appeal of denial, suspension or revocation by the director of planning, zoning and building department.

The town council shall hear any appeal of a denial, suspension or revocation of an outdoor cafe seating permit by the planning, zoning and building director or designee pursuant to sections 134-141 through 134-145 of the code.

(Ord. No. 5-09, § 1, 4-15-09; Ord. No. 16-2021, § 17, 8-11-21)

DIVISION 15. - CONDOMINIUM-HOTELS

Footnotes:

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Editor's note— Ord. No. 5-09, § 18, adopted April 15, 2009, enacted provisions intended for use as division 15, §§ 134-2109 and 134-2110. Inasmuch as there is already a section 134-2109, and at the discretion of the editor, said provisions have been redesignated as division 15, §§ 134-2110 and 134-2111.

Sec. 134-2110. - Purpose.

The purpose of this division is to provide general guidelines for the establishment of and conversion to condominium-hotels a.k.a. condo-hotels.

(Ord. No. 5-09, § 18, 4-15-09)

Sec. 134-2111. - Requirements.

A condo-hotel shall satisfy the following requirements:

- (1) All overnight resident units in a condo-hotel shall be considered transient accommodation units and not as a permanent residential unit.
- (2) A central management operation (reservation system) shall be required as an integral part of the condo-hotel facility for the rental units.
- (3) There shall be a lobby/front desk area that is internally oriented and must be operated as a hotel.
- (4) A condo-hotel may be permitted in any land use/zoning district where a hotel is permitted, except for the C-PC district where condo-hotels shall not be permitted.
- (5) A condo-hotel shall be allowed the same exterior signage as a traditional hotel facility.
- (6) Overnight resident units in a condo-hotel may not be occupied by their owner for more than a total of six

months in any consecutive 12-month period.

- (7) The books and records of the condo-hotel pertaining to the rentals of each overnight resident unit in the condo-hotel or hotel facility shall be open for inspection by authorized representatives of the town, upon reasonable notice, in order to confirm compliance with these regulations as allowed by general law.
- (8) A conversion from hotel to condo-hotel shall not result in any new or expanded kitchen facilities in individual overnight resident units.

(Ord. No. 5-09, § 18, 4-15-09)

DIVISION 16. - REASONABLE ACCOMMODATION PROCEDURES.

Sec. 134-2112. - Reasonable accommodation procedures.

- (1) This section implements the policy of the Town of Palm Beach for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the federal Fair Housing Amendments Act ("FHAA") and the Americans with Disabilities Act ("ADA"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHAA and/or ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the town's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHAA and the ADA pursuant to the procedures set out in this section.
- (2) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the town clerk. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in subsection (10) below.
- (3) Should the information provided by the disabled individual to the town include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The town shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the town for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the town. The town will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the town shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.
- (4) The town manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, after a minimum of 30-day notice to all property owners within 300 feet of the property proposed for a reasonable accommodation and after a public hearing to receive comments, input and information from the public (provided, however, the town manager or designee shall not be required to render his or her decision at said public hearing). Each applicant submitting a reasonable accommodation request form

shall be responsible for providing a notice affidavit to the town manager, or his/her designee, verifying that all property owners within the 300-foot radius of the proposed property was mailed a proper notice outlining the specific nature of the reasonable accommodation request, including the date time and location of the public hearing in which said request will be considered and a listing of all property owners; and a corresponding map of property owners within the 300-foot radius. Said property owner list and map is required to be provided from information provided by the Palm Beach County Property Appraisers Office. When a reasonable accommodation request form has been completed and submitted to the town clerk it will be referred to the town manager, or designee, for review and consideration. The town manager, or designee, shall issue a written determination within 45 days of the date of receipt of a completed application and may, in accordance with federal law: (a) grant the accommodation request; (b) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or (c) deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the town manager, or designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the town manager, or designee, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the town manager, or designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and, therefore, the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the town with regard to said reasonable accommodation request shall be required. The deadlines referenced herein may be extended by mutual agreement between the town and the applicant.

- (5) In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they, or the party they represent, are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this section the disabled individual must show: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of having such impairment; or (iii) that they are regarded as having such impairment. Next, the requesting party will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy housing. The foregoing (as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the town manager, or designee, or by the town council in the event of an appeal.
- (6) Within 30 days after the town manager's, or designee's, determination on a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the town council who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed.
- (7) There shall be no fee imposed by the town in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the town council, and the town shall have no

obligation to pay a requesting party's (or an appealing parties, as applicable) attorneys' fees or costs in connection with the request, or an appeal.

- (8) While an application for reasonable accommodation, or appeal of a determination of same, is pending before the town, the town will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.
- (9) The following general provisions shall be applicable:
- a. The town shall display a notice in the town's public notice bulletin board (and shall maintain copies available for review in the town clerk's office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
 - b. A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
 - c. The town shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing etc. to ensure the process is accessible.
 - d. Reasonable accommodation request form shall be filed with the town to include the following information:
 1. Name of applicant:
 2. Telephone number:
 3. Address:
 4. Address of housing or other location at which accommodation is requested:
 5. Describe qualifying disability or handicap:
 6. Describe the accommodation and the specific regulation(s) and or procedure(s) from which accommodation is sought:
 7. Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service:
 8. Name address and telephone number of representative if applicable:
 9. Other information:
 10. Signature of disabled individual or representative, if applicable, or qualifying entity:

(Ord. No. 24-2016, § 4, 1-11-17)

DIVISION 17. - MEDICAL MARIJUANA TREATMENT CENTERS AND MEDICAL MARIJUANA DISPENSARIES.

Sec. 134-2113. - Prohibition.

Medical marijuana treatment centers and medical marijuana dispensaries are prohibited in all zoning categories of the town, however, should state law preempt the prohibition of said uses, said uses are only permitted in the commercial town serving (C-TS) district, subject to the development standards set forth in sections 123-201, 134-226 through 134-230, 134-1109 and 134-2114.

(Ord. No. 24-2016, § 5, 1-11-17)

Sec. 134-2114. - Development standards.

In addition to applicable regulations and requirements otherwise set forth in this article, the following minimum standards and regulations shall apply to the development or use of property for a medical marijuana treatment center or medical marijuana dispensary. Such standards shall be met regardless of the existence of lesser standards that may be imposed by other agencies of government. The town council may impose additional conditions or safeguards as deemed necessary.

- (1) *Distance separation.* No medical marijuana treatment center or dispensary shall be located within 1,000 feet of any school, church, child care facility, municipal park or substance abuse treatment facility licensed by the Florida Department of Children and Families pursuant to Rule 65D-30, or within 2,500 feet of another medical marijuana treatment center or dispensary, or within 100 feet of residentially zoned property within the town limits, as further defined by these regulations. Distances shall be measured by drawing a straight line between the closest point of the medical marijuana treatment center/dispensary structure to the closest property line or tenant space (whichever is closer) of a school, church, childcare facility, public park, resource recovery/addiction treatment facility, or other medical marijuana treatment center or dispensary residentially zoned property.
- (2) *Parking.* Any off-street parking demand created by a medical marijuana treatment center /dispensary shall not exceed the parking spaces located or allocated on site, as required by section 134-2176. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical marijuana treatment center/dispensary will be sufficient to accommodate traffic and parking demands generated by the medical marijuana treatment center/dispensary, based upon a current traffic and parking analysis prepared by a certified professional.
- (3) *Display of registration/town approval of operational plan.* Any medical marijuana treatment center/dispensary shall be validly registered with the State of Florida, as required, and with the town, and shall prominently display in a public area near its main entrance copies of all state licenses, town registration and local business tax receipt, and the name of the owner and designated physician responsible for compliance with State and town regulations. A medical marijuana treatment center/dispensary shall register with the town by completing and submitting to the planning zoning and building department a registration form and operational plan, including security measures, for review and approval by the town prior to issuance of the town registration and business tax receipts. The operational plan shall be reviewed annually prior to renewal of the registration and business tax receipt to ensure that it adequately addresses concerns of the town, including security, parking, loitering, etc.
- (4) *Controlled substances.* The on-site sale, provision or dispensing of controlled substances (other than those types of marijuana approved for sale by the department of health or its successor agency) at a medical marijuana treatment center/dispensary shall be prohibited except as is specifically set forth in applicable federal or state law.
- (5) *On-site consumption of marijuana and/or alcoholic beverages.* No consumption of marijuana or alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks or rights-of-way. In addition, no consumption of marijuana or alcoholic beverage shall be allowed on neighboring parking areas,

sidewalks or right-of-way. The persons responsible for the operation of the medical marijuana treatment center / dispensary shall take all necessary and immediate steps possible to ensure compliance with this subsection.

- (6) *Loitering.* A medical marijuana treatment center/dispensary shall provide adequate seating for its qualified patients and care givers and shall not allow qualified patients or care givers, to stand, sit (including in a parked car), or gather or loiter outside of the building where the treatment center/dispensary operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. In addition, no other visitors or business invitees shall be permitted on the premises per (15)c of this division and said person(s) shall not be allowed to loiter in any parking areas, sidewalks, right-of-way or neighboring properties for any period of time. The medical marijuana treatment center/dispensary shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.
- (7) *Queuing of vehicles.* The persons responsible for the operation of the medical marijuana treatment center/dispensary shall ensure that there is no queuing of vehicles in the rights-of-way. The persons responsible for the operation of the medical marijuana treatment center / dispensary shall take all necessary and immediate steps to ensure compliance with this subsection.
- (8) *No drive-thru service /no delivery.* No medical marijuana treatment center / dispensary shall have a drive-thru or drive-in service aisle. All dispensing, payment and receipt of said marijuana shall occur from inside the medical marijuana treatment center / dispensary. No medical marijuana treatment center or dispensary shall conduct any form of off-site delivery service of medical marijuana prescriptions.
- (9) *Operating hours.* A medical marijuana treatment center / dispensary may operate only Monday through Friday and only during the hours of 8:00 a.m. to 6:00 p.m.
- (10) *Compliance with other laws.* A medical marijuana treatment center / dispensary shall at all times be in compliance with all federal and state laws and regulations and the Town of Palm Beach Code.
- (11) *Certification affidavit by applicants for related uses.* Any application for a business tax receipt as a medical marijuana treatment center / dispensary as defined in section 1-2, shall be accompanied by an executed affidavit certifying registration with the State of Florida and the Town of Palm Beach as a medical marijuana treatment center / dispensary. The failure of an applicant to identify the business in the application for a business tax receipt as a medical marijuana treatment center / dispensary will result in immediate expiration of the business tax receipt and immediate ceasing of all activity conducted in the medical marijuana treatment center / dispensary.
- (12) *Non-medical marijuana sales.* Non-medical marijuana sales, including the purchase, sale, transfer or delivery or marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law, shall be prohibited uses in all zoning districts of the town.
- (13) *Cannabis cultivation.* Cannabis cultivation shall be a prohibited use in all zoning districts of the town.
- (14) *Property standards.* Medical marijuana treatment centers and dispensaries shall be situated on real property meeting the following requirements:
 - a. *Minimum parcel size.* The minimum parcel size shall be 20,000 square feet.
 - b. *Location.* Medical marijuana treatment centers and dispensaries shall have frontage on a collector or arterial roadway.

- c. *Structure.* A medical marijuana treatment center and dispensary shall only be operated from a freestanding not part of a larger commercial plaza, retail center, or multi-tenant building.
- d. *Appearance.* Building architecture, including building color, shall be harmonious with surrounding properties.
- e. *Signage.* Consistent with article XI, signs, of this chapter.

(15) *Security.* Security measures shall be taken by the owner/operator, including but not limited to:

- a. A monitored alarm system and/or panic buttons shall be installed in the interior of the building.
- b. A uniformed armed security guard shall be on the premises at all times the dispensary is open for business. The security guard/officer must be insured and licensed with the State of Florida possessing the minimum of an active and valid Class "D" and a Class "G" license as per F.S. § 493.6301.
- c. Only qualified registered patients per department of health definitions and personal caregivers, employees of the business, or town and state and any other applicable governmental staff members, shall be permitted inside the proposed business.
- d. Town staff shall be granted right of entry at all times to ensure compliance with the requirements of this division 18.

(16) *Other activities.* No medical marijuana treatment center or dispensary shall sell, market, dispense, provide, exchange, or otherwise vend any other services, product, or drug paraphernalia as defined by federal or state law. In addition, no medical marijuana dispensary or doctors, physicians, agents, employees, representatives, contractors, or the like shall provide any other medical, social, or psychological counseling, diagnosis or advice to any patient or business invitee.

(Ord. No. 24-2016, § 5, 1-11-17)

Sec. 134-2115. - Requirements for outdoor promotional events.

Outdoor promotional events shall only be allowed in the C-TS, C-WA and C-PC Zoning Districts by special exception approval. It shall be unlawful for any person to have an outdoor promotional activity without approval by the town council of a special exception application and a Declaration of Use Agreement which identifies any conditions of approval and remedies for violation of those conditions as provided under sections 134-226 through 134-230 of the Code. Said events are subject to the additional requirements set forth below:

- (1) A special exception application for outdoor promotional events shall only be allowed to be filed by the property owner where outdoor promotional events are to be held.
- (2) The property owner shall be responsible for sponsoring and managing any outdoor promotional event on a property.
- (3) The number of outdoor promotional events per year shall be determined by the town council and provided in the required Declaration of Use Agreement.
- (4) The hours and days in which outdoor promotional events may occur shall be determined by the town council and provided in the Declaration of Use Agreement.
- (5) Amplified music or sound shall only be allowed if said event is held 200 feet or more from any residential use. Such event shall meet the town's noise regulations as provided in sections 42-196 through 42-229 of the Code.
- (6) There shall be no outdoor sales of alcoholic beverages other than the sales related to town approved outdoor

seating for the licensed businesses on the property.

- (7) Any approval of a special exception to allow outdoor promotional events shall be required to be reviewed by the town council one year following approval and recordation of the Declaration of Use Agreement. Said approval may be amended or revoked by the town council at that time should it be determined that said use has a negative impact on surrounding properties.
- (8) Approval of outdoor promotional events may be revoked or modified by the town council at any time should it be determined that said use has a negative impact on surrounding properties.

(Ord. No. 30-2017, § 5, 1-10-18)

Secs. 134-2116—134-2145. - Reserved.

ARTICLE IX. - OFF-STREET PARKING AND LOADING

Footnotes:

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Cross reference— *Parking lots, § 22-431 et seq.; parking, stopping and standing generally, § 118-86 et seq.*

DIVISION 1. - GENERALLY

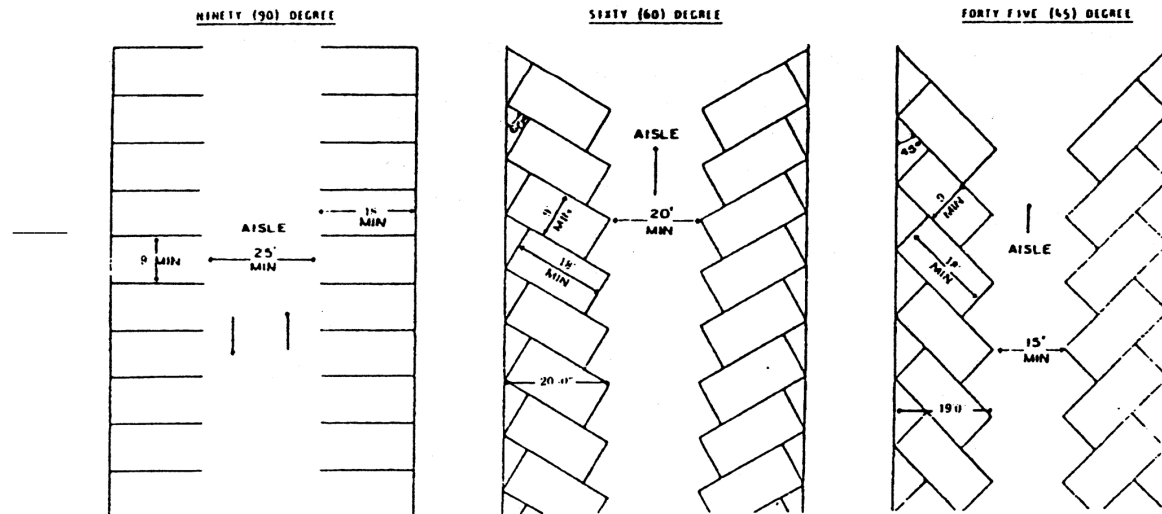
Secs. 134-2146—134-2170. - Reserved.

DIVISION 2. - OFF-STREET PARKING

Sec. 134-2171. - Illustration.

- (a) The following illustration is designed solely to illustrate the requirements for aisles in off-street parking areas as regulated in this division. In design of elevated or depressed parking structures, the maximum slope of floors or ramps shall not exceed 12-percent grade. The turning radius dimension for approach drive aisleways shall not be less than 30 feet.

OFF-STREET PARKING AREA STANDARDS



Off-Street Parking Area Standards

(b) Additional regulations governing setbacks, minimum dimensions for parking spaces, and other requirements are covered in subdivision II of division 7 of article VIII of this chapter, division 9 of article VIII of this chapter, and in this article.

(Ord. No. 2-74, attachment two, 3-26-74; Ord. No. 3-77, § 17, 3-29-77; Ord. No. 1-86, § 4(b), 2-10-86)

Sec. 134-2172. - Size of spaces and access.

An off-street automobile parking space shall consist of a parking space having minimum dimensions of nine feet in width and 18 feet in length for the parking of each automobile, exclusive of access drives or aisles thereto. Minimum width of an access drive shall be ten feet for one-way traffic. Minimum width of an aisle designed and intended for the maneuvering into a 90 degree parking space shall be 25 feet; 20 feet into a 60 degree parking space; and 15 feet into a 45 degree parking space. Minimum width of an aisle designed and intended for the maneuvering of an automobile into a parking space shall be in conformance with the illustration set forth in section 134-2171. The parking plan must be so arranged that each automobile may be placed and removed from the parking space assigned thereto and taken to and from the property without the necessity of moving any other automobile to complete the maneuver.

(Ord. No. 2-74, § 6.21(A.1), 3-26-74; Ord. No. 1-84, § 4(d), 3-1-84; Ord. No. 1-86, § 4(a), 2-10-86; Ord. No. 26-10, § 26, 12-15-10)

Sec. 134-2173. - Street and sidewalk areas.

Street and/or sidewalk areas shall not be used for off-street parking purposes as defined in this article. Individual ingress and egress drives extending across the public sidewalks and curbs and connecting the off-street parking spaces to the public street areas shall not exceed a maximum of 30 feet. The design, number and placement of such drives shall be subject to the approval of the superintendent of public works before being installed.

(Ord. No. 2-74, § 6.21(A.2), 3-26-74; Ord. No. 1-84, § 4(d), 3-1-84)

Sec. 134-2174. - Requirements for construction.

All parking lots or off-street parking areas or areas used for off-street parking, whether for profit or gratis, with the exception of temporary parking for special events such as private parties, shall be surfaced with suitable paving. Those areas serving multifamily or commercial areas shall be provided with adequate stormwater drainage to meet paving and drainage specifications approved by the town engineer and shall be provided with proper landscaping and irrigation facilities as provided in this chapter. The illustration in section 134-2171 shall be used as a minimum guideline for parking lot design.

(Ord. No. 2-74, § 6.21(A.3), 3-26-74; Ord. No. 1-84, § 4(d), 3-1-84)

Sec. 134-2175. - Number of parking spaces required—Generally.

(a) Under this division, the following shall be provided:

- (1) At the time of the erection of any building or structure, minimum off-street parking facilities shall be required with adequate provisions for ingress and egress, in accordance with sections 134-2172 through 134-2174 and the schedule of off-street parking requirements, as prescribed in section 134-2176.
 - (2) At the time any building or structure is enlarged or increased in capacity by adding dwelling units, guestrooms, floor area or seats, minimum off-street parking facilities with adequate provisions for ingress and egress shall be required, in accordance with section 134-2 and sections 134-2172 through 134-2174 and the schedule of off-street parking requirements, as prescribed in section 134-2176.
 - (3) Except as provided in subsection (f), at the time any use or occupancy of an existing building is changed to a new use or occupancy having differing off-street parking requirements, the parking requirement for the new use or occupancy shall be computed on the basis of the schedule of off-street parking requirements in the section 134-2176. This requirement shall be compared to the requirements of the existing use or occupancy, and, if the total number of spaces required under the new use or occupancy exceeds that of the existing use or occupancy, the difference shall constitute that number of additional off-street parking spaces to be provided, with adequate provisions for ingress and egress, in accordance with sections 134-2172 and the schedule of off-street parking requirements as prescribed in section 134-2176.
- (b) Except as provided in subsection (f), a use, building or structure, lawfully in existence at the effective date of this division, which shall be made nonconforming on the effective date of the ordinance from which this division derives or any applicable amendment thereto, may be continued even though off-street parking may not be provided in full compliance with this division, but the degree of nonconformity due to a deficiency in providing the required off-street parking spaces may not be increased, either by reducing the number of parking spaces which are provided on the effective date of the ordinance from which this chapter is derived or by changing the use or occupancy of an existing building to a use or occupancy which increases the requirement for off-street parking. For existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square of gross leasable area, whichever is applicable, and which may be required under this chapter to provide additional parking spaces as a result of a change in use, such establishments shall be required only to provide that number of spaces over and above the number of spaces that would have been required at one space per 200 or 250 square feet of floor area gross leasable area, whichever is applicable.
- (c) Continued availability of required number of off-street parking spaces. After providing for the proper number of required off-street parking spaces so as to permit a principal use of property to be established as set forth in the schedule of off-street parking contained in section 134-2176, such required off-street parking shall continue to be

available in undiminished number for sole use as an integral part of the continuance of the principal use(s) unless meeting the shared parking as provided for in sections 134-2177, 134-2178 and 134-2182. If for any reason such required off-street parking is not available at all times in connection with the principal use, such principal use shall be discontinued until such time as the proper number of required off-street parking spaces shall again be made available for use in connection with the principal use.

- (d) The principle of equivalency for evaluating off-street parking in existing uses is as follows:
 - (1) Definition of principle of equivalency as applied to the schedule of off-street parking requirements. The principal of equivalency, as it relates to the schedule of off-street parking requirements, shall be defined as an automobile parking space required by section 134-2176 for establishing an inventory of automobile parking spaces for a conforming or nonconforming use of an existing building, or structure or use, for the purpose of determining the net off-street parking requirement for the establishment of a proposed new use to be permitted in the building, or structure or use.
 - (2) In evaluating off-street parking for existing uses, the principle of equivalency shall be applied when the use or occupancy of an existing building is being changed to a new use or occupancy having a differing off-street parking requirement for the purpose of establishing compliance with this chapter.
 - (3) The following floor area equivalencies may be used as a minimum guide in the application of the schedule of off-street parking requirements:
 - a. One permanent seat equals six square feet of floor area in seating areas of occupancies requiring seating.
 - b. One moveable seat equals 15 square feet of floor area in seating areas of occupancies requiring seating.
 - c. The remainder of areas external to actual seating areas shall provide required parking according to the schedule of applicable parking requirements.
 - d. One school student equals 20 square feet of floor area.
- (e) For the purpose of this section, a landmarked commercially zoned building is exempt from providing additional required off-street parking if increased occupancy or use is created by interior building improvements which create more gross leasable area. However, all other provisions of subsections (a) through (d) apply.
- (f) In the 200 Block of Peruvian Avenue and Bradley Place in the C-TS zoning district, existing buildings or establishments therein which are nonconforming with respect to the current parking requirements, and which involve only those uses requiring one space per 200 or 250 square feet of gross leasable area, whichever is applicable, shall not be required to provide additional parking spaces as a result of a change from a use which alters the parking ratio from one space per 250 square feet to a use which requires one space for every 200 square feet of gross leasable area.

(Ord. No. 2-74, § 6.21(C), 3-26-74; Ord. No. 1-99, § 2, 4-5-99; Ord. No. 1-00, § 8, 2-22-00; Ord. No. 1-04, § 37, 3-9-04; Ord. No. 5-09, § 30, 4-15-09; Ord. No. 5-2011, § 5, 3-9-11; Ord. No. 25-2015, § 3, 11-12-15)

Sec. 134-2176. - Same—Schedule.

The schedule of off-street parking required by this division shall be as follows:

Use	Spaces Required Per Unit
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(1)	Single-family dwellings	Two per dwelling unit of 3,000 feet of floor area or less, plus one additional space per each 3,000 square feet or portion thereof of floor area above 3,000 square feet.
	Two-family dwellings and townhouses	Two per dwelling unit, plus one additional per each five family dwelling units or portion thereof. Any unit larger than 3,000 square feet shall provide three parking spaces plus one additional per each five dwelling units or portion thereof.
(2)	Multifamily dwellings (three units or more), number of units and required parking spaces as follows:	
	a. Three	Eight
	b. Four	11
	c. Five	13
	d. Six or more units	Two per dwelling unit plus one per five units or portion thereof
(3)	Houses of worship, theaters and auditoriums	One per four permanent seats in the main auditorium.
(4)	Social, swimming, golf, tennis and yacht clubs	One per four members.
(5)	Retail, commercial and personal service establishments and banks and financial institutions, excluding brokerage and trust companies	One per 200 square feet of gross leasable area (GLA)
(6)	Hotels, condo-hotels, motels, motor inns and timesharing uses	One and three-fourths per unit with two or fewer rooms, and 2.75 per unit with more than two rooms; plus one for each 2.5 seats of conference capacity including auditorium, ballroom, banquet facilities, convention hall, gymnasium, meeting rooms, or other similar places of assembly.
(7)	Libraries, museums and nonprofit cultural centers	One per 500 square feet
(8)	Medical or dental offices or clinics	One per 250 square feet of gross leasable area (GLA)
(9)	Restaurants, nightclubs or other eating places	One for each three proposed fixed seats, and/or one for each 45 square feet of floor area in the proposed public seating area not having fixed seats, plus one for each 300 square feet of floor area in the remainder of the floor area
(10)	Reserved	
(11)	Schools (public or private):	
	a. Grades one—six	One per 14 students
	b. Grades seven—nine	One per nine students
	c. Grades ten—12	One per three students
(12)	Accessory commercial retail and service uses in hotels and condo hotels	One per 250 square feet except for a restaurant, nightclub, bar, or other entry place which shall require the same as subsection (9) of this section, and except for conference facilities and similar places of assembly which shall require the same as subsection (6) of this section

(13)	Office, professional and business service establishments, institutions, institutions, and brokerage and trust companies	One per 250 square feet of gross leasable area (GLA)
(14)	Group home and foster care facilities	One space per each four resident occupants or fraction thereof, plus one per each employee in the largest work shift, with a minimum of two parking spaces
(15)	Required off-street parking exception for commercial parking garages in the C-WA zoning district	Number of required parking spaces attributed to uses on a commercial property within a parking garage in the C-WA district may be reduced by a maximum of 15 percent in order to provide off-site supplemental parking for other off-site commercial uses in the same district. The application can only be approved if the property owner provides evidence satisfactory to the town at the time of application and on an annual renewal basis that said parking exception will not negatively impact the parking of all on-site uses. Those off-site commercial uses in the C-WA district that are allowed to share the parking garage shall not be allowed to use said shared parking as a basis to develop or redevelop property, or expand or intensify the use of property. (See footnote 1 for requirements in granting an exception)

Footnote 1: An off-street parking exception application may be approved or denied by the director of planning, zoning and building or designee after 15 days of a legal notice being published in a newspaper of general circulation in Palm Beach or West Palm Beach with a summary of the request for such off-street parking exception. Said notice shall be paid by the applicant and shall not be part of the application fee. Any approval or denial of an application for an exception to the off-street parking requirements in subsection (15) of this section may be appealed to the town council based on sections 134-141—134-145 of the Code. There shall be no fee associated with this type of an administrative appeal.

(Ord. No. 2-74, § 6.21(C), 3-26-74; Ord. No. 1-84, § 4(d), 3-1-84; Ord. No. 1-92, § 4(a), 2-3-92; Ord. No. 1-94, § 4(a), (e), 2-7-94; Ord. No. 1-95, § 2(a), 1-23-95; Ord. No. 1-96, § 10, 2-5-96; Ord. No. 1-97, § 3, 2-17-97; Ord. No. 1-99, § 27, 4-5-99; Ord. No. 1-00, § 9, 2-22-00; Ord. No. 1-01, § 7, 2-19-01; Ord. No. 1-04, § 11, 3-9-04; Ord. No. 5-09, § 24, 4-15-09; Ord. No. 7-09, § 7, 5-13-09; Ord. No. 25-2015, § 4, 11-12-15)

Sec. 134-2177. - Location of parking spaces.

Parking spaces for all uses or structures which are provided as required parking in conformance with the schedule of off-street parking and other applicable sections shall be located on the same lot and shall have the same district classification as the principal use or structure they are intended to serve, except as specifically excepted as follows:

- (1) The town council may permit, as a special exception, the establishment of such required off-street parking

facilities for commercial uses within 500 feet of the premises, as measured along the nearest public or permanent private pedestrian walkway they are intended to serve when:

- a. Practical difficulties prevent the placing of the facilities on the same lot as the premises they are designed to serve;
 - b. The proposed location is located within the same zoning district as the principal use it is designated to serve;
 - c. The owner of the parking area shall enter into a written agreement with the town, with enforcement running to the town, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and
 - d. The owner agrees to bear the expense of recording the agreement and agrees that the agreement shall bind his heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.
- (2) The town council may permit, as a special exception, the establishment of supplemental off-street facilities which are in addition to those facilities required in accordance with the schedule of off-street parking for a permitted or approved special exception use. Such supplemental off-street parking facilities may be permitted only after the required parking for the principal use involved has been provided in full at current standards as contained in the schedule. This additional parking may be supplemental parking located on the same lot or supplemental off-site parking located on a directly adjoining lot or a lot which would be directly adjoining except for the location of a street or public way; provided, however, that all other provisions for special exceptions as set forth in sections 134-227 through 134-233 are complied with and, further, that the granting of such supplemental on-site or supplemental off-site parking is not construed as permission to expand, enlarge, alter, renovate, or modify the use of structure except in accordance with the requirements of this chapter. The exception is that supplemental off-site shared parking within an underground parking garage, or supplemental off-site shared parking within a surface, enclosed, partially enclosed or rooftop parking facility is exempt from this section of the code provided the conditions in section 134-2182(a) are met.
- (3) The town council may permit, as a special exception, the establishment of required off-street parking facilities for commercial uses in zoning districts differing from the district of the principal uses of structures they are intended to serve if the following conditions are met:
- a. The owner of the parking area shall enter into a written agreement with the town with enforcement running to the town providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the buildings with which the parking area serves so long as the facilities are required.
 - b. The owner of the parking area shall agree to bear the expense of recording the agreement, and agrees that the agreement shall bind his heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.
 - c. The parking area shall have been used as a parking area for the entirety of each of the five calendar years immediately preceding the application for special exception.
 - d. The parking area shall abut the property on which is situated the principal structure for which it is to furnish the required off-street parking.

- e. The provisions for special exceptions as set forth in sections 134-227 through 134-233 are complied with.
- f. The said parking area shall be located at ground level or below ground level and shall not be located within any structure above ground.

(Ord. No. 2-74, § 6.21(D), 3-26-74; Ord. No. 1-85, § 4(a), 2-11-85; Ord. No. 1-99, § 28, 4-5-99; Ord. No. 25-2015, § 5, 11-12-15; Ord. No. 01-2021, § 9, 2-10-21; Ord. No. 20-2021, § 5, 9-13-21)

Editor's note— Ord. No. 25-2015 § 8, adopted November 12, 2015 provided that the amendment to section 134-2177 contained in § 5 of said ordinance shall sunset on December 13, 2017, whereupon section 134-2177 as it existed prior to adoption of said ordinance shall remain in full force and effect.

Sec. 134-2178. - Collective use.

As provided for in this division, two or more owners or operators of buildings or uses of the same type of zoning classification requiring off-street parking facilities may make collective provision for such facilities, provided that the total of such parking spaces, when combined or used together, shall not be less than the sum of the requirements computed separately, and provided that the combined facility is compatible with the zoning uses being served.

(Ord. No. 2-74, § 6.21(E), 3-26-74; Ord. No. 25-2015, § 6, 11-12-15)

Sec. 134-2179. - Utilization of yards.

- (a) *Underground facilities in sub-basements.* Underground facilities in sub-basements. Provided the ground level at the lowest point of the public sidewalk abutting the property or the public street, if there is no public sidewalk, is maintained, required off-street parking facilities may be located in a sub-basement under required yards. Roofs of such sub-basements shall be sodded, landscaped and maintained, and there shall be no visible evidence of such underground facility from a public street or sidewalk. No such underground facility shall be closer than five feet to any property line.
- (b) *Residential districts.* In the R-AA, R-A, R-B, R-C, R-D(1) and R-D(2) zoning districts, one and two-family dwellings shall provide the required parking set forth in section 134-2176. The following number of those required off-street parking spaces shall be located in an enclosed garage:
 - (1) Lots which are 75 feet or more in width shall provide two parking spaces.
 - (2) Lots under 75 feet in width shall provide one parking space, however, lots 50 feet or less in width shall not be required to provide any of the required off-street parking spaces in a garage.

All required and supplemental parking spaces shall be designed so that both required and supplemental parking spaces are nine feet wide by 18 feet deep and have a minimum eight-foot free and clear drive aisle width into each space.

Supplemental off-street parking for one-family and two-family development may be permitted in any setback area or yard area. All such supplemental parking spaces not located within an enclosed garage structure shall require effective screening by hedges and/or a wall permitted by this Code not less than six feet in height, which shall be placed between said off-street parking and any street and/or interior lot lines.

- (c) *Townhouse development in certain residential districts.* In the R-C, R-D(1), and R-D(2) districts, required parking (except guest spaces) for all town house development shall be located within a garage. Supplemental parking may be permitted in any setback area or yard area provided, however, that all such supplemental space, not

located within a structure, shall require effective screening by hedges and/or walls permitted by this Code not less than six feet in height, which shall be placed between the off-street parking and any street and/or interior lot lines.

- (d) *Application of requirements for the parking.* The foregoing requirement for garage or screened parking applies only to new construction, redevelopment or major remodeling involving more than 50 percent of the existing cubic content of the structure.
- (e) *Multifamily development.* In all districts where permitted, multifamily development of less than five dwelling units shall provide all required parking (excluding guest spaces) within a garage. For all other multifamily development and in all districts for all other permitted or approved special exception uses, required front, street and street rear yards may not be used for off-street parking, but all other yards may be used for such purposes. If a side or rear yard or nonrequired front, street side or street rear yard is used for parking purposes, it shall be effectively screened with hedges or walls or a combination thereof placed at the appropriate building line between the off-street parking and any street. Such screening shall not be less than six feet high and shall laterally extend across the entire building line which separates the parking area from the street except for the access way.
- (f) *Other permitted and special exception uses.* In all districts for all other permitted or approved special exception uses, required front, street side, and street rear yards may not be use for off-street parking, but all other yards may be used for such purposes. In addition, no required or supplemental off-street parking shall be located closer than 15 feet from a front, street side, or street rear property line. Required or supplemental off-street parking shall be effectively screened with hedges or walls or a combination thereof placed at the appropriate building line between the off-street parking and any street. Such screening shall not be less than six feet high and shall extend across the entire building line which separates the parking areas from the street except for the access way. Such screening shall also be required along the interior lot lines and shall not be less than four feet in height and shall not encroach upon the rear easement line. The height of said required screening shall be measured as set forth in section 134-1666 et seq. Each parking space shall have an adequate and substantial wheel stop or curb, not less than six inches in height, located at least four feet from the abutting side or rear property line and not less than two feet from required landscaping. Such two-foot setback may be part of the nine-foot by 18-foot parking space. Further, all required interior landscaping not already protected by wheel stops shall be protected by a curb, a minimum of six inches in height, around the perimeter of such landscaped area to prevent damage by vehicles maneuvering within the parking area. Such curbing must be so designed as not to prevent the drainage of water from the paved area into the landscaped area. In addition to the screening requirements in this subsection, the interior of the parking area must have suitable landscaping, including the provision of shade trees, such landscaped area to be not less than ten percent of the parking and drive aisle area. The total devoted to landscaping, comprising both the screening and the interior landscaping, must be at least 15 percent of the parking and drive aisle area. A site plan showing the landscaping and the irrigation facilities for the landscaping must be submitted.

(Ord. No. 2-74, § 6.21(F), 3-26-74; Ord. No. 7-82, § 5(b), 3-31-82; Ord. No. 1-84, § 4(d), 3-1-84; Ord. No. 1-89, § 4(a), 2-6-89; Ord. No. 1-94, § 4(d), 2-7-94; Ord. No. 1-97, § 8, 2-17-97; Ord. No. 1-98, §§ 10, 12, 2-9-98; Ord. No. 2-05, § 6, 5-10-05; Ord. No. 1-06, § 4, 3-14-06; Ord. No. 16-09, § 1, 11-12-09; Ord. No. 26-10, § 27, 12-15-10)

Sec. 134-2180. - Approval of plan for ingress, egress and landscaping.

The plan for ingress and egress to and from any lot or parcel of land is subject to the approval of the director of public works. No landscaping associated with parking or ingress and egress, curbs or sidewalks shall be cut or altered in any manner without a permit from the director of public works. In addition, all lots or parcels of land are further regulated by the town's right-of-way manual as adopted by reference in section 106-4 of the Code of Ordinances.

(Ord. No. 2-74, § 6.21(G), 3-26-74; Ord. No. 1-04, § 27, 3-9-04)

Sec. 134-2181. - Utilization of structures.

When off-street parking facilities are located within a structure, the following conditions and restrictions shall apply:

- (1) The structure shall conform to all lot, yard and bulk requirements of the district in which it is located except as follows: In the R-C, R-D(1) and R-D(2) districts, when multifamily development of five or more units includes all required off-street parking, other than required guest spaces, in parking located underground or wholly under the building, using the town's minimum base flood elevation as the starting point, the first eight feet of such understory parking shall not count towards allowable building height, and maximum allowable building coverage may be increased by five percent.
- (2) The parking facilities shall be designed so as to conform to all other town ordinances and all other sections of this chapter.
- (3) All nonstructural portions of the exterior elevations, except for vehicular ingress and egress areas, shall, in addition to any required safety provisions, be screened by a sight block of at least 50 percent solidity for the total areas between deck levels, such sight blockage to be determined by elevation. A solid wall for 50 percent of the distance between deck levels will not be acceptable.
- (4) The town council may permit as a special exception the establishment of required off-street parking facilities for commercial and multifamily uses on the roof of a building. When parking facilities are located on the roof of a structure, a four-foot high balustrade sight block wall shall be provided having at least 25 percent but no more than 50 percent solidity. The area between the top of the balustrade wall and the underside of any overstructure shall be open, providing at least three feet and six inches of vertical clearance. Further, a horizontally installed sight block framework having at least ten percent but not more than 25 percent solidity shall be installed to cover such rooftop parking. Such horizontal sight block framework shall cover the entire roof deck including ramps and shall be no higher above the roof deck parking spaces than necessary to provide a seven-foot six-inch headroom clearance. The definition for height of a building in section 134-2 shall apply except that the top story shall be determined as the story immediately below the rooftop parking deck of such structure. Landscaping for all facades shall be provided at each parking level to aid the sight block and shall be subject to the review and approval of the architectural commission.
- (5) The parking structure or portions of a building devoted to automobile parking uses must be sight screened from public view by approved landscaping; provided, however, that enclosed garage areas of a building shall conform to the same architectural appearance as the remainder of the building. Automobile parking structures detached from the principal structure shall be compatible in appearance to the principal structure and shall comply with lot, yard, and bulk regulations applicable to the principal structure.

(Ord. No. 2-74, § 6.21(H), 3-26-74; Ord. No. 4-75, §§ 2, 3, 3-24-75; Ord. No. 3-76, § 4, 3-23-76; Ord. No. 3-77, §§ 7, 8, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 6-81, § 5(a), 3-31-81; Ord. No. 7-82, § 5(a), (b), 3-31-82; Ord. No. 1-85, § 4(b), 2-11-85; Ord. No. 1-86, § 4(a), (c), 2-10-86; Ord. No. 1-89, § 4(b), 2-6-89; Ord. No. 1-92, § 4(a), 2-3-92; Ord. No.

1-94, § 4(b), 2-7-94; Ord. No. 1-96, § 9, 2-5-96; Ord. No. 1-98, § 12, 2-9-98)

Sec. 134-2182. - Shared parking in C-TS, C-WA, C-OPI and C-PC commercial zoning districts.

- (a) Off-site supplemental shared parking as a permitted use. Off-site supplemental shared parking within an underground garage or within a surface, enclosed, partially enclosed or rooftop parking facility is permitted by right in the C-TS, C-WA and C-OPI zoning districts without the requirement of first providing all required parking. However, said shared parking shall not be used to expand or intensify a use; shall not exceed 50 percent of the existing parking inventory in said underground garage or parking facility. In addition, if a surface, enclosed, partially enclosed or rooftop parking facility abuts a residential use, said shared parking shall only be allowed between the hours of 8:00 a.m. and 6:00 p.m.
- (b) Special exception for shared parking. With the exception as provided for in subsection (a) above, there is no entitlement to shared parking, however, arrangements for shared parking may be allowed in the CT-S, C-WA and C-OPI commercial zoning districts, subject to the review and approval of a special exception as set forth under sections 134-227 through 134-233 and under the circumstances provided in this section.
- (c) Special exception approval for on-site shared parking. When a new use is proposed to occupy existing floor space and the new use would require a greater number of parking spaces than required by the former use, the new use may request sharing of on-site parking to meet the town's off-street parking requirements subject to the review and approval of a special exception as set forth under sections 134-227 through 134-233 and under the circumstances provided as follows:
 - (1) A traffic planner or traffic engineer clearly establishes to the town council, at the applicant's expense, that:
 - a. All uses utilizing the existing parking facilities will primarily utilize these parking spaces at different times of the day, week, month or year;
 - b. The sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities; and
 - c. The available parking will be adequate to serve the needs of the proposed use.
 - (2) If the building official determines that professional advice and/or consultation is required to review the applicant's parking findings, the expense of such professional advice shall be borne by the applicant.
 - (3) The applicant provides to the town, at the applicant's expense, a recorded three-party agreement, including the town as one of the parties, with enforcement running to the town, guaranteeing the continuing availability of the shared parking spaces during the period of operation of the applicant's use. The term of the agreement shall approximate the life of the building or use for which the shared parking spaces fulfill the town's off-street parking requirement. If the shared parking ever ceases to be available or becomes inadequate due to a change in the uses' respective schedules of operation that results in conflicting or overlapping usage, the proposed use shall be required to obtain a new occupancy permit and provide proof that sufficient parking will be provided or shall be required to immediately reduce the intensity of the use served to the extent that it will be conforming to the town's off-street parking requirements.
- (d) Special exception approval for supplemental off-site shared parking. With the exception as provided for in subsection (a) above, a conforming use may lease to another existing conforming use the former's required or supplemental parking spaces for use by patrons or employees of the latter, subject to the review and approval of a special exception as set forth under sections 134-227 through 134-233 and under the circumstances provided as follows:

- (1) The area to be used for off-site shared parking shall be in the C-TS, C-WA, C-PC or C-OPI zoning district, and, except shared parking within a parking garage or underground/underbuilding parking area, any area used for off-site shared parking shall be accessible only to and used by parking attendants and shall have controlled access in the form of other barriers acceptable to the town that can be accessed and used only by parking attendants.
 - (2) Off-site shared parking shall be located no more than 500 feet from the use the off-site shared parking is intended to serve.
 - (3) The applicant shall provide evidence which shall prove to the satisfaction of the town council that the off-site shared parking use shall not increase noise, light or traffic impacts upon neighboring residential districts.
 - (4) A traffic planner or traffic engineer establishes to the satisfaction of the town council, at the applicant's expense, that all other establishments using the existing parking spaces will primarily utilize these spaces at different times of the day, week, month or year from that of the applicant's use, and that the sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities.
 - (5) If the director of planning, zoning and building department should determine that professional advice and/or consultant is required to review the applicant's parking findings, the expense of such professional advice shall be borne by the applicant pursuant to sections 134-171 and 134-172.
 - (6) Off-site shared parking shall only be supplemental, and such parking shall not be used to meet required parking for new construction or expansion or addition to existing floor area.
 - (7) The town may impose such additional conditions that it deems necessary to minimize noise, light and traffic impacts upon neighboring residential districts.
 - (8) The approval shall initially be limited to a period of six months, whereupon a subsequent review shall be made at a public hearing of the town council at which the interim approval may be renewed, modified or revoked.
- (e) Sunset provision. The provisions in section 134-2177 and 134-2182 related to supplemental off-site shared parking within an underground garage or within a surface, enclosed, partially enclosed or rooftop parking facility abutting a residential use as a permitted use in the C-WA, C-TS and C-OPI zoning district will sunset on March 13, 2024 unless extended or modified by the town council.

(Ord. No. 1-96, § 1(6.21(l)), 2-5-96; Ord. No. 1-97, § 7, 2-17-97; Ord. No. 1-98, § 11, 2-9-98; Ord. No. 4-10, § 2, 2-10-10; Ord. No. 25-2015, § 7, 11-12-15; Ord. No. 01-2021, § 10, 2-10-21; Ord. No. 20-2021, § 6, 9-13-21)

Editor's note— Ord. No.25-2015 § 8, adopted November 12, 2015 provided that the amendment to section 134-2182 contained in § 7 of said ordinance shall sunset on December 13, 2017, whereupon section 134-2182 as it existed prior to adoption of said ordinance shall remain in full force and effect.

Secs. 134-2183—134-2210. - Reserved.

Editor's note— Ord. No. 25-2015 § 8, adopted November 12, 2015 provided that the sunset provision would expire on December 13, 2017, repealing § 134-2183, and reinstating §§ 134-2, 134-38, 134-2177 and 134-2182, as existed prior to adoption of said ordinance.

DIVISION 3. - OFF-STREET LOADING

Sec. 134-2211. - Number and dimensions of berths for commercial uses.

- (a) In any zoning district, in connection with every building or building group or part thereof erected and having a gross floor area of 4,000 square feet or more, which is to be occupied by 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 lot with such building, off-street loading or unloading berths in a number not less than the following:

Square Feet	Number of Berths
4,000—25,000	1
25,001—40,000	2
40,001—60,000	3
Each additional 25,000	1

- (b) The loading berth required in each instance shall be not less than 12 feet in width, 25 feet in length, and 14 feet in height, and may occupy all or any part of any required yard except for a required front yard, provided, however, that the loading berth shall be screened from the street or public way.

(Ord. No. 2-74, § 6.22, 3-26-74)

Secs. 134-2212—134-2235. - Reserved.

DIVISION 4. - PARKING LOTS

Sec. 134-2236. - Site plan review.

Applications for public or private parking lots, either as a special exception use or as required off-street parking, shall require site plan review in accordance with article III of this chapter. The material submitted with the application shall include the location, number and size of spaces; type of surfacing material and method of drainage; size and location of access drives and maneuvering aisles; and location and type of screening and landscaping in accordance with this chapter and other applicable town ordinances, together with any other elements as may be deemed essential by the building official.

(Ord. No. 2-74, § 6.26, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 4-80, § 6, 3-31-80)

Sec. 134-2237. - Alternate guidelines for operation as principal use of land.

For a public or private parking lot which is to be operated as the principal and sole use on the parcel of land, the following may be utilized as alternate guidelines in reviewing the site plan:

- (1) *Size and access.* An off-street parking space shall have minimum dimensions of nine feet in width and 18 feet in length for the parking of each automobile, exclusive of access drives or aisles thereto. Minimum width of an access drive shall be ten feet for one-way traffic. Minimum width of an aisle designed and intended for the maneuvering into a 90 degree parking space shall be 25 feet; 20 feet into 60 degree parking space; and 15 feet into a 45 degree parking space (see illustration in section 134-2171). Individual ingress and egress drives extending across the public sidewalks and curbs and connecting the parking lot to the public street areas shall not exceed a maximum of 30 feet. The design, number and placement of such drives are to be subject to the approval of the director of public works before being installed.
- (2) *Tandem parking.* Tandem parking may be permitted on a parking lot with a full-time attendant, provided that not more than two cars may be parked in tandem at each parking space location.
- (3) *Location of spaces.* Required front, street side or street rear yards may not be used for off-street parking, but all other areas, exclusive of easements, may be used for such purposes, providing parking lot paving shall not extend closer than four feet to any abutting side or rear property line.
- (4) *Landscaping.* Screening shall be provided in accordance with division 2 of this article.

(Ord. No. 2-74, § 6.26, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 26-10, § 28, 12-15-10)

Secs. 134-2238—134-2265. - Reserved.

ARTICLE X. - ON-STREET PARKING PERMITS

Footnotes:

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Cross reference— *Parking, stopping and standing generally, § 118-86 et seq.*

DIVISION 1. - GENERALLY

Secs. 134-2266—134-2290. - Reserved.

DIVISION 2. - RESIDENTIAL DISTRICTS

Sec. 134-2291. - Findings.

For the purpose of this division, the town council finds and declares as follows:

- (1) It is in the best interests of the residents of the town to reduce vehicular congestion on residential streets and to facilitate the efficient movement of traffic by providing for residential parking preference during certain hours of the day within certain areas meeting the criteria set forth in this article;
- (2) Residential permit parking regulation is necessary to promote the health, safety and welfare of the residents of the town by providing adequate parking spaces adjacent to or close by their places of residence;

(3) It is in the public interest to:

- a. Reduce hazardous traffic conditions resulting from the use of streets located within congested residential areas for the parking of vehicles by persons using such residential areas to gain access to other places;
- b. Protect those areas from excessive noise;
- c. Protect the residents of those areas from unreasonable burdens in gaining access to their residences;
- d. Preserve the character of those areas as residential districts;
- e. Promote efficiency in the maintenance of these streets in a clean and safe condition;
- f. Preserve the value of the property in those areas;
- g. Preserve the safety of children and other pedestrians; and
- h. Promote traffic safety, clean air and the comfort, health, convenience and welfare of the inhabitants of the town.

(Ord. No. 2-74, § 6.64(1), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94)

Sec. 134-2292. - Definitions.

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

Commuter vehicle means a motor vehicle parked in a residential area by a person who is not a resident of the designated residential area.

Controlled parking residential area means a contiguous or nearly contiguous area containing streets or parts thereof primarily abutted by property that has a specific residential zone designation on the official zoning map of the town and that is designated for restricted residential parking by the town manager or his designee, pursuant to criteria and procedures established in this division.

Calendar year means the period beginning January 1 and ending December 31 of the same year.

Resident means a person who owns or leases real property within a residential area and who maintains either a voting residence or bona fide occupancy or both at that address.

Residential parking permit means a special permit issued under this division for the privilege of parking on a street designated as a controlled parking residential area.

(Ord. No. 2-74, § 6.64(2), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94; Ord. No. 001-2022, § 1, 3-8-22)

Cross reference— Definitions generally, § 1-2.

Sec. 134-2293. - Reserved.

Editor's note— Ord. No. 2-2014, § 1, adopted May 14, 2014, repealed § 134-2293, which pertained to designation of controlled parking residential areas, and derived from Ord. No. 2-74, § 6.64(3), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94.

Sec. 134-2294. - Eligibility and criteria for establishing controlled parking residential areas.

- (a) A residentially zoned area shall be deemed eligible for designation as a controlled parking residential area for

residential permit parking if parking therein is impacted by commuter vehicles between 8:00 a.m. and 5:30 p.m. of any day.

- (b) The following objective criteria are established to be used in evaluating the need for restricted parking in a residentially zoned area in accordance with this division. For an area, however big or small, to be eligible for residential permit parking, that area must meet the following criteria:
- (1) During any period between the hours of 8:00 a.m. and 5:30 p.m., the number of vehicles parked or standing, legally or illegally, on the streets in the area is equal to 50 percent or more of the legal on-street parking capacity of the area. For purposes of this criterion, a legal parking space shall be 20 linear feet measured parallel to the curb or pavement edge.
 - (2) During the same period as in subsection (b)(1) of this section, 25 percent or more of the vehicles parking or standing on the streets in the area are not registered in the name of a person residing in the area. For purposes of this criterion, the latest available information from the state department of motor vehicles regarding registration of motor vehicles shall be used.
 - (3) In determining whether an area identified as impacted and eligible for residential permit parking shall be designated as a controlled parking residential area, the following factors shall be considered:
 - a. The local needs with respect to clean air and environment in residential areas.
 - b. The possibility of a reduction in total vehicle miles driven in the town.
 - c. The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards.
 - d. The proximity of public transportation to the residential area.
 - e. The desire and need of the residents for residential permit parking.
 - f. The need for parking regulation to maintain the residential character of neighborhoods.

(Ord. No. 2-74, § 6.64(4), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94)

Sec. 134-2295. - Procedure for determining controlled parking residential areas.

- (a) In order to determine whether a particular area should be designated as a controlled parking residential area, the town council can request or the town manager may conduct, upon his own initiative or upon a petition of a majority of the households on a proposed residential block addressed to the town manager, a study to determine if the proposed area meets the criteria set forth in section 134-2294. Following the study, the town manager shall determine whether to designate the proposed area under consideration as a controlled parking residential area or to remove the designation of a previously established controlled parking residential area. The town council may also request the town manager to designate an area as a controlled parking residential area based upon a study previously conducted, if the criteria set forth in section 134-2294 are met.
- (b) When the town manager finds the criteria to designate have been met in a controlled parking residential area, he shall cause the regulation to be recorded upon an appropriate map of the town and retained permanently in the office of the town clerk. The town clerk shall also keep an updated residential area parking map, or reasonable facsimile thereof, in an appropriate location on the town's website. In addition, the town manager shall cause parking signs to be erected upon public streets in the area, indicating the times, locations and conditions upon which parking shall be by permit only. When an area has been approved, designated and posted as a controlled parking residential area, it shall be unlawful and a violation of this division to park a commuter vehicle in an area

restricted to residential permit parking only without having a valid residential parking permit affixed on the left rear bumper of the vehicle, or in the case of a residential visitor parking permit, appropriately displayed within the vehicle.

(Ord. No. 2-74, § 6.64(5), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94; Ord. No. 2-2014, § 2, 5-14-14)

Sec. 134-2296. - Issuance of special parking permits upon application.

- (a) Following the official designation of a controlled parking residential area, the finance department shall issue appropriate residential parking permits. Upon application a permit shall be issued only to the owner or operator of a motor vehicle who resides in the controlled parking residential area in which he resides.
- (b) The application for a permit shall contain the name of such owner or operator of the motor vehicle; residential address; and the motor vehicle's make, model and registration number. The motor vehicle's registration may, at the discretion of the finance department, be required to be presented at the time of making the application in order to verify the contents thereof. If the vehicle is registered at an address other than the local residence, the applicant shall provide other sufficient proof, acceptable to the finance department, showing residency within the controlled residential parking area. The permit shall be valid for a calendar year, as defined in section 134-2292, and shall be renewed for each successive calendar year. A fee, as determined by resolution of the town council shall be charged for the annual permit and shall be payable at the finance department. After the initial permit has been issued, any renewal shall be affixed to the vehicle no later than January 15 of the applicable current year.
- (c) *Visitor/service permits.* In addition to the decals issued pursuant to section 134-2295(b) above, upon application by owner, owner may be issued visitor/service permits, which permits may be used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's premises or for visitors of such owner's residence. The permits shall be used only for the period of time during which business is to be conducted by the service vehicles or for the duration of stay of a visitor to the residence for which the permit is issued. No more than a total of eight permits, including decals and visitor/service permits, shall be issued for each property.

The application for a visitor/service permit or permits shall be filed by such owner. The permit or permits shall be valid for a calendar year as defined in section 134-2292 and may be renewed each successive calendar year. A fee, as determined by resolution of the town council shall be charged for each visitor/service permit and shall be payable at the finance department. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the premises or for the period of time a visitor is at the premises.

- (d) Temporary group permits. A temporary group permit may be issued on application of any resident of the district for only one day and for no more than four hours on that day upon a showing by the applicant that during the hours for which the permits are to be issued his or her residence will be used for an assemblage of persons in a way consistent with its residential character and other provisions of law and that such visitors would not be able to park their vehicles without violating the law. However such permits for such an assemblage of persons shall only be issued upon a finding of the facts stated in this section and a further finding that the issuance of such permits will not impair public safety during the time of their validity, and in this connection such permits may be

limited as to the streets or portions of streets on which they shall be valid. Finally, the number of such permits issued shall not at any time exceed 50 percent of the number of spaces available in the area in which they are valid.

The application for a temporary group permit shall be filed by the resident seeking the permit. A fee as determined by resolution of the town council shall be charged for each temporary group permit. The permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's vehicle observable through the front windshield of the vehicle.

(Ord. No. 2-74, § 6.64(6), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94; Ord. No. 9-08, § 1, 5-12-08; Ord. No. 26-10, § 29, 12-15-10; Ord. No. 1-2014, § 1, 5-14-14; Ord. No. 13-2019, § 1, 4-9-19; Ord. No. 40-2019, § 1, 1-14-20; Ord. No. 001-2022, § 1, 3-8-22)

Sec. 134-2297. - Privileges and restrictions.

- (a) The holder of a residential parking permit shall be permitted to stand or park a motor vehicle displaying the permit and operated by him in any designated residential controlled parking area during such times and places as the parking of motor vehicles therein is permitted. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be permanently affixed on the left rear bumper of the vehicle. A residential parking permit shall not guarantee or reserve to the holder of the permit a parking space within a designated controlled parking residential area.
- (b) A residential parking permit shall not authorize the holder thereof to stand or park a motor vehicle in such places or during such times as the stopping, standing or parking a motor vehicle is prohibited or set aside for specified types of vehicles, nor shall it exempt the holder from the observance of any traffic regulation within the controlled parking residential area.
- (c) No person other than the permittee named thereon shall use the residential parking permit or display it on a vehicle operated or parked, and any such use or display by a person other than the permittee shall constitute a violation of this division by the permittee and by the person who so uses or displays such parking permit.
- (d) Any permit issued hereunder is nontransferable to another person or another vehicle.

(Ord. No. 2-74, § 6.64(7), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94)

Sec. 134-2298. - Unlawful acts.

Under this division, it shall be unlawful for any person to:

- (1) Represent that he is entitled to a permit under this division when he is not so entitled;
- (2) To furnish any false information in an application to the finance department to obtain a residential parking permit;
- (3) Fail to surrender a permit to which he is no longer entitled; or
- (4) Park a vehicle displaying such a permit at any time when the holder of such permit is not entitled to hold it.
- (5) Park a vehicle without a properly displayed and valid residential parking permit issued pursuant to this division.
- (6) Park a vehicle displaying a counterfeit residential parking permit.
- (7) Modify or alter in any way a current or previously issued residential parking permit.

- (8) Give to another person or sale to another person a residential parking permit. Temporarily providing a visitor permit to a person legally entitled to use such under this division shall not be construed as being unlawful.
- (9) Provide a residential parking permit to any person or vehicle not legally entitled to possess or display such permit.

(Ord. No. 2-74, § 6.64(7)d, 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94; Ord. No. 9-08, § 2, 5-12-08; Ord. No. 3-2014, § 1, 5-14-14)

Editor's note— Ord. No. 3-2014, § 1, adopted May 14, 2014, changed the title of § 134-2298 from "False representation" to "Unlawful acts."

Sec. 134-2299. - Revocation.

The finance department is authorized to revoke the residential parking permit of any permittee found to be in violation of this division and, upon written notification thereof, the permittee shall surrender such permit to the finance department. Failure, when so requested, to surrender a residential parking permit so revoked shall constitute a violation of this division.

(Ord. No. 2-74, § 6.64(7)e, 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94; Ord. No. 9-08, § 3, 5-12-08)

Sec. 134-2300. - Reserved.

Editor's note— Ord. No. 9-08, § 4, adopted May 12, 2008, repealed § 134-2300 in its entirety, which pertained to temporary visitor permits, and derived from Ord. No. 2-74, § 6.64(7)g, adopted March 26, 1974; Ord. No. 1-88, § 3, adopted February 8, 1988, and Ord. No. 1-94, § 4(e), adopted February 7, 1994.

Sec. 134-2301. - Penalties.

Any person illegally parked pursuant to this division shall be fined in the manner provided for illegal parking and his/her vehicle may be towed and stored at his/her expense.

(Ord. No. 2-74, § 6.64(8), 3-26-74; Ord. No. 1-88, § 3, 2-8-88; Ord. No. 1-94, § 4(e), 2-7-94; Ord. No. 3-2014, § 2, 5-14-14)

Sec. 134-2302. - Revocation of decal/permit.

- (a) The public safety director or his/her designee is authorized to revoke the residential parking area decal/permits of any decal/permit holder based upon evidence that the decal/permit holder has violated the provisions of this article. The holder shall be served notice by certified mail or hand delivery of the proposed revocation and, upon request, shall have an opportunity to present to the town council evidence as to why the decal/permit should not be revoked. The decal/permit holder must request such a hearing in writing and pay an appeal fee set by resolution of the town council within ten days after the notice of proposed revocation is delivered or mailed. If the town council finds in favor of the decal/permit holder, the appeal fee shall be refunded. The holder of revoked decal/permits must return the decal/permits to the town manager or his/her designee and shall not be allowed to reapply for another decal/permit for one year from the date of revocation.
- (b) Revocation under subsection (a) is in addition to any other available remedy provided by this Code for violations of this article.

(Ord. No. 3-2014, § 3, 5-14-14)

Secs. 134-2303—134-2325. - Reserved.

DIVISION 3. - RESIDENTIAL DISTRICTS ADJACENT TO COMMERCIAL DISTRICTS

Sec. 134-2326. - Restrictions on parking.

Whenever the town manager or his designee, which may include the building official and the chief of police or their subordinates, shall determine that the streets of a particular district or discrete portion of the district in which residential uses are permitted and commercial uses are not permitted are being used for parking by the operators of vehicles while the operators of those vehicles are using districts in which commercial uses are permitted and the average number of vehicles parking in such a manner is in excess of 25 percent of the number of parking spaces on such streets and the total number of spaces actually occupied by any vehicles exceeds 75 percent of the number of spaces on such streets on the weekdays of any month, as disclosed by an engineering study, the town manager or his designee shall prohibit parking during the hours when such use has been found on these streets of those districts or portions of districts found by the study or survey to have been so affected. In such cases the town manager shall cause appropriate signs giving notice of the prohibition to be posted on those streets or portions of those streets restricting all parking, except parking by the holders of permits, to be granted only under the conditions in this division.

(Ord. No. 2-74, § 6.63(1), 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89)

Sec. 134-2327. - Issuance.

Under this division, parking permits may be granted to persons as follows:

- (1) *Resident permits.* To persons who are residents of any particular area in which parking is so restricted, to be limited to that particular area in which parking is so restricted for every vehicle owned by those persons.
- (2) *Visitor/service permits.* In addition to the Resident permits provided under (1) above, upon application by owner, owner may be issued visitor/service permits, which permits may be used by such owner for the sole purpose of providing parking on a temporary basis to service vehicles which are conducting work at such owner's premises or for visitors of such owner's residence. These permits shall be used only for the period of time during which business is to be conducted by the service vehicles or for the duration of stay of a visitor to the residence for which the permit is issued. No more than a total of eight permits, including decals and visitor/service permits, shall be issued for each property.

The application for a visitor/service permit or permits shall be filed by such owner. A fee is hereby authorized for issuance of said permit payable to the finance department for each visitor/service permit. The amount of the fee shall be established by resolution of the town council and may be amended from time to time by resolution of the town council. These permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's or service vehicle observable through the front windshield of the vehicle. The permits shall be valid only for the period of time during which the service vehicle is conducting work at the premises or for the period of time a visitor is at the premises.

- (3) *Temporary group permits.* To residents as provided in section 134-2328.
- (4) *Adjacent resident permits.* To persons who are residential users in a commercially zoned area immediately

adjacent and contiguous to the residential area in which parking is restricted, to be limited to that particular area in which parking is so restricted, for not more than two vehicles owned by that person and upon proof shown that on-site parking is not available to that person on the property in which he resides within the commercially zoned area.

(Ord. No. 2-74, § 6.63(1)a—c, f, 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89; Ord. No. 16-09, § 12, 11-12-09; Ord. No. 16-2016, § 9, 12-14-16; Ord. No. 13-2019, § 1, 4-9-19; Ord. No. 40-2019, § 1, 1-14-20)

Sec. 134-2328. - Temporary group permits.

Under this division, on application of any resident of the district, permits, to be valid for only one day and for no more than four hours on that day, may be issued upon a showing by the applicant that during the hours for which the permits are to be issued his residence will be used for an assemblage of persons in a way consistent with its residential character and other provisions of law, and that such visitors would not be able to park their vehicles without violating the law. However, such permits for such an assemblage of persons shall only be issued upon a finding of the facts stated in this section and a further finding that the issuance of such permits will not impair public safety during the time of their validity, and in this connection such permits may be limited as to the streets or portions of streets on which they shall be valid. Finally, the number of such permits issued shall not at any time exceed 50 percent of the number of spaces available in the area in which they are valid.

The application for a temporary group permit shall be filed by the resident seeking the permit. A fee as determined by resolution of the town council shall be charged for each temporary group permit. The permits shall not be affixed to the vehicle, but shall be placed in a clearly visible place on the inside of the visitor's vehicle observable through the front windshield of the vehicle.

(Ord. No. 2-74, § 6.63(1)e, 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89; Ord. No. 1-2014, § 2, 5-14-14)

Sec. 134-2329. - Fees.

- (a) *Annual parking permit fees.* An annual fee is hereby authorized for issuance of said permit, payable at the town finance department, for each annual permit issued under this division. The amount of the annual fee shall be established by resolution of the town council and may be amended from time to time by resolution of the town council.
- (b) *Visitor/service permits.* An annual fee is hereby authorized for issuance of said permit, payable to the finance department each visitor/service permit. The amount of the annual fee shall be established by resolution of the town council and may be amended from time to time by resolution of the town council.

(Ord. No. 2-74, § 6.63(1)g, h, 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89; Ord. No. 16-09, § 13, 11-12-09; Ord. No. 26-10, § 30, 12-15-10)

Sec. 134-2330. - Issuance criteria; surrender on termination of conditions.

All permits issued under this division shall be based on satisfactory evidence that the applicant fulfills all the required conditions for such permit. Whenever the required conditions no longer exist, a person holding a permit issued under subsection 134-2327(1) or (3) shall surrender it to the town manager or his authorized representative.

(Ord. No. 2-74, § 6.63(2), 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89)

Sec. 134-2331. - Term.

No parking permit issued under this division shall be valid for more than one year but may be renewed upon expiration, provided the condition for issuance exists. The special limited permits issued under such sections 134-2327(2) and 134-2328, being limited on their face to a short period of time, are not required to be surrendered upon expiration but may be turned in by the holder.

(Ord. No. 2-74, § 6.63(2), 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89)

Sec. 134-2332. - Exceptions.

- (a) *Service vehicles.* The parking limitation or prohibition of this division shall not apply to service or delivery vehicles being used to provide services or to make deliveries to dwellings in the affected district or area.
- (b) *Metered parking areas.* Wherever metered parking is in effect in any portion of a district that becomes subject to the restrictions of this division, the parking spaces controlled by meters may be excepted from this division so long as the control by meters continues.

(Ord. No. 2-74, § 6.63(1)d, (4), 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89)

Sec. 134-2333. - Signs.

The signs placed in parking areas subject to this division shall be of such character as to inform readily an ordinarily observant person of the existence of the rules and regulations imposing the restrictions of this division. It shall be unlawful for any person to violate such rules or regulations.

(Ord. No. 2-74, § 6.63(3), 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89)

Sec. 134-2334. - Unlawful acts.

Under this division, it shall be unlawful for any person to:

- (1) Represent that he is entitled to a permit under this division when he is not so entitled;
- (2) To furnish any false information in an application to the finance department to obtain a residential parking permit;
- (3) Fail to surrender a permit to which he is no longer entitled; or
- (4) Park a vehicle displaying such a permit at any time when the holder of such permit is not entitled to hold it.
- (5) Park a vehicle without a properly displayed and valid residential parking permit issued pursuant to this division.
- (6) Park a vehicle displaying a counterfeit residential parking permit.
- (7) Modify or alter in any way a current or previously issued residential parking permit.

- (8) Give to another person or sale to another person a residential parking permit. Temporarily providing a visitor permit to a person legally entitled to use such under this division shall not be construed as being unlawful.
- (9) Provide a residential parking permit to any person or vehicle not legally entitled to possess or display such permit.

(Ord. No. 2-74, § 6.63(2), 3-26-74; Ord. No. 6-78, § 1, 3-31-78; Ord. No. 6-81, § 5(b), 3-31-81; Ord. No. 7-82, § 5(e), 3-31-82; Ord. No. 1-89, § 4(g), 2-6-89; Ord. No. 3-2014, § 4, 5-14-14)

Sec. 134-2335. - Penalties.

Any person illegally parked pursuant to this division shall be fined in the manner provided for illegal parking and his/her vehicle may be towed and stored at his/her expense.

(Ord. No. 3-2014, § 5, 5-14-14)

Sec. 134-2336. - Revocation of decal/permit.

- (a) The public safety director or his/her designee is authorized to revoke the residential parking area decal/permits of any decal/permit holder based upon evidence that the decal/permit holder has violated the provisions of this article. The holder shall be served notice by certified mail or hand delivery of the proposed revocation and, upon request, shall have an opportunity to present to the town council evidence as to why the decal/permit should not be revoked. The decal/permit holder must request such a hearing in writing and pay an appeal fee set by resolution of the town council within ten days after the notice of proposed revocation is delivered or mailed. If the town council finds in favor of the decal/permit holder, the appeal fee shall be refunded. The holder of revoked decal/permits must return the decal/permits to the town manager or his/her designee and shall not be allowed to reapply for another decal/permit for one year from the date of revocation.
- (b) Revocation under subsection (a) is in addition to any other available remedy provided by this Code for violations of this article.

(Ord. No. 3-2014, § 6, 5-14-14)

Secs. 134-2337—134-2370. - Reserved.

ARTICLE XI. - SIGNS

Footnotes:

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Editor's note— Ord. No. 31-2015, §§ 1, 2(Exh. A), adopted February 10, 2016, repealed the former Art. XI, §§ 134-2371—134-2447, and enacted a new Art. XI as set out herein. The former Art. XI pertained to similar subject matter. See Code Comparative Table for complete derivation.

Cross reference— Construction regulations for signs and awnings, § 18-841 et seq.

DIVISION 1. - GENERALLY

Sec. 134-2371. - Statement of findings and purpose.

The town council has found that Palm Beach is internationally known and has become a worldwide synonym for beauty, quality and value and that a proliferation of signs without regulations as to size, location and material detracts from such beauty, can become a visual blight. Signs, particularly if placed in rights-of-way, can create distractions for drivers impacting the safety and welfare of pedestrians and drivers and further create an aesthetically unpleasant atmosphere.

The town council has found that this Code is required to regulate signs as provided by F.S. § 163.3202(2)(f). The town council does not wish to censor speech but does wish to provide for the public welfare by regulating signage in the town in a manner that enhances the aesthetics of the community, reduces visual pollution, provides clear information and minimizes distractions to drivers in the interest of traffic safety.

The town deems the following standards to be the least restrictive measures on free speech necessary to advance the town's interest in aesthetic appeal and traffic safety. This article serves a significant government interest, is unrelated to the suppression of free expression, and leaves open ample alternative channels of communication by adopting reasonable and appropriate time, place and manner regulations.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2372. - Compliance; substitution, and severability.

- (1) *Compliance.* Signs may be erected and maintained only as authorized and when in compliance with the provisions of this article and other applicable town ordinances. All signs are subject to the Florida Building Code and Fire Prevention Code. Signs that are not specifically permitted by this division are prohibited.
- (2) *Substitution of noncommercial for commercial messages.* Notwithstanding any provision in this division to the contrary, to the extent that any permitted sign could be construed as a sign containing commercial message, a noncommercial sign shall be permitted to the same extent. The noncommercial message may occupy the entire sign area, or any portion thereof, and may substitute for or be combined with any commercial message. The sign message may be changed as frequently as desired by the sign's owner, provided it is not a prohibited sign and continues to comply with the requirements of this division.
- (3) *Severability.* If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this division is declared or held invalid or unconstitutional by any court of competent jurisdiction, such declaration shall be deemed separate, distinct, and independent, and shall not affect the validity of any other part, section, subsection, sentence, phrase, clause term, or word. Severability shall be applied to the sign regulations in this division even if the result would be to allow less speech in the town, whether by subjecting currently exempt signs to permitting or by some other means. The town specifically intends that severability shall be applied so that any prohibited sign shall continue to be prohibited irrespective of whether another sign prohibition is declared invalid or unconstitutional.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2373. - General regulations and definitions applicable to permitted signs.

Under this article, the following shall apply to all signs:

- (1) Signs of all types addressed herein are defined in section 134-2 of this code. All signs visible from a public or private roadway and/or sidewalk shall be classified as signs regardless of whether they are freestanding or attached or painted to or on or in the principal building they are accessory to.

- (2) "Commercial message" means any lettering, wording, reading matter, illustration, logo, logogram, symbol, emblem, insignia, trademark, symbol, poster, picture, character or other representation with or without letters or numerals, directly or indirectly names, advertises or calls attention to a business product or business service (whether for profit or not for profit) or other commercial activity, including fund raising for not for profit or charitable entities.
- (3) "Non-commercial message" means any message that is not a commercial message.
- (4) In all cases, signs shall be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
- (5) No sign other than an official traffic sign erected by the town, Palm Beach County, the State of Florida, the United States government and/or any agency thereof shall be erected within the right-of-way lines of any street or public way, nor shall any sign or banner be hung on, from, or beneath any canopy, awning or marquee.
- (6) All signs, except nameplates and identification signs for single-family dwellings, shall have the name of the manufacturer or producer in small but legible letters.
- (7) Provided that such signs are otherwise in compliance with this article, a permit and review by the architectural review commission process or landmarks preservation commission process (if applicable) shall not be required for the erection, alteration, or maintenance of the following types of temporary signs:
 - a. Identification of sale or rental signs for single family dwellings, two-family dwellings and multi-family dwellings permitted in R or commercial districts;
 - b. Temporary political signs or other temporary noncommercial signs in R or commercial districts;
 - c. Development signs;
 - d. Artisan signs;
 - e. Menu signs in commercial districts; or
 - f. Temporary display signs in commercial districts.
- (8) A permit and review by the architectural review commission process for architectural and aesthetic review, or landmarks preservation commission process (if applicable), shall be required for the erection, alteration, reconstruction, painting or producing by artificial light of any other sign within the town.
- (9) No sign shall be permitted within any district for any purpose which is flashing or which has any animation or movement associated with it.
- (10) No sign, including numerals, lettering, illustrations, logos or characters, shall be painted or installed on any awning visible from public or private streets.
- (11) In residential districts, no lettering, illustrations, logos or characters visible from public or private streets shall be painted on or attached to any structure except as otherwise provided in division 2 of this article.
- (12) No banner signs of any kind, including but not limited to those produced on cloth, paper or fabric, shall be permitted. This section shall not prohibit the display of flags. Flags shall be defined as "a piece of fabric or other flexible material solely containing distinctive colors, patterns, standards, words or emblems that convey a non-commercial message or symbol of a non-commercial organization or entity including, but not limited to, political jurisdictions such as the United States of America." Portable, removable flags, as permitted herein, shall be limited to three per property and shall be no larger than the maximum dimensions permitted under this section. Flags of a size larger than those which may be accommodated on a flagpole of a height which exceeds 40 percent above the building height limit of the zoning district in which it is located may be

allowed on properties of five acres or greater in size pursuant to a special exception provided the location of the flag shall be on a flagpole set back at least 120 feet from any lot line and provided further that no flag or banner shall be in excess of 216 square feet.

The maximum dimensions of any flag permitted under this section shall be proportional to the flagpole height according to the following limitations:

<i>Pole Height (ft.)</i>	<i>Maximum Flag Size (sq. ft.)</i>
Up to 25 ft.	24 sq. ft.
25 to 30 ft.	40 sq. ft.
30 to 35 ft.	48 sq. ft.
35 to 40 ft.	60 sq. ft.
40 to 50 ft.	96 sq. ft.
50 to 60 ft.	150 sq. ft.
70 ft.	216 sq. ft.

For flag sizes or flagpole heights not found in the foregoing chart, the hoist side of the flag shall not exceed 20 percent of the vertical height of the flagpole. Further, flag dimensions as specified in this section shall not exceed a ratio in height to width of two to one or one to two.

- (13) Strip lighting of any nature, including neon tubing, fluorescent lights, or other similar strip lighting devices, shall not be used to outline any building, fence, wall or any other structure. In addition, strobe or flash lighting and/or neon lighting which draws attention to a tenant space, building or structure is not permitted. Any lighted or illuminated sign shall not be permitted or erected until such illuminated sign has been approved as a special exception use in conformity with sections 134-227 through section 134-233, except that this shall not apply to low-level illuminated sign, less than 30 inches in height, indicating only the street number and location of entrance and exist drives of a parking area.
- (14) No sign shall be permitted on any premises, improved or unimproved, except as relating to that property and as permitted by division 2 or 3 of this article or as otherwise allowed in this Code.
- (15) Supporting structures for any sign shall not be included in determining the square foot area of the sign, provided that such supporting structure shall not exceed the maximum allowable sign area and shall not carry any lettering.
- (16) *No person shall paint, paste, print or nail any paper sign or any advertisement or notice of any kind whatsoever, or cause the same to be done, on any curbstone, flagstone or other portion of any sidewalk or street or upon any tree, lamppost, hitching post, telephone or telegraph pole, hydrant, bridge, workshop or*

tool shed, or upon any other structure within the limits of the town except by resolution of the town council. No person shall paint, paste, print or nail any banner, sign, handbill, advertisement or notice of any kind, or cause the same to be done, upon any private pole, advertising board or sign or upon any other private structure or building unless he is the owner or lessee of such wall, window, door, fence, gate, advertising board or sign, or other private building or structure. This subsection shall not apply to legal notices required by law.

- (17) *No sign shall be attached to or placed against a building in such a manner as to prevent ingress or egress through any door of any building, or any opening that is to be used in event of fire, or other emergency; nor shall any sign be attached to or obstruct in any manner a fire escape.*

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16; Ord. No. 04-2018, § 26, 4-11-18; Ord. No. 05-2019, § 1, 3-19-19)

Secs. 134-2374—134-2400. - Reserved.

DIVISION 2. - RESIDENTIAL DISTRICTS

Sec. 134-2401. - Scope of division.

The following types of nonadvertising or noncommercial signs of a stationary and permanent or temporary nature in this division are permitted in all residential districts.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2402. - Nameplates and identification signs.

- (1) Signs indicating the name or address of the occupant or designating an access drive to the property may be permitted in conjunction with a single-family dwelling, provided that they shall not be larger than one square foot in area. Only two such signs per lot or main building shall be permitted.
- (2) For multifamily dwellings and buildings other than single-family dwellings, an entrance and/or exit sign as an aid to traffic designating access drives between the private property and the public street may be permitted, provided that each sign shall be located on privately owned property and each sign shall be no larger than one square foot in area and not extending over 30 inches in height above the yard ground level. Additionally, for multifamily dwellings and buildings other than single-family dwellings, a single yard identification sign not exceeding six square feet in area or exceeding six feet in height above the lot grade or closer than ten feet to the front or street side lot line and indicating only the name and address of the building and the name of the management may be displayed in the yard area, provided that on a corner or through lot two such signs (one facing each street) shall be permitted. In addition to the permitted yard signs, one sign for each street frontage may be installed flat against the main wall of the building, each such sign not exceeding 20 square feet in area.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2403. - Sale or rental signs in R-AA, R-A And R-B districts.

Signs pertaining to the sale, lease or rental of property or buildings shall be permitted in single-family dwelling R-AA, R-A and R-B residential districts, subject to the following conditions and restrictions:

- (1) The sign shall read either "open," "for rent," or "for sale," and may include the name of the persons affecting the rental and the telephone number of the owner or agent relative to the premises upon which the sign is located.
- (2) The face surface of such sign shall not be larger than 40 square inches.
- (3) The supporting member shall be installed into the ground to provide that the top of the face of such sign shall not be more than four feet above the finished grade of the ground.
- (4) All such signs shall be lettered professionally, but such signs shall not be required to be submitted to the town's architectural commission for approval and no permit shall be required for the installation or erection of such signs. Color of the signs shall be a white background with black, block letters thereon.
- (5) Only one such sign shall be permitted on any one premises. Where the property abuts a waterway or golf course, no signs may be placed or erected to be visible from such waterway or golf course.
- (6) Such sign shall not be erected or placed closer than five feet to the front property line, and such sign may be placed parallel or perpendicular to the front property line. Signs must be placed only upon the property being offered for sale or lease.
- (7) Nothing contained in this section shall be construed as prohibiting the same wording from being on both the front and back of the sign.
- (8) Where such sign is suspended from an arm of the support, such arm shall not exceed a length of 16 inches.
- (9) All such signs shall be erected on a temporary basis.
- (10) Such signs shall be kept in good repair and shall not be illuminated or constructed of a reflective material and shall not contain any flags, streamers, moveable items or like devices.
- (11) Any such sign shall be removed within five days from the date a binding agreement is entered into for the sale, lease or rental of the property or immediately upon the removal of the property from the market, whichever occurs first.
- (12) Any town enforcement officer may cause to be removed any such sign not conforming with this section.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2404. - Sale or rental signs in R-C, R-D(1), R-D(2) and PUD districts.

In the R-C, R-D(1), R-D(2) and PUD zoning districts, signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, and signs bearing the word "sold" or "rented" with the name of the persons affecting the sale or rental may be erected or maintained, provided:

- (1) The size of any such sign is not in excess of two square feet;
- (2) Not more than one sign is placed upon any property unless such property fronts upon more than one street, in which event two signs may be erected, one on each frontage; and
- (3) Such sign shall be removed within one week after the premises have been sold or rented.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2405. - Institutional signs.

Institutional signs identifying schools, colleges, houses of worship, libraries, museums or other institutions of a similar public or semipublic nature may be erected and maintained, provided:

- (1) The size of any such sign is not in excess of six square feet; and
- (2) Not more than one such sign is placed on a property unless such property fronts upon more than one street, in which event two such signs may be erected, one on each frontage.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2406. - Development signs in R-AA, R-A And R-B districts.

In R-AA, R-A and R-B zoning districts, signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of single-family dwelling premises by a builder, contractor, developer or other persons interested in such sale or development, may be erected and maintained, provided:

- (1) No sign shall be erected until a building permit for construction on the site has been issued by the town. The sign shall indicate only the name and telephone number of the builder, contractor or developer.
- (2) The size of any sign is not in excess of 40 square inches. Color of the sign shall be a white background with black, block letters thereon.
- (3) No more than one sign is placed upon any property unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
- (4) Any such sign shall be removed by the developer, builder or contractor within three days of the completion or abandonment of the project.
- (5) No sign shall be placed closer than five feet to the front or street side lot line.
- (6) The supporting member shall be installed into the ground to provide that the top of the face of such sign shall not be more than four feet above the finished grade of the ground.
- (7) All such signs shall be lettered professionally, but such signs shall not be required to be submitted to the town's architectural commission for approval, and no permit shall be required for the installation or erection of such signs.
- (8) Where the property abuts a waterway or golf course, no signs may be placed or erected to be visible from such waterway or golf course.
- (9) Such sign may be so erected or placed that its center is parallel or perpendicular to the front property line.
- (10) Nothing contained in this section shall be construed as prohibiting the same wording from being on both the front and back of sign.
- (11) Where such sign is suspended from an arm of the support, such arm shall not exceed a length of 16 inches.
- (12) All such signs shall be erected on a temporary basis.
- (13) Such sign shall be kept in good repair and shall not be illuminated or constructed of a reflective material and shall not contain any flags, streamers, moveable items or like devices.
- (14) Any town enforcement officer may cause to be removed any such sign not conforming with this section.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2407. - Development signs in R-C, R-D(1), R-D(2) and PUD districts.

In R-C, R-D(1), R-D(2) and PUD zoning districts, signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer, or other persons interested in such sale or development, may be erected and maintained, provided:

- (1) No sign shall be erected until a building permit for construction on the sign has been issued by the town.
 - (2) The size of any sign is not in excess of 20 square feet.
- (3) No more than one sign is placed upon any property unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
- (4) Any such sign shall be removed by the developer within 15 days of the completion or abandonment of the project.
- (5) No sign shall be placed closer than ten feet to the front or street side lot line.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2408. - Artisan's signs.

Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided:

- (1) Only one sign for each artisan is displayed.
- (2) The size thereof is not in excess of six square feet.
- (3) No sign shall be closer than ten feet to the front or street side lot line.
- (4) Such signs are removed within one week after completion or abandonment of the work.
- (5) Artisans' signs shall not be permitted in R-AA, R-A and R-B districts.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2409. - Temporary political signs and temporary noncommercial signs.

Temporary political signs pertaining to specific elections urging the election or opposition of any candidate seeking any political office or urging the passage or defeat of any ballot measure and other temporary noncommercial signs endorsing, objecting or otherwise relating to a particular issue or communicating a noncommercial message or idea are permitted subject to the following restrictions:

- (1) Maximum size: No sign shall exceed a maximum of four square feet in area and shall be limited to two sides only. There shall be no triangular or multi-sided signs allowed.
- (2) Maximum number:
 - a. For political signs, not more than one sign per candidate or ballot measure shall be placed upon any property.
 - b. For other temporary noncommercial signs, not more than one sign per issue, idea or message shall be placed upon any property.
 - c. Altogether there shall be no more than three temporary two sided signs on any one property. However, more than one message may be placed on any one side of a sign.
- (3) Location: Only on lots where the property owner has given permission. The placing of temporary signs anywhere on public property is prohibited. Temporary signs located on public property shall be deemed to be public property and shall be summarily removed by the town.
- (4) Minimum setbacks: From lot line of another: Ten feet. From the front property line or from a street: Five feet.
- (5) Maximum height: Four feet, including supports for the sign.

(6) Time limit:

- a. Political signs permitted pursuant to this section shall not be placed prior to 30 days of the election to which they are related and shall be removed within 48 hours after the day of the final election to which they apply. In the case where there is a primary election, signs shall be allowed 30 days prior to the primary election. This time limit also applies to candidates who do not have an opponent in the primary. Signs may continue to be displayed between the primary election and the final election.
- b. Other temporary noncommercial signs permitted pursuant to this section shall be allowed only during the times when temporary political signs are allowed.

(7) Illegally placed: Temporary signs shall be removed by the owner or individual responsible for the illegal placement. In the event of failure to do so, the signs may be removed by the town.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2410. - Tow-away signs.

Tow-away signs shall not be allowed on private property appurtenant to or obviously part of a single-family residence. Tow-away signs for two-family, townhouse, multi-family, and institutional uses shall only be on private property and shall not exceed the minimum size, number and location as provided by Florida Statute. In addition, all tow-away signs shall be uniform in appearance as approved by the town's Architectural Commission. Tow-away signs on state, county and municipal governmental property shall also meet these requirements. A building permit shall be required for a tow-away sign.

All tow-away signs which become nonconforming as a result of the adoption of this section of the Code shall be removed and replaced to come into compliance with this section of the Code by January 1, 2019, or said sign shall be in violation of the town's Code of Ordinances.

(Ord. No. 04-2018, § 27, 4-11-18)

Sec. 134-2411. - Governmental signs.

Signs for a public purpose for governmental entities such as federal, state, county or town shall be permitted on public or private property provided that the number, size, location, appearance and content of said signs are approved by the town council at a town council meeting.

(Ord. No. 04-2018, § 28, 4-11-18)

Secs. 134-2412—134-2434. - Reserved.

DIVISION 3. - COMMERCIAL DISTRICTS

Sec. 134-2435. - Scope of division.

The following types of signs of a stationary and permanent or temporary nature are permitted in commercial districts.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2436. - Signs in vias and the entrances to vias.

For the purpose of article XI, division 3 of chapter 134, via frontage of a business is considered street frontage for regulating the size and number of business identification signs. Building identification signs are not allowed in vias.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2437. - Building identification, business identification and property identification signs.

- (1) *Building identification:* One building identification sign (which must have the word "building" in it) may be placed on the front of each wall of a building which fronts onto a street, provided the building identification sign is installed flat against such wall and does not exceed 20 square feet in area.
- (2) *Individual business identification:* All individual business identification signs for a building shall be based on the lineal building frontage measurement on a street or via (See section 134-2438 below). Each such sign on a building shall not exceed 20 square feet in area and shall be installed flat against the wall of a building or in a ground floor window or door. In addition, if a ground floor licensed business's parking and main entrance is on the back or side of a building not fronting a street, said business shall be allowed one business identification sign installed flat on the face of the building's wall where the business is located. Signs shall be located on only the first floor and shall not go above 15 feet in height or the ceiling height of the first floor of a building, whichever is lower.
- (3) *Business directory sign for building at the entrance to a via or arcade:* Business directory signs shall be allowed for buildings located at the entrance to a via. One business directory sign facing each direction of an entrance to a via is permitted, such sign not to exceed a maximum of six square feet in area and to be mounted on the wall. Business listings on a business directory sign shall be allowed only one line of lettering of a maximum height of 1.75 inches, with no logo and in the same font as the other business listings on the same sign. The height of the letters identifying the via and its address shall not exceed three inches and may be in a different font from that of the business identification listings.

In addition, one business directory sign identifying the upper floor businesses is permitted on a multi-story building on the interior of a via where the stairs to the upper floor(s) in the building open onto the via. This sign shall not exceed four square feet in area and shall meet the same lettering requirements as the business directory sign requirements for the entrances to a via. The business directory sign shall only identify the names of the businesses in the via. The business directory sign may also include the name of the via and the via address.

- (4) *Individual business identification signs within a via:* A licensed business on the first floor within a via shall be allowed one hanging business identification sign within the via and perpendicular to the building. The hanging sign within a via shall be mounted on the wall of the building fronting the via and shall contain only the name of the business. A hanging business identification sign shall not be above the first floor of the building it is attached to, shall have a minimum of eight feet of clearance, and shall be calculated as part of the maximum business identification sign area allowed.
- (5) In the C-TS, C-WA, C-B and C-OPI zoning districts, property identification yard signs are permitted for a property provided that not more than one yard sign is permitted for each vehicular entrance into a property with street frontage. A property identification yard sign facing a street shall not exceed six square feet in

area, five feet in height above lot grade, be located no further than ten feet from a vehicular entrance onto a property and shall meet the safe site visibility requirements of the town.

- (6) In the C-PC zoning district, property identification yard signs are permitted, provided that no more than two yard signs flank each vehicular entrance or exit to a property with street frontage. A property identification yard sign facing a street shall not exceed six square feet in area, six feet in height above lot grade and shall be located no further than 10 feet from a vehicular entrance onto a property.
- (7) Business, building and property yard identification signs shall require architectural commission or landmarks preservation commission approval (whichever is applicable).

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16; Ord. No. 30-2017, § 6, 1-10-18; Ord. No. 17-2019, § 14, 6-12-19)

Sec. 134-2438. - Size of sign.

The maximum gross surface area of all business identification signs shall not exceed 20 square feet of area for every 18 feet of lineal feet of building street or via frontage and shall meet the following schedule:

Building Street Frontage and Rear Ground Floor Tenant Parking Frontage	Maximum Gross Surface Area for Business Identification Signs (in square feet)
Less than 18 lineal feet of business frontage	10
18 lineal feet and over of business frontage	20

Note: This permitted maximum gross surface sign area may be in the form of one sign or composed of a group of smaller signs that advertise any licensed individual business within a the building, provided their aggregate area does not exceed that area contained in the schedule. The gross surface area of any signs on a building shall not, however, exceed 20 square feet. In addition, any hanging sign, as allowed in section 134-2437, shall not exceed two square feet in area.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16; Ord. No. 17-2019, § 15, 6-12-19)

Sec. 134-2439. - Permitted lettering, logos.

Business identification signs permitted under this division shall consist of lettering which specifies only the name of the establishment as identified in the business tax receipt and state registration, a logo as provided for below and/or the nature of the business. Logos shall be allowed, provided that such logo will fit within a box no more than 12 inches square. Not more than one such logo shall be permitted on the street frontage of each business establishment, and the area of such logo shall be counted toward the maximum allowable gross area of sign.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2440. - Window and door business identification signs.

Any individual business within a building shall be allowed business identification signs in merchandise display area windows and/or entry doors on the first floor; however, such window display and/or door signs shall count towards the allowable total sign area for individual business in a building, as calculated under section 134-2438.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2441. - Height of signs.

- (a) No building identification sign shall be higher than the building on which it is attached, nor shall any sign be located over or upon the roof of any building.
- (b) No individual business identification sign on a one-story building shall be located higher than the building on which it is attached, nor shall any sign be located over or upon the roof of any building.
- (c) Except for signs proposed on a facade of an existing building where the original architecture predicated that they be located higher, no individual business identification sign on a multistory building shall be located higher than the first floor elevation of the building or 15 feet, whichever is lower.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2442. - Residential uses.

Signs for residential uses located within a commercial district shall comply with division 2 of this article.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2443. - Sale or rental signs.

Signs advertising the sale or rental of the premises upon which they are erected shall comply with sections 134-2403 and 134-2404.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2444. - Aid-to-traffic signs.

In addition to other sections of this division, noncommercial, aid-to-traffic signs may be erected on private property designated access drives and parking areas, provided that each such sign shall not be larger than two square feet in area. Only one sign shall be permitted for each access drive serving a parking area.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2445. - Temporary display signs.

In addition to other sections of this division, one temporary display sign to advertise a special sale or event to occur on the premises, not to exceed two square feet in area for each 18 linear feet of building frontage for each licensed business, shall be permitted in the merchandise display area of a store during the period from April 1 to October 31. No such temporary sign may be affixed or taped to windows or doors, but shall be placed on a free standing device such as an easel. Such signs may not be erected earlier than 15 days prior to the special event to which they are related and must be taken down within 24 hours after such event. Not more than one sign per special sale or event shall be displayed at any one time.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2446. - Development signs.

In the C-TS, C-WA, C-OPI, C-PC and C-B zoning districts, signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer, or other persons interested in such sale or development, may be erected and maintained provided:

- (1) No sign shall be erected until a building permit for construction on the site has been issued by the town.
- (2) The size of any sign is not in excess of ten square feet.
- (3) No more than one sign is placed upon any property unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
- (4) Any such sign shall be removed by the developer within 15 days of the issuance of a certificate of occupancy or abandonment of the project.
- (5) No sign shall be placed closer than five feet to the front or street side lot line.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2447. - Temporary political signs and temporary noncommercial signs.

Temporary political signs urging the election or opposition of any candidate seeking any political office or urging the passage or defeat of any ballot measure and other temporary noncommercial signs endorsing, objecting or otherwise relating to a particular issue or communicating a noncommercial message or idea are permitted subject to the following restrictions:

- (1) *Maximum size:* No sign shall exceed a maximum of four square feet in area and shall be limited to two sides only. There shall be no triangular or multi-sided signs allowed.
- (2) *Maximum number:*
 - a. For political signs, not more than one sign per candidate or ballot measure shall be placed upon any property.
 - b. For other temporary noncommercial signs, not more than one sign per issue, idea or message shall be placed upon any property.
 - c. Altogether there shall be no more than three temporary two sided signs on any one property. However, more than one message may be placed on any one side of a sign.
- (3) *Location:* Only on lots or in stores where the property owner has given permission. The placing of temporary signs anywhere on public property is prohibited. Temporary signs located on public property shall be deemed to be public property and shall be summarily removed by the town.
- (4) *Minimum setbacks on lots:* From lot line of another: Ten feet. From the front property line or from a street: Five feet.
- (5) *Maximum height:* Four feet, including supports for the sign.
- (6) *Store front locations:* As an alternative to placing temporary signs on commercial lots meeting minimum setbacks, temporary signs may be placed in the merchandise display area windows on the first floor of zero lot line stores not capable of meeting setback criteria or in cases where there are multiple tenants of a

commercial plaza or building. The total temporary signs allowed, including temporary display signs, shall not exceed two square feet in area for each 18 linear feet of building frontage for each licensed business.

(7) *Time limit:*

- a. Political signs permitted pursuant to this section shall not be placed prior to 30 days of the election to which they are related and shall be removed within 48 hours after the day of the election to which they apply. In the case where there is a primary election, signs shall be allowed 30 days prior to the primary election. This time limit also applies to candidates who do not have an opponent in the primary. Signs may continue to be displayed between the primary election and the final election.
- b. Other temporary noncommercial signs permitted pursuant to this section shall be allowed only during the times when temporary political signs are allowed.

(8) *Illegally placed:* Temporary political signs shall be removed by the owner or individual responsible for the illegal placement. In the event of failure to do so, the signs may be removed by the town.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2448. - Menu signs.

One menu sign shall be allowed at the front entrance of a restaurant or merchant retail take-out food establishment. Said menu sign shall not be further than four feet from the front entrance of the restaurant or take-out food establishment nor exceed two square feet in area. In addition, a pedestal menu sign shall not impede pedestrian movement.

(Ord. No. 31-2015, § 2(Exh. A), 2-10-16)

Sec. 134-2449. - Tow-away signs.

Tow-away signs for commercial and institutional uses shall only be on private property and shall not exceed the minimum size, number and location as provided by Florida Statute. In addition, all tow-away signs shall be uniform in appearance as approved by the town's Architectural Commission.

Tow-away signs on state, county and municipal governmental property shall also meet these requirements. A building permit shall be required to erect a tow-away sign.

All tow-away signs which become nonconforming as a result of the adoption of this section of the Code shall be removed and replaced to come into compliance with this section of the Code by January 1, 2019, or said sign shall be in violation of the town's Code of Ordinances.

(Ord. No. 04-2018, § 29, 4-11-18)

Sec. 134-2450. - Governmental signs.

Signs for a public purpose for governmental entities such as federal, state, county or town governmental agencies shall be permitted on public or private property provided that the number, size, location, appearance and content of said signs are approved by the town council at a town council meeting.

(Ord. No. 04-2018, § 29, 4-11-18)