

# Code of the Town of Ossining, New York (Westchester County)

Updated 11 - 10 - 2005  
(Supp No. 55)

## Chapter 200: ZONING

[HISTORY: Adopted by the Town Board of the Town of Ossining 2-14-1969 by Ord. No. 70. Sections 200-19F(4)(h), 200-31C(3), 200-35B(2), 200-36B(1)(c), 200-40, 200-41, 200-42, 200-43A, 200-46D(3), 200-46F, 200-49C, 200-50B(3), 200-51, 200-52D(2), 200-52E and 200-53 amended during codification; see Ch. 1, General Provisions, Art. II. Other amendments noted where applicable.]

### GENERAL REFERENCES

Issuance of appearance tickets by Building Inspector — See Ch. 7, Art. I.  
Greenway Compact — See Ch. 24.  
Building construction — See Ch. 63.  
Dumps — See Ch. 78.  
Excavations — See Ch. 87.  
Filling and grading — See Ch. 92.  
Freshwater wetlands — See Ch. 105.  
Landmarks preservation — See Ch. 123.  
Plumbing — See Ch. 148.  
Subdivision of land — See Ch. 176.  
Abandoned vehicles — See Ch. 186.

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## ARTICLE I Title and Purpose

### § 200-1. Short title.

This chapter shall be known and may be cited by the short-form title of the "Zoning Ordinance of the Town of Ossining, New York."

### § 200-2. Comprehensive plan adopted; purposes.

There is hereby established a new comprehensive zoning plan for the Town of Ossining, which plan is set forth in the text and map that constitute this chapter. Said plan is adopted for the purposes set forth in Article 16, §§ 261 and 281, of the Town Law, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following, among others:

- A. The facilitation of the efficient and adequate provision of public facilities and services.
- B. To assure adequate sites for residence, industry and commerce.
- C. The provision of privacy for families.
- D. The prevention and reduction of traffic congestion, so as to promote efficient and safe circulation of vehicles and pedestrians.
- E. The protection of residential areas.
- F. The gradual elimination of nonconforming uses.
- G. The enhancement of the appearance of the Town of Ossining as a whole.
- H. The encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and

utilities and to preserve the natural and scenic qualities of open lands.

**§ 200-2.1. Westchester County Greenway Compact Plan. [Added 1-22-2002 by L.L. No. 1-2002]**

The Town of Ossining has adopted the Westchester County Greenway Compact Plan, as amended from time to time, as a statement of policies, principles, and guides to supplement other established land use policies in the Town. In its discretionary actions under this Zoning Code, the Town and its agencies will take into consideration said statement of policies, principles and guides, as appropriate.

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**ARTICLE II Zoning Districts Established**

**§ 200-3. Classes of districts. [Amended 8-14-1979 by Ord. No. 97]**

The Town of Ossining is hereby divided into the classes of districts listed below:

**Symbol Title**

R-40	One-Family Residence District
R-35	One-Family Residence-Office District
R-30	One-Family Residence District
R-20	One-Family Residence District
R-20A	One-Family Residence District
R-15	One-Family Residence District
R-15X	One-Family Residence-Office District
R-10	One-Family Residence District
R-7.5	One-Family Residence District
R-5	One-Family Residence District
MF	Multifamily District
NC	Neighborhood Commercial District
GB	General Business District
GB-1	General Business District-1 <b>[Added 10-11-1983 by Ord. No. 114]</b>
O-RM	Office-Research Manufacturing District
BE	Business Education District <b>[Added 6-12-1984 by Ord. No. 116]</b>

**§ 200-4. Zoning Map. [Amended 9-16-1969 by Ord. No. 73]**

The boundaries of the said districts are hereby established as shown on the Zoning Map, Town of Ossining, as published in the Citizen Register, the official newspaper of the Town of Ossining, on February 3, 1969, which accompanies and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date in the offices of the Town Clerk for the use and benefit of the public. Editor's Note: The Zoning Map appears in a pocket part at the end of this volume.

**§ 200-5. District boundaries.**

In determining the boundaries of districts shown on the map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be 200 feet back from the rights-of-way of said streets.
- D. In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter for the less restricted district shall apply to such portion of the more restricted portion of said lot which lies within 30 feet of such district boundary. For purposes of this section, the more restricted district shall be deemed that district subject to regulations which prohibit the use intended to be made of said lot or require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.
- E. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- F. In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

**§ 200-6. Effect of establishment of districts; compliance required.**

Following the effective date of this chapter:

- A. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used, for any purpose or in any manner except in conformity with all regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.
- B. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.
- D. Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building complying with local laws in force prior to this chapter, if at least one of the following is found to exist: **[Amended 9-16-1969 by Ord. No. 73; 8-13-1985 by Ord. No. 120]**
  - (1) A building permit or certificate of occupancy shall have been duly issued prior to the date of first publication of notice of the public hearing on this chapter.
  - (2) The entire building shall have been completed in accordance with such plans as have been filed with the Town within one year from the effective date of this chapter.
  - (3) The site development plans were approved pursuant to Article VI, Designated Multiple-Use Development, prior to its deletion from this chapter.
- E. Any use not permitted by this chapter shall be deemed to be prohibited. Any list of prohibited uses contained in any section of this chapter shall not be deemed to be an exhaustive list but has been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses

frequently proposed that are deemed undesirable and incompatible and are thus prohibited.

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## ARTICLE III Use Regulations

### § 200-7. R-40 One-Family Residence District.

In an R-40 One-Family Residence District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

#### A. Permitted uses.

- (1) One-family detached dwellings, not to exceed one dwelling on each lot.
- (2) The following commercial agricultural operations:
  - (a) The raising of field and garden crops, truck garden, nursery or commercial greenhouses, subject to the following special requirements:
    - [1] No farm building or commercial greenhouse shall be erected on any plot of less than five acres or be nearer than 100 feet to any street or property line.
    - [2] No retail sale on the premises shall be permitted for any materials, goods or articles, except such as were grown upon the premises and the pots or other containers in which they were grown or purchased.
- (3) Buildings, structures and uses owned or operated by the Town of Ossining.

#### B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

- (1) Places of worship, including parish houses on lots of two acres or more (but excluding a rectory or parsonage, which shall conform to the requirements for a one-family dwelling.) Special requirements: **[Amended 9-16-1969 by Ord. No. 73]**
  - (a) No building or part thereof shall be erected nearer than 50 feet to any street or property line.
  - (b) The sum of all areas covered by all principal and accessory buildings shall not exceed 20% of the area of the lot.
- (2) Schools and educational institutions, philanthropic, eleemosynary or religious institutions, hospitals, nursing and rest homes or sanitarium for general medical care and treatment of the mentally ill, but excluding facilities for the permanent confinement of the mentally ill, drug addicts and chronic alcoholics or the treatment of drug addicts and chronic alcoholics. **[Amended 3-28-1972 by Ord. No. 78; 8-19-1975 by Ord. No. 85]**
  - (a) No building or part thereof or any parking or loading area shall be located within 100 feet of any street or lot line.
  - (b) The sum of all areas covered by principal and accessory buildings shall not exceed 20% of the area of the lot. Minimum lot size shall be two acres, except as provided below.
  - (c) The maximum height shall be 35 feet or 2 1/2 stories.
  - (d) The entire lot, except for areas covered by buildings or parking or loading areas, shall be suitably landscaped and properly maintained. **[Amended 9-16-1969 by Ord. No. 73]**
  - (e) Sufficient exterior illumination of the site shall be provided to assure convenience and

safety. All such illumination shall be shielded from the view of all surrounding streets and lots. **[Amended 9-16-1969 by Ord. No. 73]**

(f) Any nursing home, hospital or sanitarium shall meet the following standards: **[Amended 9-16-1969 by Ord. No. 73]**

[1] All buildings shall be of fire-resistive construction.

[2] All such uses shall be served by adequate water and sewer systems approved by the Westchester County Department of Health.

[3] Patients suffering from communicable diseases (as defined by the Sanitary Code of the Public Health Council of the State of New York) shall not be permitted in any nursing home or sanitarium.

(g) Any school permitted in this section shall be a nonprofit organization within the meaning of the Internal Revenue Act and shall be registered effectively as such thereunder, or a nursery school licensed by the State Department of Education, and shall occupy a lot with an area of not less than five acres plus one acre for each 100 pupils for which the building is designed. **[Amended 9-16-1969 by Ord. No. 73]**

(3) Public utility rights-of-way, as well as structures and other installations necessary to serve areas within the town, subject to such conditions as the Planning Board may impose in order to protect and promote the health, safety, appearance and general welfare of the community and the character of the neighborhood in which the proposed structure is to be constructed.

(4) Annual membership clubs catering exclusively to members and their guests or other recreational facilities open to the public and accessory playgrounds, swimming pools, tennis courts and recreation buildings. Special requirements: **[Amended 9-16-1969 by Ord. No. 73]**

(a) No building or part thereof or any parking or loading area shall be located within 100 feet of any street or lot line.

(b) The sum of all areas covered by principal and accessory buildings shall not exceed 20% of the area of the lot.

(c) Any such use shall not be conducted as a business enterprise.

(d) Any such uses shall occupy a lot with an area of not less than five acres.

(e) The direct source of all exterior lighting shall be shielded from the view of surrounding residential lots.

(5) One-story temporary structures between July 1 and November 30 for display and retail sales of agricultural and nursery products grown on the premises. Such structure shall not exceed 1,000 square feet in floor area. Display of produce shall be no closer than 75 feet from any side or rear lot line and at least 40 feet from any street line.

(6) Cemeteries subject to approval by the Planning Board.

C. Accessory uses, limited to the following:

(1) Home occupations, provided that:

(a) No display of goods or signs are visible from the street, except as set forth in Subsection C(5) as follows. **[Amended 9-16-1969 by Ord. No. 73]**

(b) Such occupation is incidental to the residential use of the premises and is carried on in the main building by a resident therein with not more than one nonresident assistant.

(c) Such occupation is carried on in an area not exceeding 30% of the area of one floor of the main building.

(d) There shall be no exterior effect at the property line, such as noise, traffic, odor, dust,

smoke, gas, fumes or radiation.

- (2) Professional office or studio of an artist, dentist, musician, teacher, physician, architect, engineer or lawyer, provided that:
  - (a) Such office or studio is incidental to the residential use of the premises, is carried on by the resident and not more than one nonresident assistant and shall occupy not more than 30% of the area of one floor of the main building. **[Amended 9-16-1969 by Ord. No. 73]**
  - (b) Studios where dancing or music instruction is offered to groups in excess of four pupils at one time or where concerts or recitals are held are prohibited. **[Amended 9-16-1969 by Ord. No. 73]**
- (3) Garden house, toolhouse, playhouse, wading pool or swimming pool incidental to the residential use of the premises and not operated for gain.
  - (a) Any swimming pool with an area of 150 square feet or more or a depth in excess of 24 inches shall be surrounded with a four-foot-high permanent fence. Said fence shall be erected, maintained and equipped with a self-closing, self-locking gate to prevent unauthorized use of the pool and to prevent accidents. However, if said pool is located more than four feet above ground, then a fence is not required, provided that all points of access to said pool are adequately protected by a self-closing, self-locking gate. **[Amended 9-16-1969 by Ord. No. 73]**
- (4) Private garages. Two passenger automobile spaces in such garages may be leased to persons not resident on the premises. **[Amended 9-16-1969 by Ord. No. 73]**
- (5) The following signs, subject to § 200-28: **[Amended 9-16-1969 by Ord. No. 73]**
  - (a) One indirectly illuminated nameplate or professional sign with an area of not over one square foot.
  - (b) One sign, either single- or double-faced, the total area of which shall not exceed six square feet, measured on one face of the sign, advertising only the sale of farm, garden or nursery products produced or grown on the premises or of animals raised on the premises.
  - (c) One real estate sign, either single- or double-faced, not larger than 2 feet by 2 feet in size, on any one or more lots, advertising the sale or lease of only the premises on which it is maintained and set back not less than the required front yard distance and not less than 10 feet from the street line or side line.
  - (d) One directly illuminated bulletin board or other announcement sign for uses permitted by special permit by the Board of Appeals in Subsection B(1), (2), (4), (5) and (6), with an area not over six square feet, provided that such sign is located not nearer than 10 feet to any street or property line.

#### **§ 200-8. R-35 One-Family Residence-Office District.**

In an R-35 One-Family Residence-Office District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

##### **A. Permitted uses.**

- (1) Any permitted use or accessory use listed in the R-40 Residence District. **[Amended 9-16-1969 by Ord. No. 73]**

##### **B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance**

with the provisions of § 200-45. These uses are subject to the requirements specified herein and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

(1) Any use permitted in, and as regulated in, the R-40 Residence District.

C. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof and subject to the requirements specified below and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof. **[Amended 9-16-1969 by Ord. No. 73]**

(1) On lots of five acres or more, office buildings for business and professional use (including administrative, scientific, research and development, training, statistical, financial and similar purposes in connection with such uses).

(2) On lots of five acres or more, commercial research laboratories engaged exclusively in the pursuit of biological or technological research and the development of manufactured, processed or compounded products, including but not limited to engineering research in food and consumer products, consumer research and development operation in chemical processing of biological or food or other consumer products, subject to the following regulations:

(a) Such commercial research laboratory may contain only such facilities and equipment as may reasonably be required by such laboratory for research in and development of the processes or products directly related to the business of the owner thereof.

(b) Such commercial research laboratory may contain what are customarily known as "pilot experimental facilities" for processing or assembling units or products resulting from research and experimental work on the premises of such laboratory; or the assembly of other related units involving only light, small or microscopic parts, the assembly of which requires the supervision and the specific skills of the technical staff of such laboratory, provided that:

[1] Such assembled experimental units may consist only of small test or trial packages of products developed by such laboratory for testing preservative qualities or consumer acceptability, whether by gift or sale, but assembling of any trial packages shall be limited to and confined exclusively to testing preservative qualities and consumer acceptability.

[2] Such assembled experimental units may also consist of small portable test or prototype instruments of a scientific, optical, medical, photographic, electronic or similar type and nature not exceeding 60 inches in any dimension.

[3] Said assembling facilities may contain a total floor area of not greater than 10% of the total floor area of the building.

[4] There shall be no commercial manufacture on the premises except with respect to limited quantities of test or trial products as above provided or such models or prototypes as may be created and used in pursuit of the research, experimentation and development conducted in such laboratory.

D. Accessory uses limited to the following:

(1) Any accessory use permitted in and as regulated in the R-40 Residence District. **[Amended 9-16-1969 by Ord. No. 73]**

(2) Overnight lodgings for visitors to any of the permitted principal uses, provided that maximum capacity thereof does not exceed 50 persons.

(3) Indoor and outdoor recreation facilities, provided that all such necessary buildings and uses shall be planned as an integral part of the office building development and all such facilities are located a minimum distance of 100 feet from any street or property line and 200 feet from any

residence district.

- (4) In-service training schools for employees.
- (5) Private garages for the storage only of vehicles owned by the proprietor of the principal use, including the sale of gasoline to the employees thereof and visitors hereto but not to the general public. **[Amended 9-16-1969 by Ord. No. 73]**
- (6) On lots of 10 or more acres having thereon three or more principal buildings, a central heating and power plant accessory to the principal use and serving all structures on the premises, provided that the chimney thereof shall be of such height and design as may be certified by a qualified engineer as in accord with accepted engineering practices and approved by the Planning Board.
- (7) Maintenance and utility shops and storage facilities incident to the principal use.
- (8) Parking lots for executives, employees and visitors.
- (9) Assembly halls for meetings incident to the business of the principal use, provided that at the time of any meeting there shall be available off-street parking space for all persons in attendance. **[Amended 9-16-1969 by Ord. No. 73]**
- (10) Restaurant or cafeteria for supplying meals only to employees and guests of the principal use.
- (11) The following signs subject to § 200-28:
  - (a) An identification sign not exceeding 12 square feet in area.
  - (b) Necessary direction signs, none of which shall exceed five square feet in area.

E. Special requirements.

- (1) Public utility buildings or structures and governmentally owned and operated buildings with ground coverage by buildings or structures of 1,000 square feet or less may be located on lots of less than five acres, provided that no such building or structure shall be located closer to any lot line than a distance equal to the height of such building or structure, and in no event less than 15 feet therefrom.
- (2) No principal or accessory building shall be located:
  - (a) Less than 200 feet from the boundary of a residence district in any municipality or less than 50 feet from the boundary of any commercial district. **[Amended 9-16-1969 by Ord. No. 73]**
  - (b) Less than 100 feet from the right-of-way of any highway or public street right-of-way.
  - (c) Less than 100 feet from any other lot line.
- (3) No accessory off-street parking and truck loading or maneuvering area shall be located:
  - (a) Less than 200 feet from the boundary of a residence district in any municipality or less than 50 feet from the boundary of any commercial district.
  - (b) Less than 50 feet from the boundary of any abutting lot within the R-35 District.
  - (c) No truck loading facilities of any type, including platforms, shall be permitted along any wall of any building where such wall faces a highway or street. **[Amended 9-16-1969 by Ord. No. 73]**
  - (d) No parking facilities shall be located within 10 feet of the wall of any building where such wall faces any street or highway.
- (4) Landscaping **[Amended 9-16-1969 by Ord. No. 73]**
  - (a) When used for office purposes, the entire lot, except for areas covered by buildings or surfaced as parking or service areas, shall be suitably landscaped. All landscaping shall be

properly maintained throughout the life of any use of said lot. Existing retaining walls, trees or landscaping located within 20 feet of any street or lot line shall not be removed except upon written approval by the Planning Board nor shall the existing grade within that space be disturbed without such approval.

- (b) Under the conditions listed below, there shall be planted along the lot lines of the subject lot trees or shrubs of such type and spacing as shall be required by the Planning Board to adequately screen all operations on the lot from the view of adjoining properties. Generally such screening shall not be less than three feet nor more than eight feet in height, where:
  - [1] The lot lines of the subject lot coincide with a lot in residential use; or
  - [2] The lot lines of the subject lot coincide with a residence district boundary line.
- (5) No building may exceed a height of 35 feet at the front, side or rear yard lines. Within the yard lines the height of buildings may be 35 feet or a height at any point equal to 1/3 the horizontal distance of said point from the nearest lot line whichever is greater. **[Amended 9-16-1969 by Ord. No. 73]**
- (6) Not more than 25% of the area of the lot may be covered by buildings, including accessory buildings. No building, other than an accessory building with ground coverage of less than 1,000 square feet, shall be located closer to another building than a distance equal to the height of the higher building and in no event less than 30 feet therefrom, whether or not connected to such building by a canopy, enclosed walkway or similar structure.
- (7) Off-street parking requirements. **[Amended 9-16-1969 by Ord. No. 73; 3-9-1993 by L.L. No. 3-1993]**
  - (a) Driveways shall be at least 20 feet in width. Such portions of the required off-street parking areas which are sufficient in the opinion of the Planning Board to provide adequately for the actual parking requirements of any particular permitted use at all times shall be paved with a dustless surface acceptable to the Planning Board. Off-street parking spaces may be grouped in facilities serving more than one lot or establishment.
  - (b) When the lot on which parking spaces are located abuts the rear or side lot line of or is across the street from any land in a residence district in any municipality, other than publicly owned land, a wall, fence or evergreen planting shall be maintained so as to screen substantially the parking lot from view from the nearest property in such residence district. The screening shall be maintained in good condition at all times. In parking lots of one acre or more, at least 5% of the area of the parking lot shall be devoted to landscaping within the interior of the parking area.
- (8) **Enclosed buildings and outdoor storage.** Editor's Note: Former Subsection E(8), Loading berth requirements, as amended 9-16-1969 by Ord. No. 73, was repealed 3-9-1993 by L.L. No. 3-1993. This local law also renumbered former Subsection E(9) as Subsection E(8).
  - (a) All permitted uses and accessory equipment, materials or activities shall be confined within completely enclosed buildings with the exception of off-street parking spaces, off-street loading berths and employee recreational facilities.
  - (b) Fuel storage tanks utilized as part of the heating equipment of an establishment shall be located underground or in a building. Bulk storage of gasoline or petroleum products shall not be permitted except as incidental to a laboratory, a production operation or the servicing of company vehicles.

#### **§ 200-9. R-30 One-Family Residence District.**

In an R-30 One-Family Residence District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

(1) Any permitted use or accessory use listed in the R-40 Residence District.

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

(1) Any use so permitted in, and as regulated in, the R-40 Residence District.

**§ 200-10. R-20 and R-20A One-Family Residence Districts. [Amended 8-14-1979 by Ord. No. 97]**

In an R-20 One-Family Residence District and an R-20A One-Family Residence District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

(1) Any permitted use or accessory use listed in the R-40 Residence District.

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

(1) Any use so permitted in, and as regulated in, the R-40 Residence District.

**§ 200-11. R-15 One-Family Residence District.**

In an R-15 One-Family Residence District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

(1) Any permitted use or accessory use listed in the R-40 Residence District.

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

(1) Any use so permitted in, and as regulated in, the R-40 Residence District. **[Amended 9-16-1969 by Ord. No. 73]**

**§ 200-12. R-15X One-Family Residence-Office District.**

In an R-15X One-Family Residence-Office District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

(1) Any permitted use or accessory use listed in the R-40 Residence District.

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

(1) Any uses so permitted in, and as regulated in, the R-40 Residence District. **[Amended 9-16-1969 by Ord. No. 73]**

C. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof. **[Amended 9-16-1969 by Ord. No. 73]**

(1) Any use permitted in the R-35 Residence District and as regulated in § 200-8C, D and E hereof.

### **§ 200-13. R-10 One-Family Residence District.**

In an R-10 One-Family Residence District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

(1) Any permitted use or accessory use listed in the R-40 Residence District.

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified herein and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

(1) Any use so permitted in, and as regulated in, the R-40 Residence District.

(2) Conversion of an existing residential structure to a two-family dwelling, subject to the following requirements:

(a) Each of the resulting dwelling units shall contain not less than 750 square feet of living floor area.

(b) The area of the lot on which such structure is located shall contain not less than 10,000 square feet. Editor's Note: Former Subsection B(2)(c), dealing with off-street parking spaces for dwelling units, which subsection immediately followed this subsection, was repealed 3-9-1993 by L.L. No. 3-1993.

### **§ 200-14. R-7.5 One-Family Residence District.**

In an R-7.5 One-Family Residence District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

(1) Any permitted use or accessory use listed in the R-40 Residence District.

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX

hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

- (1) Any use so permitted in, and as regulated in the R-10 Residence District.

#### **§ 200-15. R-5 One-Family Residence District.**

In an R-5 One-Family Residence District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

- (1) Any permitted use or accessory use listed in the R-40 Residence District.

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified herein and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

- (1) Any use so permitted in, and as regulated in, the R-10 Residence District.

#### **§ 200-16. MF Multifamily District.**

In an MF Multifamily District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

A. Permitted uses.

- (1) Any permitted use or accessory use listed in, and as regulated in, the R-40 Residence District. **[Amended 9-16-1969 by Ord. No. 73]**

B. Uses permitted by special permit upon approval by the Board of Appeals in accordance with Article IX hereof. The following uses are permitted subject to approval by the Board of Appeals in accordance with the provisions of § 200-45. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.

- (1) Any use so permitted in, and as regulated in, the R-10 Residence District.

C. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof. These uses are subject to the requirements specified herein and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof. **[Amended 9-16-1969 by Ord. No. 73]**

- (1) Multiple dwellings, subject to the following requirements:
  - (a) No building shall exceed 150 feet in length.
  - (b) The minimum distance between principal buildings shall equal two times the height of the highest building, and the minimum distance between a principal and an accessory building shall be 20 feet.
  - (c) Any inner court shall have a minimum dimension of 60 feet, and any outer court shall have

a minimum dimension of 20 feet and a depth not exceeding its width.

- (d) There shall be provided on the same lot a suitably equipped and landscaped children's play area with a minimum of 400 square feet for each dwelling unit.
  - (e) Signs, subject to the requirements of § 200-28, and not more than one building identification sign of an area not greater than 14 square feet and located in the front or side yard. **[Added 6-19-1973 by Ord. No. 79]**
- (2) Row or attached dwellings, in addition to being subject to the provisions of Subsection C(l) (b), (c) and (d) above, shall also be subject to the following conditions:
- (a) The maximum number of dwelling units in a group of row dwellings shall be six.
- (3) Additional requirements for multiple-family and row and/or attached dwellings. **[Added 8-19-1975 by Ord. No. 85]**
- (a) At least 1/3 of the net site area shall be devoted to permanent open space and/or for sites suitable for recreation as required by Subsection C(1)(d). Undeveloped permanent open space shall be provided and guaranteed at the rate of 1,500 square feet per bedroom.
  - (b) In considering such residential developments, the Planning Board shall follow the procedures and requirements set forth in § 200-31, entitled "Cluster developments."
  - (c) Any such construction shall be subject to the New York State Multiple Family Building Code.

#### **§ 200-17. NC Neighborhood Commercial District.**

In an NC Neighborhood Commercial District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following, and all such uses shall be subject to site plan approval in accordance with § 200-50 hereof.

##### **A. Permitted uses.**

- (1) Stores and shops for the conduct of any retail business, excluding drive-in establishments. **[Amended 9-16-1969 by Ord. No. 73]**
- (2) Service establishments, excluding automobile laundries, gas stations and all other similar automotive service establishments, undertakers and funeral parlors.
- (3) Fully enclosed eating and drinking establishments, provided that no live entertainment or live music is supplied or dancing permitted. **[Amended 3-22-1983 by Ord. No. 111]**
- (4) Business, professional and governmental offices. **[Amended 9-16-1969 by Ord. No. 73]**
- (5) Public utility structures serving a local area.
- (6) Fire and police stations.
- (7) Self-service or hand laundry and dry-cleaning establishment, provided that not more than two workers shall be engaged in the dry-cleaning process and which contain one or more dry-cleaning units having an aggregate dry-load capacity of not more than 60 pounds.

##### **B. Accessory uses. [Amended 9-16-1969 by Ord. No. 73]**

- (1) Off-street parking and loading space subject to the requirements in § 200-29A(1) and B.
- (2) Accessory signs. **[Amended 6-19-1973 by Ord. No. 79]**
  - (a) Accessory signs, subject to § 200-28, advertising only activities conducted on the lot are

permitted, provided that they do not exceed two feet in height nor 25% of the length of the building. Such signs shall be attached to the wall of the building and shall not project more than 15 inches beyond the face of such wall. Signs projecting above the roof or beyond the side walls are prohibited.

(b) Freestanding pole signs advertising only activities conducted on the lot which are affixed to a single upright pole; however, no such sign shall exceed 20 square feet in area on each side and 10 feet in height from the ground level to the top of the sign, and no part of said sign shall extend over the lot or street line.

(c) A building on a corner may have a sign on two facades, one sign facing each street.

C. Special requirements.

(1) Where feasible in an NC District, all buildings shall be serviced from a rear service road not less than 25 feet wide. Said service road may be counted as available for access to the required off-street parking spaces. **[Amended 9-16-1969 by Ord. No. 73]**

D. Uses permitted by special permit upon approval by the Town Board in accordance with Article X hereof. The following uses are permitted subject to approval by the Town Board in accordance with the provisions of Article X hereof. The uses are subject to the requirements set forth therein and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof. **[Added 3-22-1983 by Ord. No. 111]**

(1) Fully enclosed eating and drinking establishments where live entertainment or live music is supplied or provided.

(2) Fully enclosed eating and drinking establishments where music is provided for dancing and dancing is permitted.

**§ 200-18. GB General Business District.**

In a GB General Business District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following, and all such uses shall be subject to site plan approval in accordance with § 200-50 hereof.

A. Permitted uses.

(1) Retail stores and banks. **[Amended 9-16-1969 by Ord. No. 73]**

(2) Personal service stores, such as but not limited to barbershops, beauty parlors and tailors.

(3) Fully enclosed eating and drinking establishments, provided that no live entertainment or live music is supplied or dancing permitted. **[Amended 3-22-1983 by Ord. No. 111]**

(4) Business, professional and governmental offices.

(5) Public utility structures. **[Amended 9-16-1969 by Ord. No. 73]**

(6) Coin-operated laundromat and dry-cleanomat and outlet and pickup stations for laundries and cleaning establishments, excluding a commercial laundry as such.

(7) Theaters (except drive-ins), bowling alleys and other commercial recreation facilities conducted within a fully enclosed building. **[Amended 9-16-1969 by Ord. No. 73]**

(8) Clubs and fraternal lodges.

(9) Funeral homes.

(10) Buildings and uses owned and operated by the town.

(11) Motor vehicle sales establishments, service stations and repair garages, subject to the following special requirements: **[Amended 9-16-1969 by Ord. No. 73; 7-13-1971 by Ord. No. 77; 3-10-1981 by Ord. No. 106]**

- (a) No such use shall be permitted to be established on a lot that is within 2,500 feet of another lot on which there is an existing automotive use or for which a building permit has been issued for the construction of an automotive use. Said distance is to be measured in a straight line between the nearest points of each of the lots or leased areas.
- (b) No such use shall be permitted to be established on a lot that is within 500 feet of another lot on which there is a place of public assembly, such as a school, church, hospital or other place of public assembly designed for occupancy by more than 50 persons, or for which a building permit has been issued for the construction of such a place of assembly. Said distance is to be measured in a straight line between the nearest points of each of the lots or leased areas.
- (c) The minimum lot size for such establishments shall be 20,000 square feet, and the minimum street frontage shall be 150 feet. The minimum size of any individual use shall be 1,800 square feet.
- (d) All service or repair of motor vehicles, except for the sale of fuel and lubricants, shall be conducted entirely within a building enclosed on all sides and shall be performed only between the hours of 7:00 a.m. and 7:00 p.m. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.
- (e) Not more than one motor vehicle for every 2,000 square feet of lot area or not more than a number of motor vehicles equivalent to the number of parking spaces specified in § 200-29A(1) of this chapter, whichever is less, shall be stored outside at any time. Further, there shall be no outdoor storage of parts or partially dismantled or wrecked motor vehicles. All parking, including the parking of tow trucks and other commercial vehicles, shall take place only in approved parking areas. **[Amended 3-9-1993 by L.L. No. 3-1993]**
- (f) Fuel pumps shall be set back from the front property line at least 25 feet. All other buildings and structures, except underground storage tanks, shall be set back at least 45 feet from the front property line, 10 feet from each side lot line and 20 feet from the rear lot line. All buildings and structures shall be set back at least 50 feet from the lot line of a contiguous lot in a residence district. No fuel pump shall be closer than 20 feet to any building.
- (g) Between an automotive use and a contiguous lot in a residence district, an area at least 10 feet wide with landscape screening shall be provided. Such plantings shall be coniferous, shall have an initial height of at least five feet and shall be planted close enough together to adequately screen the automotive use from the view of the abutting land in the residence district. A six-foot-high wall or fence, suitable in appearance to the surrounding area, may be substituted for or required in addition to the landscape planting. Proper maintenance of landscaping shall be a continuing requirement.
- (h) There shall be no more than one driveway for each 75 feet of street frontage. Such driveways shall be not more than 30 feet wide, not less than 20 feet wide and not closer together than 30 feet at any point.
- (i) All driveways, parking and standing areas shall be permanently improved with a paved surface and shall have curbing at their edges. Adequate provision shall be made for the collection and disposal of stormwater runoff. All driveways and parking areas shall be so laid out as to avoid the necessity of any vehicle backing out into any public roadway or right-of-way.
- (j) All areas, except those which are paved, shall be landscaped. All parking areas shall be

screened from adjoining streets and lots with coniferous plantings having an initial height of at least five feet and planted close enough together to form a visual barrier. Other landscaping shall include the treatment of open space with shrubs, trees, lawn or flowers to present an attractive, well-kept appearance and the retention of natural wooded areas. Proper maintenance of landscaping shall be a continuing requirement. Fences or walls may be substituted for, or required in addition to, landscape planting.

- (k) All driveways, pump islands, other structures and landscaping shall be located so that there will be adequate sight distance of vehicles and pedestrians for the vehicles entering and leaving the premises.
  - (l) The storage of gasoline or flammable liquids in bulk shall not exceed 10,000 gallons, shall be located fully underground and not nearer than 35 feet to any property line. There shall be no storage of waste materials, such as grease, oil or flammable liquids, except in a closed, underground receptacle or vaulted area.
  - (m) The sale of used motor vehicles shall be conducted only as an accessory use to the sale of new motor vehicles of the same kind.
  - (n) The use of pennants, streamers or other moving, eye-catching devices is prohibited, except in the case of the opening of a new gas station or a change in a station's major dealer or supplier, and then only for a period not to exceed 30 days.
  - (o) There shall be no residence or sleeping quarters maintained in any motor vehicle sales establishment, service station or repair garage.
- (12) Self-storage facilities and related business offices, subject to the following special requirements: **[Added 2-25-1997 by L.L. No. 1-1997]**
- (a) No outdoor storage of any kind shall be permitted.
  - (b) No such use shall be permitted on a lot having less than 100,000 square feet.
  - (c) No building on a lot devoted to such use shall have a footprint more than 10,000 square feet. **[Amended 1-27-1998 by L.L. No. 1-1998]**
  - (d) All buildings on a lot devoted to such use shall have the narrowest side of such buildings facing toward the principal public street on which the lot is located.
  - (e) Notwithstanding any provisions of this chapter to the contrary, the following shall apply:
    - [1] The minimum front yard setback for a detached, small security gatehouse and fencing shall be 50 feet.
    - [2] The minimum front yard setback for principal buildings shall be 90 feet.
    - [3] The minimum side yard setback adjacent to a nonresidential district shall be 10 feet.

B. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof. These uses are subject to the requirements specified herein and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof. **[Added 8-12-2003 by L.L. No. 3-2003** Editor's Note: This local law also redesignated former Subsection B as Subsection C. ]

- (1) Multiple dwellings and row or attached dwellings, subject to the following provisions:
  - (a) The project shall meet the provisions of §§ 200-16C(1), (2) and (3) and 200-22 of this chapter relating to the Multifamily District.
  - (b) The lot on which the dwellings are proposed shall be at least one acre in size.
  - (c) The lot on which the dwellings are proposed shall not be adjacent to or across the street from any lot on which exists the housing of dogs as a principal use.

- (d) The lot on which the dwellings are proposed, and the dwellings themselves, shall not contain any other principal use.
- (e) On-site parking for the dwellings shall be provided in accordance with § 200-29A of this chapter. In addition, the Planning Board shall ensure that sufficient on-site visitor parking is provided. This determination by the Planning Board shall take into consideration whether the parking spaces are individually assigned to the respective dwellings, are common to the dwellings, or are a combination thereof. Further, if determined appropriate by the Planning Board, on-site accessory recreation facilities shall be provided with their own on-site parking.
- (f) On-site landscaping and screening, as deemed appropriate by the Planning Board, shall be provided.
- (g) Notwithstanding § 200-22 of this chapter, the minimum size of the respective dwelling units shall be as follows:
  - [1] Studio, efficiency and one-bedroom dwelling: 850 square feet.
  - [2] Two-bedroom dwellings: 1,150 square feet.
  - [3] Three-bedroom dwellings: 1,450 square feet.

C. Accessory uses. **[Amended 9-16-1969 by Ord. No. 73]**

- (1) Off-street parking and loading space, subject to the requirements in § 200-29A(1) and B.
- (2) Accessory signs advertising only activities conducted on the lot are permitted, provided that they do not exceed two feet in height nor 25% of the length of the building. Such signs shall be attached to the wall of the building and shall not project more than 15 inches beyond the face of such wall. Signs projecting above the roof or beyond the side walls are prohibited.
- (3) Freestanding pole signs advertising only activities conducted on the lot which are affixed to a single upright pole; however, no such sign shall exceed 20 square feet in area on each side and 10 feet in height from the ground level to the top of the sign, and no part of said sign shall extend over the lot or street line. **[Added 6-19-1973 by Ord. No. 79]**

**§ 200-18.1. GB-1 General Business District-1. [Added 10-11-1983 by Ord. No. 114]**

In a GB-1 District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following, and all uses shall be subject to site plan approval in accordance with § 200-50 hereof.

A. Permitted uses.

- (1) Any permitted use permitted in and as regulated by the GB General Business District.
- (2) Warehouse and storage facilities and related business offices, provided that there is no outdoor storage of any kind.

B. Accessory uses.

- (1) Any accessory use permitted in and as regulated by the GB General Business District.

C. Miscellaneous provisions.

- (1) If there is a conflict between the provisions of this section and any other applicable section of this Zoning Ordinance, the provisions of this section shall control.
- (2) Front, side and rear setback requirements otherwise applicable may be increased up to a factor

of two, reduced or eliminated to the extent deemed appropriate by the Planning Board in their sole discretion on site plan review pursuant to Article XI hereof, based upon the topography, slopes, grades, site distances and highway conditions and configurations as found by the Planning Board and upon a finding by the Planning Board that any such increase, reduction or elimination shall not adversely impact adjacent or abutting properties in considering visual, economic, environmental, ecological, safety and health effects.

#### **§ 200-19. O-RM Office-Research Manufacturing District.**

In an O-RM Office-Research Manufacturing District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following, and all such uses shall be subject to site plan approval in accordance with § 200-50 hereof.

##### A. Permitted uses.

- (1) Office buildings for business and professional offices, research, design and development laboratories, including incidental clinics, cafeterias and recreation facilities for the exclusive use of company employees, subject to the performance standards set forth in Subsection F. **[Amended 9-16-1969 by Ord. No. 73]**
- (2) Governmentally owned and operated buildings and uses.
- (3) Public utility structures and underground utility lines.

##### B. Conditional uses permitted upon approval by the Planning Board in accordance with Article XI hereof. The following conditional uses are permitted subject to approval by the Planning Board in accordance with § 200-49 hereof. These uses are subject to the requirements specified below and elsewhere in this chapter, including site plan approval in accordance with § 200-50 hereof. **[Amended 9-16-1969 by Ord. No. 73]**

- (1) Manufacturing, processing and assembly activities, provided that such activities are so designed, constructed and enclosed that there will be no observable external evidence thereof other than loading and unloading functions, which shall be fully screened from all adjacent residential areas, and further provided that such manufacturing, processing and assembly is subject to the performance standards set forth in Subsection F.
- (2) Conference centers for meetings of companies and corporations, trade societies and like groups and transient living accommodations for attendees. **[Amended 6-12-1984 by Ord. No. 116]**

##### C. Accessory uses.

- (1) Accessory garages, sewage treatment plants, pump houses, water towers, storage tanks for other liquid materials, fire protection monitors, cafeterias and other auxiliary installations and recreational facilities for the exclusive use of company employees and their immediate families. Any such recreational facilities that are exterior to buildings shall be used only between the time of sunrise and sunset. No such exterior recreational facility shall be closer than 300 feet to any boundary of any residential district. AU interior and exterior recreational facilities shall be used in such manner as to conform to the performance standards set forth in Subsection F. **[Amended 9-16-1969 by Ord. No. 73]**
- (2) Fully enclosed warehouse and storage facilities.
- (3) Parking and loading areas. **[Amended 9-16-1969 by Ord. No. 73; 8-11-1981 by Ord. No. 109]**
- (4) The following signs, subject to § 200-28:
  - (a) An identification sign not exceeding 12 square feet in area, provided that not more than one such sign shall be permitted for each tenant on the premises. **[Amended 9-16-1969**

**by Ord. No. 73]**

- (b) Necessary directional signs, none of which shall exceed five square feet in area.
  - (5) Dwellings only for use of bona fide caretakers or watchmen and their families.
  - (6) Retail space of the newspaper/candy/sundry store variety, so long as this space is clearly incidental to the principal use of the building in which it is located and is clearly intended but is not necessarily restricted to be patronized by only the employees of such building. **[Added 6-23-1992 by L.L. No. 3-1992]**
- D. Prohibited uses. The following uses are prohibited in an ORM District:
- (1) Residence, except as set forth in Subsection C(5). **[Amended 9-16-1969 by Ord. No. 73]**
  - (2) All business and commercial uses in which there is retail sale of goods or commercial service of products, including lumber and building materials and equipment, sales, storage and service. **[Amended 9-16-1969 by Ord. No. 73]**
  - (3) All uses and activities that do not meet the performance standards set forth in Subsection F. **[Amended 9-16-1969 by Ord. No. 73]**
  - (4) Uses of a heavy industrial nature, including:
    - (a) Manufacturing uses involving primary production from raw materials, such as but not limited to asphalt, cement, charcoal, fuel briquettes, chemicals and related products which may be dangerous, offensive or create nuisances violative of the intent of the performance standards set forth in Subsection F, and processes whether or not related to such production, including but not limited to nitrating, milling, reduction, refining, melting, alloying and distillation. **[Amended 9-16-1969 by Ord. No. 73]**
    - (b) Operations involving stockyards and slaughterhouses, grain elevators and slag piles.
    - (c) Bulk storage of flammable products above ground.
    - (d) Dumps, except those owned and/or operated by the town.
    - (e) Quarries, stone crushers, screening plants and storage of quarry screenings. **[Amended 9-16-1969 by Ord. No. 73]**
    - (f) Junk- and auto-wrecking yards.
    - (g) Truck terminals.
  - (5) Any use which creates any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; heat, cold, dampness, electromagnetic or other disturbance; glare; liquid or solid refuse or wastes; or other substance, condition or element in such manner or in such amount as to adversely affect the use of the surrounding area or adjoining premises.
- E. Special requirements.
- (1) The entire lot, except for areas covered by buildings or surfaced as parking or service areas, shall be suitably landscaped. All landscaping shall be properly maintained throughout the life of any use on said lot. Existing retaining walls, trees or landscaping located within 20 feet of any street or lot line shall not be removed except upon written approval by the Planning Board, nor shall existing grade be disturbed except with such approval. **[Amended 9-16-1969 by Ord. No. 73]**
  - (2) There shall be planted along lot lines of the subject lot trees or shrubs of such type and spacing as shall be required by the Planning Board to adequately screen all operations on the lot from the view of adjoining properties. Screening shall also be required for the purpose of ensuring that the glare from headlights of vehicles in off-street parking and truck loading or maneuvering

areas shall not cause safety problems for drivers on adjacent highways. Generally, such screening shall not be less than three feet nor more than eight feet in height, where: **[Amended 9-16-1969 by Ord. No. 73; 6-23-1992 by L.L. No. 3-1992]**

- (a) The lot lines of the subject lot coincide with those of another lot in residential use; or
  - (b) The lot abuts, or is traversed by a residence district boundary line.
- (3) All permitted uses and accessory equipment, materials or activities shall be confined within completely enclosed buildings with the exception of off-street parking spaces, off-street loading berths and employee recreational facilities.
- (4) Fuel storage tanks utilized as part of the heating equipment of an establishment shall be located underground or in a building. Bulk storage of gasoline or petroleum products shall not be permitted except as incidental to a laboratory, a production operation or the servicing of company vehicles.
- F. Performance standards. Any use subject to the requirements of this section may be established and maintained if its operation is approved by the Planning Board as being in conformance with the standards and regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise or vibration. In approving the site plan, the Planning Board shall decide whether the proposed use will conform to the applicable performance standards. The applicant shall submit to the Planning Board, if the Planning Board so requests, a written report showing the manner in which the proposed use will comply with the performance standards. Any building permit or certificate of occupancy shall be conditioned on, among other things, the applicant's paying the fees for services of such expert consultant or consultants as the Planning Board may call upon for advice as to whether or not the applicant's completed buildings and installations will conform in operation to the applicable performance standards. When the use of such consultant is required by the Planning Board, the applicant shall deposit with the Town Clerk the sum of \$500 to be applied to the fee of such consultant. Any proceeds of such deposit not used for said consultant shall be returned to the applicant, and any deficiency shall be made up by the applicant prior to the issuance of a building permit or certificate of occupancy. The continued effectiveness of the certificate of occupancy shall be conditioned on the continuous conformance of the applicant's completed buildings, installations and uses to the applicable performance standards. **[Amended 9-16-1969 by Ord. No. 73]**
- (1) Uses subject to the performance standards procedure. Only manufacturing and research, experimental and testing laboratory uses and uses accessory thereto shall be subject to the performance standards procedure in obtaining a building permit. However, if the Building Inspector has reasonable grounds to believe that any other proposed use may violate any of the performance standards and reports accordingly to the Planning Board, then the applicant shall comply with the performance standards procedure.
  - (2) Enforcement provisions applicable to other uses. Initial and continued compliance with the performance standards is required of every use, including those already existing on the effective date of this chapter. Provisions for enforcement of continued compliance with performance standards shall be invoked by the Building Inspector against any use if there are reasonable grounds to believe that the performance standards are being violated by such use.
  - (3) Performance standards procedure.
    - (a) An application for a building permit or certificate of occupancy for a use subject to the performance standards procedure shall include a plan of the proposed construction and a description of the proposed machinery, operations and products and specifications for the mechanisms and techniques to be used in restricting the emission of any dangerous and objectionable elements. The applicant shall also file with such plans and specifications an affidavit acknowledging his understanding of the applicable performance standards and stating his agreement to conform with same at all times. No applicant will be required to reveal any secret processes, and any such information as designated by the applicant as a trade secret and submitted herewith will be treated as confidential. During the course of

site plan review, the Planning Board will determine if the applicant's proposal of conformance of use falls within the performance standards.

- (b) The Planning Board may require a report by one or more expert consultants retained by the applicant and approved by the Planning Board to advise as to whether the proposed use will conform to the applicable performance standards. The consultant shall report to the Board within 20 days, and a copy of his report shall be promptly furnished to the applicant. The cost of any such special reports by expert consultants shall be paid by the applicant.
- (4) Performance standard regulations.
- (a) Fire and explosion hazards. All activities involving, and all storage of, flammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited at any point. The relevant provisions of state and local laws and regulations shall also apply.
  - (b) Vibration.
    - [1] No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines; nor shall any vibration produced exceed 0.002 g peak at up to 50 cycles per second frequency, measured at or beyond the lot lines, using either seismic or electronic vibration measuring equipment.
    - [2] Vibrations occurring at higher than 50 cycles per second frequency or a periodic vibration shall not induce accelerations exceeding 0.001 g. Single-impulse periodic vibrations occurring at an average interval greater than five minutes shall not induce accelerations exceeding 0.01 g.
  - (c) Noise.
    - [1] The maximum sound pressure level radiated by any use of facility at the lot line or O-RM District or BE District boundary shall not exceed the values in the designated octave bands given in Table I after applying the corrections shown in Table II. All landings and takeoffs of helicopters in a BE District shall comply with Table III. Normal household appliances or equipment in use during the hours of 7:00 a.m. to 9:00 p.m. shall not be subject to these regulations. For purposes of Tables I and II, the sound pressure level shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sound, Z24, 3-1944, American Standards Association, Inc., New York, New York, and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, Z24, 10-1953, American Standards Association, Inc., New York, New York, shall be used.) **[Amended 6-12-1984 by Ord. No. 116]**
    - [2] Table I: Maximum permissible sound pressure levels at the lot line or O-RM District boundary for noise radiated continuously from a facility between the hours of 9:00 p.m. and 7:00 a.m.

<b>Frequency Band (cycles per second)</b>	<b>Sound Pressure Level (decibels re 0.0002 dyne/cm<sup>2</sup>)</b>
20 - 75	69
75 - 150	60
150 - 300	56
300 - 600	51

600 - 1,200	42
1,200 - 2,400	40
2,400 - 4,800	38
4,800 - 10,000	35

[3] If the noise is not smooth and continuous and is not radiated between the hours of 9:00 p.m. and 7:00 a.m., one or more of the corrections in Table II shall be applied to the decibel levels given in Table I.

[4] Table II.

Type or Location of Operation or Character of Noise	Corrections (decibels)
Daytime operation only	+ 5
Noise source operates less than	
20% of any one-hour period	+ 5*
5% of any one-hour period	+10*
1% of any one-hour period	+15*
Noise of impulsive character (hammering, etc.)	- 5
Noise of periodic character (hum, screech, etc.)	- 5

\* NOTE: Apply one of these corrections only.

[5] Table III. The acoustic criteria and procedures described in Section 4 of the Federal Aviation Administration Advisory Circular 150/5020-2, dated December 9, 1983, as they may be amended from time to time, shall be the standard governing all applications for a helicopter pad as an accessory use in a BE Business Education District. All applications for such an accessory use shall demonstrate that the proposed use complies with this standard. Notwithstanding such compliance, helicopter landings and takeoffs shall also comply with the following conditions: **[Added 6-12-1984 by Ord. No. 116]**

- [a] No more than an average of five landings and five takeoffs during any one calendar week during any four-week period.
  - [b] No landings or takeoffs before 7:30 a.m. or after 10:00 p.m.; except that on Sunday, no landings or takeoffs before 3:30 p.m.
  - [c] After landings and before takeoffs, the helicopter's engines shall not operate for longer than necessary for safe operation.
- (d) Smoke. No emission shall be permitted, at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on the standard Ringelmann Smoke Chart as issued by the United States Bureau of Mines or its approved equivalent, except that visible grey smoke of a shade equal to No. 2 on said chart may be emitted for four minutes in any 30 minutes. These provisions applicable to visible grey smoke shall also apply to visible smoke of a different color but with an apparently equivalent opacity.
- (e) Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air emitted to four volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table III, Odor

Thresholds, in Chapter 5, Air Pollution Abatement Manual, copyright 1959 by Manufacturing Chemists' Association, Inc., Washington, D.C., and said manual and/or table, as subsequently amended.

- (f) Fly ash, dust, fumes, vapors, gases or other forms of air pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling, at any point on the property of others, and, in no event, any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 0.3 grain per cubic foot of the conveying gas. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500° F. and 50% excess air.
- (g) Electromagnetic radiation. The following standards shall apply. It shall be unlawful to operate or cause to be operated any planned or intentional sources of electromagnetic radiation which do not comply with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government-owned plants, the regulations of the Interdepartment Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Further, said operation in compliance with the Federal Communications Commission or the Interdepartment Radio Advisory Committee regulations shall be unlawful if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious re-radiation, harmonic content, modulation or energy conducted by power or telephone lines. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply:
  - [1] American Institute of Electrical. Engineers.
  - [2] Institute of Radio Engineers.
  - [3] Electronic Industries Association.
- (h) Radioactive radiation. No activities shall be permitted which emit dangerous radio activity at any point beyond the property lines. The handling of radioactive materials, the discharge of such materials into air and water and the disposal of radioactive wastes shall be in conformance with all federal, state and county laws, ordinances, rules and regulations applicable thereto. Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.
- (i) Heat. For the purposes of this chapter, "heat" is defined as thermal energy of a radioactive, conductive or convective nature. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 10° F., whether such change be in the air or the ground, in a natural stream or lake or in any structure on such adjacent property.
- (j) Glare.
  - [1] Direct glare. "Direct glare" is defined, for the purpose of this chapter, as illumination beyond property lines caused by direct or specularly reflected rays from incandescent, fluorescent or arc lighting or from such high temperature processes as welding or petroleum or metallurgical refining. No such direct glare shall be permitted with the exception that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle of the cone of direct illumination shall be 60°, drawn perpendicular to the ground, with the exception that such angle may be

increased to 90°, if the luminary is less than four feet above the ground. Such luminaries shall be placed not more than 16 feet above ground level, and the maximum illumination at ground level shall not be in excess of three footcandles.

[2] Indirect glare. "Indirect glare" is defined, for the purpose of this chapter, as illumination beyond property lines caused by diffuse reflection from a surface such as a wall or roof of a structure. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface not to exceed: 0.3 footcandle (maximum) or 0.1 footcandle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited.

(k) Liquid or solid wastes. No discharge shall be permitted at any point into any public sewer, private sewage disposal system or stream, or into the ground, except in accord with standards approved by the State Department of Health, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

#### **§ 200-19.1. BE Business Education District. [Added 6-12-1984 by Ord. No. 116]**

In a Business Education District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designated to be used, in whole or in part, for any purpose except the following, and all such uses shall be subject to site plan approval in accordance with § 200-50 hereof.

- A. Permitted uses: training schools for the training of management, sales, research, technical, financial or other executive office personnel.
- B. Accessory uses:
  - (1) Accessory garages, sewage treatment plants, pump houses, water towers, storage tanks for other liquid materials, fire protection monitors, electrical and mechanical equipment, cafeterias and other auxiliary installations and recreational facilities for the exclusive use of students, faculty and other training school personnel and their families. Exterior recreational facilities shall not be closer than 150 feet to any boundary of any residential district or 100 feet from any other district. All interior and exterior recreational facilities shall be used in such manner as to conform to the performance standards set forth in § 200-19F. Any lighting and hours of lighting of exterior recreational facilities shall be subject to site plan approval.
  - (2) Dormitory residence buildings.
  - (3) Fully enclosed warehouse and storage facilities.
  - (4) Parking and loading areas.
  - (5) The following signs, subject to § 200-28:
    - (a) An identification sign, not exceeding 12 square feet in area, provided that not more than one such sign shall be permitted.
    - (b) Necessary directional signs, none of which shall exceed five square feet in area.
  - (6) Dwellings for use of caretakers, watchmen or other training school personnel and their families, provided that the same are set back at least 50 feet from any adjoining lot line.
  - (7) Dwellings for use as overnight lodgings for private visitors or guests in connection with the operation of the training school provided that the same are set back at least 50 feet from any adjoining lot line.

- (8) An area for the landing and takeoff of a helicopter (helicopter pad) for restricted and private use in connection with a training school. Such use shall not include maintenance, regular parking or storage of a helicopter, and such use shall be in conformance with and subject to all applicable regulations of the Federal Aviation Administration and New York State Department of Transportation.

C. Prohibited uses. The following uses are prohibited in the BE District:

- (1) Residences, except as set forth in Subsection B above.
- (2) All business and commercial uses in which there is retail sale of goods or commercial service of products, except for an employee or company store exclusively for the use of students, faculty and other training school personnel.
- (3) All uses and activities that do not meet the performance standards set forth in § 200-19F.

D. Special requirements.

- (1) The entire lot, except for areas covered by buildings or surfaced as parking or service areas, shall be suitably landscaped. All landscaping shall be properly maintained throughout the life of any use on said lot. Existing retaining walls, trees or landscaping located within 20 feet of any street or lot line shall not be removed except upon written approval by the Planning Board, nor shall any existing grade be disturbed except with such approval.
  - (2) There shall be planted along lot lines of the subject lot trees or shrubs of such type and spacing as shall be required by the Planning Board to adequately screen all operations on the lot from the view of adjoining properties. Generally, such screening shall not be less than three feet nor more than eight feet in height, where:
    - (a) The lot lines of the subject lot coincide with those of another lot in residential use; or
    - (b) The lot abuts or is traversed by a residence district boundary line.
  - (3) All permitted uses and accessory equipment, materials or activities shall be confined within completely enclosed buildings, with the exception of off-street parking spaces, off-street loading berths, recreational facilities, helipad and electrical and mechanical equipment normally not enclosed by a building.
  - (4) Fuel storage tanks utilized as part of the heating equipment of an establishment shall be located underground or in a building. No other bulk storage of gasoline or petroleum products shall be permitted, except as incidental to the servicing of company vehicles; provided, however, there shall be no storage of gasoline or petroleum products for helicopters.
  - (5) Notwithstanding any other provisions to the contrary, a helicopter pad shall be available for use at the request of the Town of Ossining for police, fire or other emergency services or civic purposes upon reasonable notice under the circumstances to the property owner.
  - (6) In the event that a property owner cannot comply with the limitations of hours of operation provided in § 200-19F(4)(c), Table III, in an emergency (e.g., weather conditions) or upon the infrequent occasions when scheduling for educational purposes requires, advance notice of such an event shall be given directly to the office of the Supervisor of the Town of Ossining or by notice to the Town of Ossining Police Department during other than normal business hours. Such notice shall be given immediately in the case of an emergency and at least 24 hours in advance of such other occasions or sooner if possible. Such infrequent occasions required due to scheduling requirements shall not exceed more than two occasions in any one-month period.
  - (7) The property owner shall maintain a log of all landings and takeoffs, which log shall be available for inspection by representatives of the Town of Ossining during normal business hours at the request of the town. The property owner shall submit a transcript of landings and takeoffs on a monthly basis to the Town Clerk of the Town of Ossining.
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## **ARTICLE IV Bulk Regulations [Amended 9-16-1969 by Ord. No. 73]**

### **§ 200-20. Schedules adopted. [Amended 3-9-1993 by L.L. No. 3-1993]**

The following schedules of regulations applying to the area of lots, the height of buildings, the yards and other open spaces, minimum floor areas and all other matters contained therein, as indicated for the various districts established by this chapter, are hereby adopted and declared to be a part of this chapter.

### **§ 200-21. One-family residences in residential districts. [Amended 8-14-1979 by Ord. No. 97; 3-9-1993 by L.L. No. 3-1993]**

The following bulk regulations shall apply for one-family residences in the following districts: R-40, R-35, R-30, R-20, R-20A, R-15, R-15X, R-10, R-7.5 and R-5. Editor's Note: Said Schedule of Bulk Regulations is included at the end of this chapter.

### **§ 200-22. MF Multifamily Residence District. [Amended 8-19-1975 by Ord. No. 85; 3-9-1993 by L.L. No. 3-1993]**

The following bulk regulations shall apply in the MF Multifamily Residence District:

<b>Minimum Requirements</b>	<b>Row or Attached Dwelling</b>	<b>Multiple</b>
Lot area (square feet)	40,000	40,000
Lot area per dwelling unit (square feet)	4,000 plus 1,500 per bedroom	4,000 plus 1,500 per bedroom
Lot width (feet)	20	150
Lot depth (feet)	100	150
Front yard (feet)	20	50
One side yard (feet)	50*	50
Both side yards (feet)	100*	100
Rear yard (feet)	40	40
		400 for no-bedroom efficiency
Livable floor area dwelling unit (square feet)	850	700 per for 1 or more bedrooms
Usable open space	Same as § 200-16C(3)	Same as § 200-16C(3)
Maximum Permitted		
Building height		
Stories	2 1/2	2 1/2
Feet	35	35
Building coverage (percent)	20	20

\* NOTE: Applies only between buildings and side lot lines.

### **§ 200-23. NC Neighborhood Commercial District, GB General Business District and GB-1 General Business District-1. [Amended 10-11-1983 by Ord. No. 114; 3-9-1993 by L.L. No. 3-1993; 6-14-1994 by L.L. No. 3-1994]**

The following bulk regulations shall apply for the NC Neighborhood Commercial District, the GB General Business District and the GB-1 General Business District-1:

<b>Minimum Required</b>	<b>NC</b>	<b>GB</b>	<b>GB-1</b>
Lot area (square feet)	5,000	20,000	10,000
Lot width (feet)	50	100	75
Lot depth (feet)	50	130	75
Front yard (feet)	30	30	30
Side yard (feet)	—	—	—
Side yard along any residence district boundary (feet)	30	30	30
Rear yard (feet)	—	—	—
Rear yard along any residence district boundary (feet)	30	30	30
<b>Maximum Permitted</b>			
<b>Building height</b>			
Stories	2	2	2
Feet	35	35	35
Aggregate floor area on any lot (square feet)	12,000	—	—
Building coverage (percent)	30	30	30

**§ 200-24. O-RM Office-Research Manufacturing District and BE Business Education District. [Amended 8-11-1981 by Ord. No. 109; 6-12-1984 by Ord. No. 116]**

The following bulk and parking regulations shall apply for the O-RM Office-Research Manufacturing District and the BE Business Education District:

A. Minimum required.

<b>Dimension</b>	<b>O-RM</b>	<b>BE</b>
Lot area Editor's Note: See Note No. 1, Subsection C of this section. (acres)	10	40
Lot width Editor's Note: See Note No. 1, Subsection C of this section. (feet)	300	300
Lot depth Editor's Note: See Note No. 1, Subsection C of this section. (feet)	300	300
Front yard Editor's Note: See Note No. 1, Subsection C of this section. (feet)	100	100
Side yard Editor's Note: See Note No. 1, Subsection C of this section. (feet)	100	100
Side yard for lots along any residence district boundary (feet)	200	150
Rear yard (feet)	100	100
Rear yard for lots along any residence district boundary (feet)	200	150

(1) Parking and loading areas in an O-RM District are to be located not less than 200 feet from the boundary of any residence district in the Town of Ossining or any adjoining municipality and not less than 100 feet from any other lot line. (See Note 1. Editor's Note: Note No. 1 is included as Subsection C of this section. ) Furthermore, in parking lots of one acre or more, at least 5% of the area of the parking lot shall be devoted to landscaping within the interior of the parking area. **[Amended 6-23-1992 by L.L. No. 3-1992; 3-9-1993 by L.L. No. 3-1993]**

(2) Minimum required off-street parking and loading, BE District. Off-street parking and loading

requirements shall be determined by the Planning Board to the extent reasonable and necessary to accommodate the principal and accessory uses permitted in a BE District as part of site plan approval. Parking and loading areas in a BE District are to be located not less than 100 feet from the boundary of any residence district in the Town of Ossining or any adjoining municipality and not less than 30 feet from any other lot line. Furthermore, in parking lots of one acre or more, at least 5% of the area of the parking lot shall be devoted to landscaping within the interior of the parking area.

B. Maximum permitted in O-RM and BE.

- (1) Building height: 35 feet.
- (2) Lot coverage (buildings): 25%.
- (3) Height limitations of this section shall not apply to ventilators, skylights, water tanks, bulkheads, building chimneys, cooling towers, necessary mechanical appurtenances and similar features usually carried above the roof level, provided that:
  - (a) The aggregate area covered by all such features shall not exceed 20% of the area of the roof of the building on which they are located.
  - (b) The height of each such feature shall not exceed 15 feet above the level of such roof.
  - (c) Such features as water tanks, cooling towers and bulkheads shall be enclosed with walls of a material and design in harmony with that of the main walls of the building of which they are a part, which material and design shall be subject to approval by the Planning Board.
  - (d) In a BE District, the maximum permitted building height specified above may be increased to 50 feet when a substantial portion of such additional height is used to house or enclose ventilators, water tanks, bulkheads, etc., at the roof level, provided that such roofs or enclosures are of materials and design which are in harmony with the main walls and roofs of the building of which they are a part, which materials and design shall be subject to approval by the Planning Board.

C. Note No. 1. Any parcel in an O-RM District which has an area of 10 acres or more may be subdivided and subsequently sold or leased. Each subdivision shall be subject to the Subdivision Regulations of the Town of Ossining Editor's Note: See Ch. 176, Subdivision of Land. and the following special requirements:

- (1) Minimum lot size.
  - (a) Within the O-RM District, each principal building, together with its accessory buildings, shall be located on a lot having at least two acres. **[Amended 6-23-1992 by L.L. No. 3-1992]**
- (2) Required yards.
  - (a) No principal or accessory buildings shall be located:
    - [1] Less than 200 feet from the boundary of a residence district in any municipality and less than 100 feet from the boundary of any commercial district.
    - [2] Highways.
      - [a] Less than 100 feet from the right-of-way of a limited-access highway, except that when the distance from the property line of the lot to the pavement of the limited-access highway is in excess of 50 feet, the minimum setback from the property line shall be 50 feet.
      - [b] Less than 100 feet from any other highway or public street right-of-way, except for a local street located entirely within and serving only properties within the O-RM District, for which the minimum setback shall be 50 feet.
    - [3] Less than 50 feet from any other lot lines.

- (b) No accessory off-street parking and truck loading or maneuvering area shall be located:
  - [1] Less than 200 feet from the boundary of a residence district in any municipality or less than 50 feet from the boundary of any commercial district. Notwithstanding the above, the Planning Board may allow a maximum of a fifty-foot reduction in the above-specified two-hundred-foot dimension, where it has been clearly demonstrated to the Planning Board that adverse impacts will not result from such reduction, because of such mitigation matters as topography or natural screening, and/or such man-made screening as the Board directs. **[Amended 6-23-1992 by L.L. No. 3-1992]**
  - [2] than 10 feet from the boundary of any adjacent lot within the O-RM District. **[Amended 6-23-1992 by L.L. No. 3-1992]**
  - [3] Highways.
    - [a] Less than 75 feet from the right-of-way of a limited-access highway, except that when the distance from the property line of the lot to the pavement of the limited-access highway is in excess of 50 feet, the minimum setback from the property line shall be 50 feet. **[Amended 6-23-1992 by L.L. No. 3-1992]**
    - [b] Less than 40 feet from the right-of-way of any other highway or public street, except for a local street located entirely within and serving only properties within the O-RM District, for which the minimum setback shall be 20 feet. **[Amended 6-23-1992 by L.L. No. 3-1992]**
  - [4] No truck loading facilities of any type, including platforms, shall be permitted along the wall of any building where such wall faces a limited-access highway or street.
  - [5] No parking facilities shall be located within 10 feet of the wall of any building where such wall faces any street or highway.
- (3) Street access and frontage. Each lot shall have a minimum frontage of 200 feet on a street or private way; provided, however, that the Planning Board may approve a lesser frontage to a minimum of 100 feet for lots located on culs-de-sac or on street curves or having other unusual characteristics.
- (4) Spacing between buildings. No building, other than an accessory building with ground coverage of less than 1,000 square feet, shall be located closer to another building than a distance equal to the height of the higher building, and in no event less than 30 feet therefrom, whether or not connected to such building by a canopy, enclosed walkway or similar structure.

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## ARTICLE V Supplementary Regulations

### § 200-25. Supplementary regulations applying to all residence districts.

#### A. Accessory buildings.

- (1) An accessory building may be located in any required side or rear yard, provided that:
  - (a) Such building shall not exceed 15 feet in height.
  - (b) Such buildings shall be set back 10 feet from any lot line. **[Amended 9-16-1969 by Ord. No. 73]**
  - (c) All such buildings in the aggregate shall not occupy more than 30% of the area of the required rear or side yard.
- (2) Accessory buildings constructed at the same time may be located in pairs or groups in the required rear or side yard along the common side lot line or rear lot line of contiguous lots.

- (3) An accessory building on that portion of a lot not included in any required yard shall conform with the height regulations for principal buildings.
- (4) No accessory building shall project nearer to the street on which the principal building fronts than such principal building. Should topographic conditions be such that practical difficulties would be caused by this requirement with respect to the location of garages, the Planning Board may authorize the erection of such garages under the following conditions: **[Amended 9-16-1969 by Ord. No. 73]**
  - (a) If the natural slope is from 10% to 20% within 25 feet of the street line, the Board may permit a garage not closer than 10 feet to the street line.
  - (b) Where such slope exceeds 20%, a garage may be permitted not closer than five feet to the street line.

B. Corner lots.

- (1) Obstruction to vision at street intersections. At all street intersections in all residence districts, no obstructions to vision exceeding 30 inches in height above curb level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 30 feet distant from their point of intersection.
- (2) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yards shall be deemed to be a rear yard and the other, or others, side yards.

C. Exceptions to lot depth requirements. The required lot depth at any point may be decreased by 25% if the average lot depth conforms with the minimum requirement.

D. Exceptions to yard requirements.

- (1) Permitted obstructions. Cornices or cantilevered roofs may project not more than three feet into a required yard. Belt courses, window sills and other ornamental features may project not more than six inches into a required yard. Fences or walls over 6 1/2 feet in height may not be erected in front or side yards. Fences or walls with a height in excess of 6 1/2 feet shall conform to the requirements set forth herein for buildings. Paved areas (other than such as are needed for access to the buildings on the lot) shall not project within 15 feet of a street line or four feet of lot lines. **[Amended 9-16-1969 by Ord. No. 73]**
- (2) Entries and porticos. A roofed-over but unenclosed projection in the nature of an entry or portico, not more than eight feet wide and extending not more than six feet out from the front wall of the building, shall be exempt from front yard requirements when the building otherwise complies with all other yard restrictions of this chapter.
- (3) Existing setback. No proposed one- or two-family dwelling need have a setback greater than the average setback of the existing dwellings within 200 feet of each side of the said proposed dwelling. **[Amended 9-16-1969 by Ord. No. 73]**
- (4) Front yards on narrow streets. On streets with less than a fifty-foot right-of-way, the front yard setback shall be measured from the center line of the existing street, and 25 feet shall be added to the front yard setback.

E. Existing small lots. A lot owned individually and separately, and separated in ownership from any adjoining tracts of land on the effective date of this chapter, which has a total lot area or lot width less than prescribed in this chapter, may be used for a one-family residence, provided that such lot shall be developed in conformity with all applicable district regulations other than the minimum lot area, lot width and side yards. **[Amended 9-16-1969 by Ord. No. 73]**

F. Uniformity of design. In order to avoid monotony of architectural design, no building permit shall be issued for the erection of a home if it is substantially like any neighboring building which is existing or for which a building permit has been issued or is being concurrently considered. **[Amended 9-16-1969 by Ord. No. 73]**

- (1) A building shall be considered neighboring if it fronts on the same street as the building being considered and which is the first or second house along the street in either direction or which faces the building site being considered from across the street.
- (2) In considering those items listed in Subsection F(3), buildings shall be considered substantially alike in any dimension for which they differ by less than two feet, except 20 feet for setback differences. Buildings between which the only difference in relative location of elements is end-to-end or side-to-side reversal shall be deemed to be alike in related location of such elements.
- (3) Buildings shall be considered substantially alike unless they differ in at least three of the following respects or dimensions:
  - (a) Setback from the street.
  - (b) Relation of a garage visible from the street to the main structure.
  - (c) Length of the main roof ridge.
  - (d) Height of the roof ridge above the first-floor elevation.
  - (e) Width measured perpendicular to the main roof ridge if the building has a gable extending from the main roof visible from the street.
  - (f) Relationship to each other of either windows, doors, chimney or any porch in the front elevation.
- (4) The Planning Board may waive or vary any requirement of this subsection where the layout of the neighborhood, road pattern, topography, natural features, views and the siting of individual structures is such as to avoid monotony of appearance despite similarity of buildings.

**§ 200-25.1. Street frontage. [Added 6-14-1994 by L.L. No. 3-1994]**

- A. Except as required in § 200-24C(3) of this chapter, no lot shall be created unless it has at least 50 feet of frontage on a street or highway which has been suitably improved to town, county or state road standards or unless a performance guaranty has been posted for such improvement. Further, no building permit shall be issued for the establishment of any use or the construction of any structure unless the lot upon which such use is to be established or such structure is to be constructed meets the frontage requirements of this chapter.
- B. If the main portion of the lot derives its frontage and access by means of a strip of land connecting the street and the main portion of the lot, that strip of land shall also be at least 50 feet in width.
- C. Notwithstanding Subsections A and B immediately above, a lot owned individually and separately from any adjoining tracts of land on the effective date of this section and which has at least 15 feet of frontage on a street or highway as improved and described in Subsection A above shall be deemed to have sufficient frontage for the purpose of this chapter.

**§ 200-26. Animals. [Added 4-22-1975 by Ord. No. 84]**

- A. In any residence district, the following animals may be harbored, kept and/or raised for the sole benefit and use of the occupants of the principal dwelling only, as an accessory use to a principal use:
  - (1) Dogs, cats and similar small animals usually maintained as household pets within the principal dwelling and rabbits, poultry and similar small domestic animals, occasionally maintained as pets but usually maintained outside of a residence as farm animals, provided that there shall be a maximum of four such animals over the age of six months on lots of 1/4 acre or more and a maximum of two such animals over the age of six months on lots less than 1/4 acre.
  - (2) On parcels of two acres or more, by special permit issued by the Zoning Board of Appeals in

accordance with the provisions of Article IX:

- (a) More than four dogs, cats, rabbits, poultry and other similar animals over the age of six months; and
  - (b) Provided that the number thereof shall not exceed the following per acre, in any combination thereof: one horse, one cow, one steer or six sheep. For such animals there may be a barn, shed or corral not less than 50 feet from any side or rear lot line and not less than 100 feet from any street line.
- B. No premises in any residence district shall be used or occupied and no structure erected or maintained for the harboring, keeping and/or raising of pigeons, swine, goats, foxes, minks, skunks or other similar fur-bearing animals.

#### **§ 200-27. Nonresidential buildings.**

- A. Height regulations. **[Amended 9-16-1969 by Ord. No. 73]**
- (1) Where a lot has frontage on two or more streets or other public rights-of-way, the height limitation shall apply only as measured from the curb level along the street or way with the highest elevation above sea level.
  - (2) Structures such as chimneys, flues, towers and spires shall be exempt from height limitations, except as set forth in § 200-24, provided that in the aggregate they occupy not more than 20% of the roof area.
- B. Waiver of yards. No side yard or rear yard shall be required where such yard abuts an operating railroad right-of-way.
- C. Courts. The minimum dimension of an inner court shall not be less than twice the height of all surrounding walls. However, in no case shall an inner court have a dimension of less than 30 feet. (The height of walls surrounding an inner court shall be measured from finished grade at the base thereof to the top of such wall, except that, in the case of roofs with a slope exceeding five inches vertical to 12 inches horizontal, the height shall be measured to the mean point between the top of said wall and the highest point of the roof.) The minimum dimension of an outer court shall be 20 feet, and its depth shall not exceed its width.

#### **§ 200-28. Signs.**

- A. No sign, billboard, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except as expressly permitted in this chapter.
- B. The following types of signs or artificial lighting are prohibited: **[Amended 9-16-1969 by Ord. No. 73]**
- (1) Billboards.
  - (2) Flashing or revolving or neon-lettered signs, including any sign or device on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use. **[Amended 6-19-1973 by Ord. No. 79]**
  - (3) Signs which compete for attention with or may be mistaken for a traffic signal.
  - (4) The outlining by direct illumination of all or any part of a building, such as a gable, roof, side, wall or corner.
  - (5) Signs made of cardboard, paper, canvas or similar impermanent material, except those inside a window, which shall not exceed an area in excess of 25% of the exposed window area. **[Amended 6-19-1973 by Ord. No. 79]**
  - (6) Roof signs. **[Added 6-19-1973 by Ord. No. 79]**

**§ 200-29. Parking and loading.**

A. Off-street parking requirements. Off-street parking spaces, open or enclosed, are permitted as accessory to any use, subject to the following provisions:

- (1) Schedule of parking requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for any use as specified herein. Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the categories listed shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each such use. **[Amended 9-16-1969 by Ord. No. 73; 3-9-1993 by L.L. No. 3-1993]**

<b>Use</b>	<b>Minimum Required Off-Street Parking Spaces</b>
Accessory home occupation	2 in addition to spaces required for the residential use, except that there shall be 4 for each doctor or dentist in addition to spaces required for the residential use
Athletic field	1 for each 10 seats
Banking use	10 plus 5 additional spaces for each person in excess of 2 acting as tellers, including waiting spaces for drive-up windows
Bowling alley or other center of public recreation or amusement	5 for each bowling lane; all others: 1 per 100 square feet of floor space used for public recreation or amusement
Car washing establishment	10 stacking spaces per washing bay or 1 per 500 square feet of gross floor area, whichever is greater
Church, library, place of worship, theater, auditorium or other place of assembly	1 for each 4 seats or pew spaces or, in places without seats, 1 for each 50 square feet of floor space used for public assembly
Dwellings, one- and two-family	2 for each dwelling unit
Dwelling, multifamily	2 for each dwelling unit plus 0.5 for each bedroom more than 2 bedrooms
Funeral home	1 per 50 square feet of gross floor space in assembly rooms or 1 for each 4 chapel seats, whichever is greater
Golf courses and other country clubs	1 for each 3 memberships
Hospital	1 for each 2 patient beds and 1 for each day shift employee, including medical and service staff
Hotel, motel, tourist home or rooming house	1 for each guest sleeping room, plus 1 for each employee, plus 1 for each permanent resident, plus additional spaces for any accessory restaurant, public assembly space, retail or office uses, etc., based upon the standards contained herein for such uses
Manufacturing or industrial use	1 per 600 square feet of gross floor area
Medical or dental office or clinic (other than accessory to residential use)	4 per doctor and dentist plus 1 additional for each technician and employee or 1 per 225 square feet of gross floor area, whichever is greater
Motor vehicle sales	1 per 175 square feet of gross floor area
Motor vehicle service and/or repair	3 per service bay or 10, plus 1 space per 150 square feet of garage gross floor area, plus 1 per employee, whichever is

	greater; plus stacking spaces for any gasoline pumps and additional spaces for any accessory convenience retail use based upon the standards contained herein for such use
Nursing home, sanatorium, convalescent home or home for the aged, philanthropic or eleemosynary institution	1 for each 3 patient beds and 1 for each employee, including medical and service staff
Office for business or professional use (other than accessory to residential use)	1 per 300 square feet of gross floor area
Research or development laboratory	1 per 400 square feet of gross floor area
Restaurant, tavern and/or bar	1 for each 3 seats or 1 for each 75 square feet of gross floor area, whichever is greater
Restaurant, fast-food	1 per 35 square feet of gross floor area plus 5 stacking spaces per drive-up window
Retail or service business	1 per 200 square feet of gross floor area
Schools, primary and secondary	1 per 3 to 5 assembly seats or 1 per employee plus 1 per 5 students in 11th grade or above, whichever is greater
Veterinary office	1 per employee plus 1 per 50 square feet of gross floor area
Warehouse, wholesale, storage, utility or other similar commercial use	1 per 1,000 square feet of gross floor area plus 1 per commercial vehicle

(2) Area computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or a driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space, other than on that portion of a corner lot which is subject to the provisions of § 200-25B(1). **[Amended 9-16-1969 by Ord. No. 73]**

(3) Size of spaces.

(a) Two hundred seventy square feet shall be considered one parking space (to provide room for standing area and aisles for maneuvering). Entrance and exit lanes shall not be computed as parking space except for driveways and one-family and two-family residences as set forth in Subsection A(2). The minimum parking stall width shall be nine feet, and the minimum length shall be 18 feet. Driveways shall be at least 20 feet in width except for one-family and two-family residences.

(b) Notwithstanding the subsection above, in retail, office, research or development laboratory or manufacturing parking lots having 50 or more spaces, the reviewing authority may allow up to 25% of the spaces to be compact car spaces. The compact car spaces must be grouped together and clearly designated as compact car parking only. Two hundred twenty-four square feet shall be considered one compact car parking space (to provide room for standing area and aisles for maneuvering). Entrance and exit lanes shall not be computed as parking space. The minimum parking stall width shall be eight feet, and the minimum length shall be 16 feet.

(4) Access. Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten-foot lane for parking areas with less than 20 spaces and at least two ten-foot lanes for parking areas with 20 spaces or more. No entrance or exit for any off-street parking area shall be located within 50 feet of any street intersection.

- (5) Drainage and surfacing. All open parking areas shall be properly drained, and all such areas shall be provided with a dustless surface, except for parking spaces accessory to a one-family or two-family residence.
  - (6) Joint facilities. Required parking spaces, open or enclosed, may be provided in spaces designed to serve jointly two or more establishments whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall be not less than the total required for all such establishments.
  - (7) Combined spaces. When any lot contains two or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses are not in operation, the Planning Board may reduce the total parking spaces required for that use to the least requirement. **[Amended 9-16-1969 by Ord. No. 73]**
  - (8) Location and ownership. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory or elsewhere, provided that all spaces therein are located within 200 feet walking distance of such lot. In all cases such parking spaces shall conform to all the regulations of the district in which the parking spaces are located, and in no event shall such parking spaces be located in any residence district unless the use to which the spaces are accessory are permitted in such residence districts or upon approval by the Planning Board. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restriction, approved by the Planning Board, binding the owner and his heirs and assigns to maintain the required number of spaces available either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere. **[Amended 9-16-1969 by Ord. No. 73]**
  - (9) On lots divided by district boundaries. When a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces shall apply to the entire lot. Parking spaces on such lot may be located without regard to district lines, provided that no such parking spaces shall be located in any residence district unless the use to which they are accessory is permitted in such district, or upon approval by the Planning Board. **[Amended 9-16-1969 by Ord. No. 73]**
  - (10) Waiver of parking requirements. **[Added 3-9-1993 by L.L. No. 3-1993]**
    - (a) Where the reviewing authority approving a site plan, conditional use permit or special permit application determines that less than the required number of parking spaces will satisfy the intent of this chapter, the reviewing authority may waive the requirement in part, but not in excess of 50% of the number required according to § 200-29A herein. In all cases, it shall be expressly demonstrated on the plan that sufficient space remains for the provision of the total amount of off-street parking required, and the plan shall bear such designation.
    - (b) All such undeveloped parking space shall be used and maintained as additional landscaped grounds until required for parking. Written guaranties, satisfactory to the Town Attorney, shall be submitted by the applicant for the eventual improvement of any such spaces which may have been waived; such written guaranties shall stipulate that the waived spaces shall be improved within six months of the date of written notice to the property owner by the reviewing authority that such spaces have been determined as necessary and must be constructed by the property owner.
- B. Off-street loading requirements. Off-street loading berths, open or enclosed, are permitted as accessory to any use (except one- or two-family residences), subject to the following provisions: **[Amended 9-16-1969 by Ord. No. 73]**
- (1) Uses for which required. Accessory off-street loading berths shall be provided for any use specified herein: **[Amended 3-9-1993 by L.L. No. 3-1993]**

- (a) For a public library, museum or similar quasi-public institution or governmental building, community center, hospital or sanitarium, nursing or convalescent home, institution for children or the aged or school, with floor area of not more than 10,000 square feet: one berth; for each additional 25,000 square feet or fraction thereof: one additional berth.
  - (b) For buildings with professional, governmental or business offices or laboratory establishments, with floor area of 10,000 to 25,000 square feet: one berth; for each additional 25,000 square feet or fraction thereof up to 100,000 square feet: one additional berth; for each additional 50,000 square feet or fraction thereof: one additional berth.
  - (c) For buildings with offices and retail sales and service establishments: one berth for 8,000 to 25,000 square feet of floor area and one additional berth for each additional 35,000 square feet of floor area or fraction thereof so used.
  - (d) For undertakers and funeral homes: one berth for each chapel. Such berths shall be at least 10 feet wide, 20 feet long and 14 feet high.
  - (e) For hotels: one berth for each 30,000 square feet of floor area.
  - (f) For manufacturing, wholesale and storage uses and for dry-cleaning and rug-cleaning establishments and laundries: one berth for 5,000 to 10,000 square feet of floor area in such use and one additional berth for each additional 20,000 square feet of floor area or fraction thereof so used.
- (2) Size of spaces. Each required loading berth shall be at least 12 feet wide, 35 feet long and 14 feet high for a single-unit truck. Each required loading berth shall be at least 12 feet wide, 55 feet long and 14 feet high for a tractor-trailer truck. **[Amended 3-9-1993 by L.L. No. 3-1993]**
- (3) Location and access. Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory, except as provided in Subsection B(4). No entrance or exit for any off-street parking area shall be located within 50 feet of any street intersection. No off-street loading berth shall be located in any front yard. If such berths are not enclosed, they shall be located not less than 200 feet from a residence district boundary in any municipality and effectively screened therefrom, as required in the case of parking areas in § 200-8E(7)(b) of this chapter.
- (4) Joint facilities. Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two or more adjacent establishments, provided that the number of required berths in such joint facilities shall not be less than the aggregate of all such requirements.
- (5) On lots divided by district boundaries. When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of loading berths shall apply to the entire lot. Loading berths on such lot may not be located in any residence district unless the use to which they are accessory is permitted in such district or upon approval by the Planning Board.
- C. Parking regulations in multiple-dwelling or attached-dwelling developments. Wherever space is provided for the parking of five or more vehicles in the open, such spaces shall be individually identified by means of pavement markings. No parking space shall be located in any front yard or within 10 feet of any lot line in side or rear yards. The parking of motor vehicles is prohibited within 15 feet of any wall or portion thereof of a two-or-more-family dwelling, which wall contains windows (other than bathroom or kitchen windows) with a sill height of less than eight feet above the level of the said parking space. No service of any kind shall be permitted to be extended to users of the lot, including automobile service, repair or fueling; and no gasoline, oil, grease or other supplies shall be stored or sold in any such lot or in any garage on such lot. Parking areas shall be screened by a substantial wall, fence or thick hedge, approved by the Planning Board. Generally such screening shall not be less than three nor more than eight feet in height.

- D. Regulations for parking spaces adjacent to lots in any residence district.
- (1) Wherever a parking area of over five spaces abuts or is within 15 feet of the side or rear lot lines of a lot in any residence district, said parking lot shall be screened from such adjoining lot by a substantial wall, fence or thick hedge, approved by the Planning Board. Generally, such screen shall be not less than three nor more than eight feet in height. **[Amended 9-16-1969 by Ord. No. 73]**
  - (2) Whenever a parking area of over five spaces is located across the street from other land in any residence district, it shall be screened from the view of such land by a thick hedge, wall or fence, approved by the Planning Board, located along a line drawn parallel to the street and a distance of 20 feet therefrom, such screening to be interrupted only at points of ingress and egress. Generally, no such screening shall be less than three feet nor more than eight feet in height. The open area between such screening and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. Two identification and directional signs located on the street side of such screening shall be permitted; however, they shall not exceed an area of three square feet each.
- E. Driveways. No driveway shall provide access to a lot located in another district, which lot is used for any use prohibited, except residential, in the district in which such driveway is located. **[Amended 9-16-1969 by Ord. No. 73]**
- F. Commercial vehicles.
- (1) One commercial vehicle not exceeding 25 feet in length may be parked on an occupied lot in any residence district but not within the required yards of such lot, and in no case between the street line and the principal building.
  - (2) One commercial vehicle not exceeding 25 feet in length may be parked within a private garage in any residence district.
  - (3) Commercial farm vehicles are permitted as accessory to a commercial farm use in any residence district.
- G. Trailers and boats. **[Amended 9-16-1969 by Ord. No. 73]**
- (1) The storage or parking and use of a trailer by any person or persons is hereby prohibited in all districts, except that:
    - (a) One camping trailer not over 25 feet in length may be stored, but not used for any purpose, on an occupied lot in any residence district, provided that such trailer is not stored within any required yard nor between the street line and the principal building.
    - (b) Where a building permit has been issued for the construction or alteration of a building, the Building Inspector may issue a temporary permit for one trailer for a period not to exceed six months. Said temporary permit may be extended for one additional period of six months if the Building Inspector finds that construction has been diligently pursued and that justifiable circumstances require such an extension. Said trailer may be occupied during the term of the temporary permit and shall be situated upon the lot for which the building permit has been issued. Prior to the issuance of such a temporary permit by the Building Inspector, the location of said trailer on the lot shall be subject to Planning Board approval. Said Board may attach to its approval whatever conditions shall be deemed necessary to carry out the intent of this chapter.
  - (2) Not more than one boat per dwelling unit may be stored on an occupied lot in any residence district, provided that such boat is not stored within any required yard nor between the street line and the principal building.

**§ 200-30. Uses prohibited in all districts.**

The following uses are prohibited in all districts:

- A. Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution or by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form in a manner or amount so as to cause permanent damage to the soil and stream or to adversely affect the surrounding area or by reason of the creation of noise, vibration, electromagnetic or other disturbance or by reason of illumination by artificial light or light reflection beyond the limits of the lot on or from which such light or light reflection emanates; or any use which involves any dangerous fire, explosive, radioactive or other hazard or which causes injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants; and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or general welfare. **[Amended 9-16-1969 by Ord. No. 73]**
- B. Artificial lighting facilities of any kind with light sources visible beyond the lot lines which create glare beyond such lines.
- C. Amusement parks and circuses and related activities, except for a temporary period on special license from the Town Board.
- D. Junkyard or dump, except a dump established as an official Town dump. Editor's Note: See also Ch. 78, Dumps and Dumping.

**§ 200-31. Cluster developments. [Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 2-1985; 8-13-1985 by Ord. No. 120; 6-23-1987 by L.L. No. 5-1987** Editor's Note: This local law also stated that: "Prior to the Planning Board utilizing § 200-31, as amended, the Planning Board shall adopt rules and regulations setting forth the criteria pursuant to which an application for modification of zoning provisions may be required, in conformance with § 281 of the Town Law of the State of New York." ]

- A. The general purposes and intent of cluster development are to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic qualities of open lands, to protect areas of meaningful ecological value and to reserve suitable lands for park and recreation purposes.
- B. The Planning Board is hereby authorized, simultaneously with the approval of a subdivision plat, to modify applicable provisions of this chapter, subject to the conditions set forth herein and in § 281 of the Town Law. This procedure may be followed:
  - (1) When applied for by the owner of the land to be subdivided if, in the judgment and discretion of the Planning Board, its application would benefit the Town by satisfying one or more of the purposes set forth in Subsection A above; or
  - (2) Where the Planning Board determines that its application would benefit the Town by satisfying one or more of the purposes set forth in Subsection A above and where the Planning Board determines that one or more of the criteria for cluster development, as set forth in the Town of Ossining Land Subdivision Regulations, Editor's Note: See Ch. 176, Subdivision of Land. would be met. In this case, the Planning Board may require the owner of the land to submit an application which reflects such modifications of applicable provisions of this chapter.
- C. This authorization shall be applicable in all zoning districts which permit residential development in the town.
- D. Except as specified in this section, all development standards and controls of this chapter, the Land Subdivision Regulations Editor's Note: See Ch. 176, Subdivision of Land. and of the Town Code which are otherwise applicable in the district in which the property is located shall also be applicable within any cluster development.
  - (1) The permitted principal and accessory uses within a cluster development shall be the same as those otherwise permitted in the zoning district in which the property is located.
  - (2) The number of building lots or dwelling units permitted within a cluster development shall in no case exceed the number which could have been permitted, in the judgment of the Planning

Board, if the land were subdivided into lots conforming to all normally applicable requirements of this chapter, the Land Subdivision Regulations, the Westchester County Department of Health Regulations and all other applicable regulations and restrictions. The basis for this Planning Board determination shall be a conventional subdivision sketch plan as described in Section V.1. of the Land Subdivision Regulations, plus such other information as may be required by said Board.

- (3) Bulk and parking regulations. Within the framework of the limitations set forth in this section and in § 281 of the Town Law, the Planning Board shall establish, on a case by case basis, the appropriate modifications of building and lot dimension requirements which said Board has determined are necessary or appropriate to properly accomplish the purposes and intent set forth in Subsection A above, consistent with the protection of private property values and the preservation of the character of land and buildings on neighboring sites. **[Amended 3-9-1993 by L.L. No. 3-1993]**
  - (a) If composed of attached dwelling units, a cluster development shall comply with the bulk regulations contained in § 200-22 for the Multifamily Residence District and the parking regulations contained in § 200-29A(1).
  - (b) If composed of detached dwelling units, the cluster development shall comply with the bulk regulations contained in § 200-21 for the R-5 One-Family Residence District and the parking regulations contained in § 200-29A(1).
- E. The area proposed for a cluster development shall be in single ownership or under unified control.
- F. Prior to the issuance of a building permit in a cluster development, a site plan shall be submitted to and approved by the Planning Board in accordance with § 200-50 and the following conditions:
  - (1) Said site plan shall specify the areas within which structures are proposed to be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed (if any) parking spaces and streets, driveways and any other physical features relevant to the proposed plan.
  - (2) Said site plan shall include a statement setting forth the nature of all proposed modifications of existing zoning provisions.
  - (3) Said site plan shall be subject to review at the public hearing or hearings held pursuant to §§ 276 and 277 of the Town Law for the approval of plats.
- G. Nothing contained in this chapter shall relieve the owner or his agent or the developer of proposed cluster development which includes a subdivision of land from receiving subdivision plat approval in accordance with the Town Subdivision Regulations. Editor's Note: See Ch. 176, Subdivision of Land. In approving the final plat for a cluster development, the Planning Board may modify the acreage requirement for recreation areas, provided that the common land dedicated in § 200-31H(5) of this chapter meets all other requirements of the Town Subdivision Regulations. Editor's Note: See Ch. 176, Subdivision of Land.
- H. A cluster development shall be organized as one of the following: a homes association approved by the Federal Housing Administration for mortgage insurance as a planned unit development and approved by the Town Board or a homes association approved by the Town Attorney and Town Board or any other arrangements approved by the Town Attorney and Town Board as satisfying the intent of this chapter. Whenever a homes association is proposed, the Town Board shall retain the right to review and approve the articles of incorporation and charter of said homes association and to require whatever conditions it shall deem necessary to ensure that the intent and purpose of this chapter are carried out. In consideration of said approval, the Town Board shall, in part, require the cluster development to meet the following conditions:
  - (1) The homes association shall be established as an incorporated, nonprofit organization operating under recorded land agreements through which each homeowner (and any succeeding owner) is automatically a member and each home is automatically subject to a

charge for a proportionate share of the expenses for the organization's activities.

- (2) Title to all common property shall be placed in the homes association, or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time.
- (3) Each homeowner shall have equal voting rights in the association and shall have the right to the use and enjoyment of the common property.
- (4) Once established, all responsibility for operation and maintenance of the common land and facilities shall lie with the homes association.
- (5) Dedication of all common areas shall be recorded directly on the subdivision plat and site plan or by reference on the plat and site plan to a dedication in a separately recorded document. Resubdivision of such areas is prohibited. The dedication shall:
  - (a) Reserve the title of the common property for the homes association free of any cloud of implied public dedication.
  - (b) Commit the developer to convey the areas to the homes association at an approved time.
  - (c) Grant easements of enjoyment over the area to the homeowners.
  - (d) Give to the homes association the right to borrow for improvements upon the security of the common areas.
  - (e) Give to the homes association the right to suspend membership rights for nonpayment of assessments or infraction of published rules.
- (6) Covenants shall be established limiting all homes to one-family use and all common lands to open space uses. No structures may be erected on such common lands except as shown on the approved site plan.
- (7) Each deed to each home sold shall include by reference all recorded declarations, such as covenants, dedications and other restrictions, including assessments and the provision for liens for nonpayment of such.
- (8) The homes association shall be perpetual, shall purchase insurance, shall pay taxes, shall specify in its charter and bylaws an annual homeowner's fee and provision for assessments and shall establish that all such charges shall become a lien on each property in favor of said association. The homes association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it shall also have the right to commence action against any member for the collection of any unpaid assessment in any court of competent jurisdiction.
- (9) The developer shall assume all responsibilities as previously outlined for the homes association until a majority of the dwellings are sold, at which time the homes association shall be automatically established. **[Amended 8-13-1985 by Ord. No. 120]**
- (10) Prior to site plan approval, the developer shall file with the Town Board a performance bond to insure the proper installation of all recreation and park improvements shown on the site plan and a maintenance bond to insure the proper maintenance of all common lands until the homes association is established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner or execution and surety shall be approved by the Town Attorney and Town Board.

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## **ARTICLE VI (Reserved)**

**§ 200-32. (Reserved)**

**§ 200-33. (Reserved)**

§ 200-34. (Reserved)

§ 200-35. (Reserved)

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**ARTICLE VII Nonconforming Uses and Noncomplying Buildings and Uses**  
**[Amended 9-16-1969 by Ord. No. 73; 3-10-1981 by Ord. No. 106]**

**§ 200-36. Nonconforming uses.**

- A. A nonconforming use is any use, whether of a building or tract of land or both, existing on the effective date of this chapter, which does not conform to the use regulations of the district in which it is located.
- B. The following provisions shall apply to all buildings and uses existing on the effective date of this chapter which do not conform to the requirements set forth in this chapter and to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter.
  - (1) Nonconforming uses. Any nonconforming use of buildings or open land, except those specified in § 200-38 herein, may be continued indefinitely but:
    - (a) Shall not be enlarged, altered, extended, reconstructed or restored, except as provided in Subsection B(1)(d), or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
    - (b) Shall not be moved to another location where such use would be nonconforming.
    - (c) Shall not be reestablished if such use has been discontinued for any reason for a period of three months or more. **[Amended 3-26-1985 by L.L. No. 2-1985]**
    - (d) Shall not be restored for other than a conforming use after damage, for any reason, exceeding 25% of its value exclusive of foundations,
- C. Any use constructed in conformance with site development plans approved pursuant to Article VI, Designed Multiple-Use Development, prior to its deletion from this chapter, shall not be considered a nonconforming use. **[Added 8-13-1985 by Ord. No. 120]**

**§ 200-37. Noncomplying buildings and uses.**

- A. A noncomplying building is any building which contains a use permitted in the district in which it is located but does not conform to the district regulations for lot area, width or depth; front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit.
- B. A noncomplying use is any use, whether of a building or tract of land, or both, which conforms to the use regulations of the district in which it is located but does not comply with the specific standards for such use.
- C. Nothing in this Article shall be deemed to prevent normal maintenance and repair, structural alteration in, moving, reconstruction or enlargement of a noncomplying building or use, provided that such action does not increase the degree of, or create any new, noncompliance with regard to the regulations pertaining to such building or use.
- D. In reviewing a site plan for the alteration of a noncomplying use, the Planning Board shall make requirements with regard to bringing the use into compliance or closer into compliance with the Zoning Ordinance standards for said use.
- E. Any building or use constructed in conformance with site development plans approved pursuant to Article VI, Designed Multiple-Use Development, prior to its deletion from this chapter, shall not be

considered a noncomplying building or use. **[Added 8-13-1985 by Ord. No. 120]**

**§ 200-38. Termination of nonconforming uses.**

Each of the nonconforming uses specified herein is deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district and to blight the proper and orderly development and general welfare of such district and the community to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter, which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use:

- A. In any residence district, any nonconforming use of open land, including such uses as a parking lot, trailer, junkyard or open storage yard for materials or equipment, may be continued for three years after the effective date of this chapter, provided that after the expiration of that period such nonconforming use shall be terminated.
- B. In any residence district, any sign not of a type permitted, or of a permitted type but greater than the maximum permitted size, may be continued for one year following the effective date of this chapter, provided that after the expiration of that period such nonconforming use shall be terminated.

**§ 200-39. Repairs and maintenance.**

Notwithstanding any of the foregoing regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any use or building or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a building permit, the Building Inspector shall state the precise reason why such alterations were deemed necessary.

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**ARTICLE VIII Enforcement**

**§ 200-40. Building permits. [Amended 9-16-1969 by Ord. No. 73; 6-19-1973 by Ord. No. 79; 2-22-1983 by Ord. No. 113; 3-26-1985 by L.L. No. 2-1985]**

No building in any district shall be erected, reconstructed, restored or structurally altered without a building permit duly issued upon application to the Building Inspector. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter and the Building Construction Ordinance of the Town of Ossining. *Editor's Note: See Ch. 63, Building Construction.* Any building permit issued in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity for any proceedings or revocations or nullification thereof; and any work undertaken or use established pursuant to any such permit shall be unlawful.

- A. Every application for a building permit shall be made in accordance with § 63-3 of Chapter 63, Building Construction, of the Code of the Town of Ossining, as supplemented herein.
- B. No building permit shall be issued for the construction or alteration of any building upon a lot without access to a street or highway as provided in § 280-a of the Town Law of the State of New York.
- C. No building permit shall be issued for any building where the site plan of such building or lot is subject to approval by the Planning Board, except in conformity with the plans approved by the said Board.
- D. No building permit shall be issued for a building to be used for any conditional use in any district where such use is subject to approval by the Planning Board unless and until such approval has been

duly granted by said Board.

- E. No building permit shall be issued for a building to be used under any special permit issued by the Board of Appeals unless and until such approval has been duly granted by said Board.
- F. In addition to the requirements set forth in this chapter, no building permit shall be issued for construction or any other development on property located in an area of special flood hazard identified by the Federal Insurance Administration in an engineering report entitled the "Flood Insurance Study, Town of Ossining, New York, Westchester County," dated September 16, 1982, with accompanying maps entitled "Flood Boundary - Floodway Map" and "Flood Insurance Rate Map," both dated March 16, 1983, which are all hereby adopted by reference and declared to be part of this chapter, Editor's Note: The maps and studies are on file in the office of the Town Clerk. unless and until compliance with Chapter 102, Flood Damage Prevention, of the Code of the Town of Ossining shall be had. **[Amended 3-24-1987 by L.L. No. 2-1987]**

**§ 200-41. Certificates of occupancy. [Amended 9-16-1969 by Ord. No. 73; 8-19-1975 by Ord. No. 85; 3-26-1985 by L.L. No. 2-1985]**

- A. The following shall be unlawful until a certificate of occupancy shall have been issued by the Building Inspector in accordance with the provisions of § 63-11 of Chapter 63, Building Construction, of the Code of the Town of Ossining.
  - (1) Occupancy and use of a building erected, reconstructed, restored, structurally altered or moved or any change in use of an existing building.
  - (2) Occupancy, use or any change in the use of any land.
  - (3) Any change in use of a nonconforming use.
- B. No certificate of occupancy shall be issued for any conditional use of a building or of land requiring conditional use approval by the Planning Board or for any land or use requiring site plan approval by the Planning Board unless and until such conditional use or site plan approval has been duly granted by the Planning Board. Every certificate of occupancy for which conditional use or site plan approval has been granted, or in connection with which a variance has been granted by the Board of Appeals, shall contain a detailed statement of any condition to which the same is subject.
- C. In regard to those uses which are subject to the performance standards procedure, the following requirements shall also apply:
  - (1) After occupancy, if there occur continuous or frequent, even though intermittent, violations of the performance standards and other provisions for a period of five days, without bona fide and immediate corrective work, the Building Inspector shall suspend or revoke the occupancy permit of the use, and the operation shall immediately cease until it is able to operate in accordance with these regulations, at which time the occupancy permit shall be reinstated.
  - (2) The Building Inspector shall investigate any alleged violation of the performance standards, and if there are reasonable grounds to believe that a violation exists, he shall investigate the alleged violation and, for such investigation, may employ qualified experts. A copy of said findings shall be forwarded to the Town Board. The services of any qualified experts employed by the Town to advise in establishing a violation shall be paid for by the violator if a violation is proved, and otherwise by the town. No new certificate of occupancy shall be issued unless such charges have been paid to the town.

**§ 200-42. Duties of Building Inspector. [Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 2-1985]**

It shall be the duty of the Building Inspector appointed pursuant to the provisions of § 63-1 of Chapter 63, Building Construction, of the Code of the Town of Ossining, in addition to the duties and powers set forth

in Chapter 63, to enforce the provisions of this chapter and all of the rules, conditions and requirements adopted or specified pursuant thereto.

**§ 200-43. Penalties for offenses. [Amended 8-19-1975 by Ord. No. 85]**

- A. A violation of any provision or requirement of this chapter or a violation of any statement, plan, application, permit or certificate required, issued and/or approved under the provisions of this chapter, or of the terms or conditions contained therein, shall be considered an offense punishable by a fine of not more than \$350 and/or imprisonment for a period not to exceed six months for conviction of a first offense; by a fine of not less than \$350 nor more than \$700 and/or imprisonment for a period not to exceed six months for conviction of a second offense, both offenses of which were committed within a period of five years; and by a fine of not less than \$700 nor more than \$1,000 and/or imprisonment for a period not to exceed six months upon conviction of a third or subsequent offense, all of which offenses were committed within a period of five years. **[Amended 3-26-1985 by L.L. No. 2-1985; 3-11-1986 by L.L. No. 2-1986]**
- B. The owner, general agent or contractor of a building, premises or part thereof where such a violation has been committed or does exist shall be guilty of such an offense.
- C. Any agent, contractor, architect, builder, corporation or other person who commits, takes part in or assists in such violation shall also be guilty of such an offense.
- D. Each and every week that any such violation continues after notification that such violation exists shall constitute a separate offense. Such notice shall be written by the Building Inspector and shall be served by mail or by personal service.
- E. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting an appropriate legal action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use or to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.

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**ARTICLE IX Board of Appeals**

**§ 200-44. Establishment and membership. [Amended 5-11-1976 by Ord. No. 88; 2-22-1983 by Ord. No. 112]**

There shall be a Board of Appeals of five members pursuant to the provisions of § 267 of the Town Law.

**§ 200-45. Powers and duties.**

The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

- A. Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official, or on request by an official, board or agency of the town, to decide any of the following questions:
  - (1) Determination of the meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.
  - (2) Determination of the exact location of any district boundary shown on the Zoning Map.
- B. Variances. **[Amended 9-16-1969 by Ord. No. 73; 4-11-1995 by L.L. No. 2-1995]**
  - (1) The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement,

decision or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of this chapter and to that end shall have all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

(2) Use variances.

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

(3) Area variances.

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

- (4) The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- (5) Where the Zoning Board of Appeals finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or buildings and where the Board of Appeals finds the same condition to apply generally to other land or buildings in the same neighborhood or zoning districts said Board shall call this condition to the attention of the Planning Board.

C. Special permits.

- (1) In addition to such powers as may be conferred on it by statute, the Board of Appeals shall have the power, after public notice and hearing and on application, to issue special permits for any of the uses specified in the use regulations in Article III as requiring such permits in the particular district, except for the special permits required to be issued by the Town Board pursuant to Article III, § 200-17D, hereof. In issuing such special permit, the Board of Appeals shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives: **[Amended 9-16-1969 by Ord. No. 73; 3-22-1983 by Ord. No. 111]**
  - (a) That all proposed structures, equipment or material shall be readily accessible to fire and police protection.
  - (b) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
  - (c) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:
    - [1] The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with the said residential district or conflict with the normal traffic of the neighborhood; and
    - [2] The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- (2) In issuing a special permit, the Board may require any walls, fences or landscaping which it deems necessary to protect the value of adjacent properties or to prevent any hindering of the appropriate development of adjacent land.
- (3) Each application for a special permit shall be accompanied by a proposed plan showing the size and location of the lot, the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 200 feet of the lot. **[Amended 9-16-1969 by Ord. No. 73]**
- (4) Any use for which a special permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall affect only the lot or

portion thereof for which such permit shall have been granted. **[Amended 9-16-1969 by Ord. No. 73]**

- (5) The Board of Appeals may require that special permits be periodically renewed. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination by the Board to the effect that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been, or are being no longer, complied with. **[Amended 9-16-1969 by Ord. No. 73]**

D. Temporary certificate of occupancy.

- (1) To authorize, upon denial by the Building Inspector of a certificate of occupancy, the issuance of a temporary certificate of occupancy by the Building Inspector, for a period not to exceed 90 days, for the completion of any alterations that are required under the provision of any law or ordinance or for the completion of a part of an uncompleted building, provided that the Board finds that: **[Amended 9-16-1969 by Ord. No. 73]**
  - (a) The denial of a certificate of occupancy prior to completion of the said alterations or of the building would cause unnecessary hardship; and
  - (b) The safety of the occupants of the building and of adjacent buildings and land would be adequately assured under such terms and conditions as said Board may prescribe.
- (2) Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the Town respective to the use or occupancy of the land or building, or any other matter covered by this chapter.

**§ 200-46. Procedure.**

The powers and duties of the Board of Appeals shall be exercised in accordance with the following procedure:

- A. The Board of Appeals shall not decide upon any appeal for a variance, special permit or interpretation of this chapter without first holding a public hearing. Notice of said hearing and of the substance of the appeal or application shall be given by publication in the official newspaper of the Town at least five days before the date of such hearing. In addition to such published notice, the Board of Appeals shall cause such notice to be mailed at least five days before the hearing to all owners of property which lie within 200 feet of any lot line of the property for which relief is sought and to such other owners as the Board of Appeals may deem advisable. **[Amended 9-16-1969 by Ord. No. 73]**
  - (1) The names of said owners shall be taken as they appear on the last completed tax roll of the town.
  - (2) Provided that due notice shall have been published and that there shall have been substantial compliance with the remaining provisions of this section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with the granting of any appeal or variance.
- B. All appeals and applications made to the Board of Appeals shall be in writing and shall be accompanied by a fee of \$75. **[Amended 9-16-1969 by Ord. No. 73; 5-12-1987 by L.L. No. 3-1987]**
- C. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the ordinance involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted. **[Amended 9-16-1969 by Ord. No. 73]**
- D. Should any appeal involve either of the two following conditions, the Secretary of the Board of Appeals shall transmit to the designated office or official a copy of the official notice of the public hearing not later than 10 days prior to the date of the hearing.

- (1) Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any village or town. **[Amended 9-16-1969 by Ord. No. 73]**
  - (2) Any change in the regulations prescribed for any district, any portion of which is located within 500 feet of the boundaries listed in Subsection D(1).
  - (3) The designated official for counties shall be the Clerk of the Board of Legislators. In villages and towns, the designated official shall be the Clerk of the municipality. **[Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 2-1985]**
- E. Prior to the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the rendering of a decision by the Board of Appeals.
- F. Editor's Note: Original Subsection 8.3.7, which immediately followed this subsection and which provided for review by the Hudson River Valley Commission, was repealed during codification; see Ch. 1, General Provisions, Art. II. Prior to final action, the Board of Appeals shall refer any matter involving any of the areas specified in Article XII, § 200-52E(1)(a) through (e), to the Westchester County Planning Board, in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code. **[Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 2-1985]**
- G. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board, shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the said Board shall be by resolution, and each such resolution shall be filed in the office of the Town Clerk by case number, under one of the following headings: "interpretation," "variances" or "special permits," together with all documents pertaining thereto. Regarding its decision in each case, the Board of Appeals shall notify the Town of Ossining Building Inspector, Town Board, Town Planning Board and any designated official of an affected municipality or agency given notice of hearing as set forth in Subsection D. **[Amended 9-16-1969 by Ord. No. 73]**
- H. All the provisions of this chapter relating to the Board of Appeals shall be strictly construed. Said Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter in compliance with all limitations contained therein. **[Amended 9-16-1969 by Ord. No. 73]**
- I. Unless construction is commenced and diligently pursued within 12 months of the date of the granting of a variance, such variance shall become null and void.
- J. For those improvements or changes of use for which special permit approval from the Board of Appeals is required, no such improvements or change of use may be implemented and no building permit or certificate of occupancy may be issued until: **[Added 4-11-1995 by L.L. No. 2-1995]**
- (1) Special permit approval by the Board of Appeals for said improvements or change of use is granted by resolution.
  - (2) The special permit plans, revised if so required by said resolution, have been signed by a duly authorized representative of the Board of Appeals.
  - (3) Site plan approval from the Planning Board has been secured.
- K. Expiration of special permit approval. **[Added 4-11-1995 by L.L. No. 2-1995]**
- (1) Approval of a special permit shall expire if:
    - (a) The applicant has not secured site plan approval within one year from the date of the adoption of special permit approval;
    - (b) Site plan approval expires;
    - (c) All required improvements are not maintained and if all conditions and standards of the special permit approval are not complied with throughout the duration of the approved use;  
or

- (d) The approved use ceases to exist for any reason for more than one year.
- (2) The Board of Appeals may extend the approval of a special permit if, in its opinion, such extension is warranted by the particular circumstances involved.

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## **ARTICLE X Issuance of Special Permits by Town Board [Added 3-22-1983 by Ord. No. 111]**

### **§ 200-47. Objectives and requirements.**

- A. On application and after public notice and hearing, the Town Board may issue special permits for any of the uses specified in the use regulations in Article III, § 200-17D, hereof as requiring special permits to be issued by the Town Board. In issuing such special permits, the Town Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate and adjoining neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its actions shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives:
  - (1) That the building and premises in which the proposed use is to be located shall be readily accessible to fire and police protection.
  - (2) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development and uses of adjacent properties in accordance with the zoning classification of such properties, or the use in effect at the time such special permit is to be issued.
  - (3) That the location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith during the period of time and the time of the day when the proposed use is expected to be operating will not be hazardous or inconvenient to or incongruous with any residential district adjacent thereto and with the normal traffic of such adjacent residential district.
  - (4) That the location of the building on the site, its physical characteristics and its arrangement of windows and doors facing or in proximity to residential areas and its means of ingress and egress for persons to the use will not be inconvenient to or incongruous with any adjacent residential district or any residences therein during the period of time and time of day when the proposed use is expected to be operating.
  - (5) That the location of parking areas on the site and location and design of roadways used for ingress and egress of vehicular traffic thereto and therefrom will not be inconvenient to or incongruous with any adjacent residential district or residences therein.
  - (6) That the proposed use will not have a detrimental effect on the market value of the surrounding property.
- B. In issuing a special permit, the Town Board may require the erection of walls or fences or the addition of landscaping which it deems necessary to protect the peace and comfort of residents in adjacent residential districts or to prevent any inconvenience to such residential districts.
- C. Each application for a special permit shall be accompanied by a proposed plan showing the size and location of all improvements on the site, the location of all proposed additional improvements, all methods of ingress and egress to the site and to the building and improvements thereon and all other buildings within a distance of 200 feet from any lot line of the property and by an interior diagram of

the building showing all partitions, windows and doors.

- D. The Town Board may require that appropriate tests be performed to determine if the building in which the proposed use is to be conducted are adequately soundproofed.
- E. Any use for which a special permit may be granted shall be deemed to be a conforming use in the district in which such use is located, except as hereinafter provided.
- F. The Town Board may issue such permits for uses permitted under § 200-17D for a term of years or may require that the special permit be periodically renewed. Such renewal shall be granted following due public notice and hearing, and the Town Board shall have the right to impose new or additional conditions as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the objectives set forth in this Article.
- G. No proposed improvements or change of use may be implemented and no building permit or certificate of occupancy may be issued until: **[Added 4-11-1995 by L.L. No. 2-1995]**
  - (1) Special permit approval by the Town Board for said improvements or change of use is granted by resolution.
  - (2) The special permit plans, revised if so required by said resolution, have been signed by a duly authorized representative of the Town Board.
  - (3) Site plan approval from the Planning Board has been secured.
- H. Expiration of special permit approval. **[Added 4-11-1995 by L.L. No. 2-1995]**
  - (1) Approval of a special permit shall expire if:
    - (a) The applicant has not secured site plan approval within one year from the date of the adoption of special permit approval;
    - (b) Site plan approval expires;
    - (c) All required improvements are not maintained and if all conditions and standards of the special permit are not complied with throughout the duration of the approved use; or
    - (d) The approved use ceases to exist for any reason for more than one year.
  - (2) The Town Board may extend the approval of a special permit if, in its opinion, such extension is warranted by the particular circumstances involved.

#### **§ 200-48. Procedure.**

The powers and duties of the Town Board shall be exercised in accordance with the following procedure:

- A. The Town Board shall not decide upon any special permit without first holding a public hearing. Notice of said hearing and of the substance of the application shall be given by publication in the official newspaper of the Town at least 10 days before the date of such hearing. In addition to such published notice, the Town Board shall cause such notice to be mailed at least 10 days before the hearing to all owners of property which lie within 200 feet of any lot line of the property for which the special permit is sought and to such other persons as the Town Board may deem advisable. The names of said owners shall be taken as they appear on the last completed assessment roll of the town. Provided that due notice shall have been published and there shall have been substantial compliance with the remaining provisions of the section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate any action taken by the Town Board in connection with the granting of such application. **[Amended 9-16-1969 by Ord. No. 73]**
- B. All applications made to the Town Board shall be in writing on forms to be furnished by the Town Clerk and shall be accompanied by a fee of \$250.

- C. Each application shall fully set forth the information requested in such application, and the applicant shall provide such additional information as the Town Board may from time to time require.
- D. Should any application submitted involve a matter set forth in § 239-m of the General Municipal Law of the State of New York or Chapter 277, Section 277.61 or 277.71, of the Westchester County Administrative Code, the Town Clerk shall transmit a copy of the application and a copy of the notice of public hearing to the affected municipality or board as required therein.
- E. Every decision of the Town Board shall be by resolution which shall fully set forth the circumstances of the case and shall set forth a full record of the findings on which the decision is based. Notice of such decision shall be given to the applicant and to the Westchester County Planning Board and the affected municipalities where Subsection D is applicable.

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## ARTICLE XI Planning Board

### § 200-49. Conditional uses.

- A. On application and after public notice and hearing, the Planning Board may authorize the issuance by the Building Inspector of permits for any of the conditional uses for which this chapter requires such permits in the district in which such use is proposed to be located. In approving any such use, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:
  - (1) That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
  - (2) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
  - (3) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:
    - (a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residential district or conflict with the normal traffic of the neighborhood; and
    - (b) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- B. Each application for a conditional use shall be accompanied by a proposed site plan showing the size and location of the lot and the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 200 feet of the lot. Such site plan shall be submitted, shall be processed and shall contain all the information required for the approval of site plans under § 200-50 of this chapter. **[Amended 4-22-1975 by Ord. No. 83; 8-9-1994 by L.L. No. 5-1994]**
- C. Prior to final action, the Planning Board shall refer any matter involving any of the areas specified in Article XII, § 200-52E(1)(a) through (e), to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code. **[Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 2-1985** Editor's Note: Original Subsection 9.1.4, which immediately followed this subsection and which provided for review by the Hudson River Valley Commission, was repealed during codification; see Ch. 1, General Provisions, Art. II. ]

- D. Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall affect only the lot or portion thereof for which such permit shall have been granted. **[Amended 9-16-1969 by Ord. No. 73]**
- E. The Planning Board may require that conditional use permits be periodically renewed. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination by the Planning Board to the effect that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit. **[Amended 9-16-1969 by Ord. No. 73]**
- F. No proposed improvements or change of use may be implemented and no building permit or certificate of occupancy may be issued until: **[Added 4-11-1995 by L.L. No. 2-1995]**
  - (1) Conditional use approval by the Planning Board for said improvements or change of use is granted by resolution.
  - (2) Site plan approval from the Planning Board has been secured.
  - (3) The site plans, revised if so required by said approvals, have been signed by the Planning Board Chairman.
- G. Expiration of conditional use approval. **[Added 4-11-1995 by L.L. No. 2-1995]**
  - (1) Approval of a conditional use shall expire if:
    - (a) The applicant has not secured site plan approval within one year from the date of the adoption of conditional use approval;
    - (b) Site plan approval expires;
    - (c) All required improvements are not maintained and if all conditions and standards of the conditional use approval are not complied with throughout the duration of the approved use; or
    - (d) The approved use ceases to exist for any reason for more than one year.
  - (2) The Planning Board may extend conditional use approval if, in its opinion, such extension is warranted by the particular circumstances involved.

**§ 200-50. Approval of site plans. [Amended 9-16-1969 by Ord. No. 73; 4-22-1975 by Ord. No. 83]**

In any case wherein this chapter provides for or requires the submission of site development plans showing the proposed development and/or use of any land to the Planning Board for review, the final action on the approval of such site plans is hereby delegated to the Planning Board, and any building or use permit for the development and/or use of such land and any certificate of occupancy or compliance shall only be issued subject to the continued compliance with such approved site plans and any restrictions imposed in relation thereto by the Planning Board. In all such cases, no building permit shall be issued by the Building Inspector except upon the authorization of and in conformity with the site as finally approved by the Planning Board.

- A. Objectives. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:
  - (1) Traffic access. That all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or

other places of public assembly; and other similar safety considerations.

- (2) Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
- (3) Landscaping and screening. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter measured three feet above the base of the trunk shall be retained to the maximum extent possible.

B. Effect of site plan approval.

- (1) No building permit shall be issued for any structure covered by this section until an approved site plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.
- (2) No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site plan or approved amendment of any such plan.
- (3) Prior to final action, the Planning Board shall refer any matter involving any of the areas specified in Article XII, §§ 200-52E(1)(a) through (e), to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code. **[Amended 3-26-1985 by L.L. No. 2-1985** Editor's Note: Original Subsection 9.2.2.4, which immediately followed this subsection and which provided for review by the Hudson River Valley Commission, was repealed during codification; see Ch. 1, General Provisions, Art. II. **]**
- (4) A proposed change to the use or the intensity of use of any existing use which is subject to site plan approval under this chapter shall also be subject to site plan approval. **[Added 3-10-1981 by Ord. No. 106]**

C. Procedure. **[Amended 9-16-1969 by Ord. No. 73]**

- (1) Presubmission conference. Prior to the submission of a site plan, the applicant shall meet in person with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site plan elements listed in Subsection D shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.
- (2) Within six months following the presubmission conference, the site plan and any related information shall be submitted to the Building Inspector in triplicate at least 15 days prior to the Planning Board meeting at which approval is requested. If not submitted within this six-month period, another presubmission conference shall be required.
- (3) The Building Inspector shall certify on each site plan or amendment whether or not the plan meets the requirements of all Zoning Ordinance provisions other than those of this section regarding site plan approval.
- (4) The Building Inspector shall retain one copy and transmit two copies of the certified site plan to the Secretary of the Planning Board at least seven days prior to the Planning Board meeting at which approval is requested.
- (5) The Planning Board shall not render a decision upon any site plan application without first holding a public hearing. Such public hearing shall be held within 62 days from the date an application is received by said Board. The Planning Board shall mail notices of said hearing to the applicant at least 10 days before the hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five days prior to the hearing. The Planning Board shall render a decision on the site plan application within 62 days after said hearing, and

the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant. Planning Board disapproval shall include written findings upon any site plan element found contrary to the provisions or intent of this chapter. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants as qualified to advise whether a proposed use will conform to the requirements of this chapter. The assistance of a consultant, if sought, must be obtained within 10 days of the receipt of the application. Such consultant shall report within 30 days after receipt of such request. A copy of the report of such consultants shall be furnished to the applicant. **[Amended 8-9-1994 by L.L. No. 5-1994]**

- (6) Amendments to a site plan shall be acted upon in the same manner as the approval of the original plan.
  - (7) The Planning Board may require that site plan approval be periodically reviewed.
  - (8) No proposed improvements or change of use may be implemented and no building permit or certificate of occupancy may be issued until: **[Added 4-11-1995 by L.L. No. 2-1995]**
    - (a) Site plan approval from the Planning Board for said improvements or change of use is granted by resolution.
    - (b) All conditions required by said resolution to be fulfilled prior to the signing of the site plans by the Planning Board Chairman have been fulfilled.
    - (c) The site plans, revised if so required by said resolution, have been signed by the Planning Board Chairman.
  - (9) Expiration of site plan approval. **[Added 4-11-1995 by L.L. No. 2-1995]**
    - (a) Site plan approval shall expire if:
      - [1] All of the conditions required to be fulfilled prior to the signing of the site plans by the Planning Board Chairman are not fulfilled within one year from the date of the adoption of site plan approval and if said plans are not submitted for endorsement by the Chairman within said one-year period.
      - [2] All required improvements are not maintained and if all conditions and standards of the site plan approval are not complied with throughout the duration of the approved use.
      - [3] A bona fide application for a building permit or a certificate of occupancy is not made within one year from the date of the endorsement of the site plans by the Planning Board Chairman.
      - [4] All required improvements are not substantially completed within two years from the date of the endorsement of the site plans by the Planning Board Chairman. The staging of a development over a longer period may be specifically provided for by the Planning Board in its resolution of site plan approval.
    - (b) The Planning Board may extend site plan approval if, in its opinion, such extension is warranted by the particular circumstances involved.
- D. Site plan elements. The applicant shall cause a site plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person. The site plan shall include those of the elements listed herein which are appropriate to the proposed development or use as indicated by the Planning Board in the presubmission conference.
- (1) Legal data.
    - (a) The section, plate, block and lot number of the property taken from the latest tax records.
    - (b) The name and address of the owner of record.

- (c) The name and address of the person, firm or organization preparing the map.
  - (d) The date, North point and written and graphic scale.
  - (e) A sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
  - (f) The locations, names and existing widths of adjacent streets and curblines.
  - (g) The locations and owners of all adjoining lands as shown on the latest tax records.
  - (h) The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
  - (i) A complete outline of existing deed restrictions or covenants applying to the property.
  - (j) Existing zoning.
- (2) Natural features.
- (a) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.
  - (b) Approximate boundaries of any areas subject to flooding or stormwater overflows.
  - (c) Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured three feet above the base of the trunk and other significant existing features.
- (3) Existing structures and utilities.
- (a) Location of uses and outlines of structures drawn to scale on and within 100 feet of the lot line.
  - (b) Paved areas, sidewalks and vehicular access between the site and public streets.
  - (c) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
  - (d) Other existing development, including fences, landscaping and screening.
- (4) Proposed development.
- (a) The location of proposed buildings or structural improvements.
  - (b) The location and design of all uses not requiring structures, such as off-street parking and loading areas.
  - (c) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
  - (d) The location and plans for any outdoor signs.
  - (e) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas. Profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of water- and sewer lines.
  - (f) Any proposed grading, screening and other landscaping, including types and locations of proposed street trees.
  - (g) The location of all proposed water lines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment.

- (h) An outline of any proposed easements, deed restrictions or covenants.
  - (i) Any contemplated public improvements on or adjoining the property.
  - (j) If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
- (5) Any other information deemed by the Planning Board necessary to determine conformity of the site plan with the intent and regulations of this chapter.

**§ 200-51. Fees. [Added 9-15-1976 by Ord. No. 92; amended 10-25-1978; 2-13-1980; 10-25-1983 by Ord. No. 115; 10-23-1984 by Ord. No. 118; 3-26-1985 by L.L. No. 2-1985; 8-13-1985 by Ord. No. 120; 9-22-1987 by L.L. No. 6-1987]**

- A. Applications for action or recommendation by the Planning Board pursuant to Article 16 of the Town Law and the relevant provisions of this Zoning Ordinance shall be accompanied by payment of the following review fees, as applicable. Final approvals shall be conditioned upon payment of the following recreation and inspection fees, as applicable, and performance and maintenance bonds, as required:
- (1) Subdivision.
    - (a) Application review fee.
      - [1] Major:
        - [a] Preliminary plat: \$100, plus \$125 per lot.
        - [b] Final plat: \$100, plus \$125 per lot.
      - [2] Minor: \$100, plus \$125 per lot.
    - (b) Recreation fee: \$2,000 per lot or dwelling unit. However, in the case of multifamily developments, the Planning Board may adjust the recreation fee in relation to the recreational facilities provided within the subject development.
    - (c) Inspection fee: 3% of the Town Engineer's estimated cost for all utility and roadway improvements, plus \$100 for an engineering estimate.
  - (2) Site plan or conditional use permit.
    - (a) Application review fee: \$250, plus \$25 per parking space.
    - (b) Inspection fee: same as Subsection A(1)(c).
  - (3) Request for rezoning or zoning amendment review fee: \$1,000, plus \$50 per acre of property owned or controlled by the applicant to which the rezoning or zoning amendment pertains. **[Amended 4-25-1995 by L.L. No. 3-1995]**
  - (4) (Reserved)
  - (5) (Reserved)
  - (6) Environmental quality review. A full environmental assessment form review fee of \$100 is required in all cases when this form is part of the application.
  - (7) Performance and maintenance bonds. The amount of all performance and maintenance bonds shall be established by the Planning Board, based upon a recommended amount as specified by the Town Engineer; further, there shall be a fee of \$100 for each bond reduction request.
- B. In addition to the payment of the fees required in Subsection A of this section, the Planning Board shall adjust the fees sufficiently to reimburse the Town for the cost of professional consultation fees and other expenditures attributable to the proposal. The Planning Board may establish an escrow

account funded by the applicant prior to the Board authorizing the performance of consulting services regarding the proposal. **[Amended 11-27-1990 by L.L. No. 4-1990]**

- C. In minor subdivisions of improved building lots involving no further construction on and no intensification of use of the lots created thereby, the Planning Board may equitably adjust the recreation fee and the inspection fees to be imposed on the applicant in connection therewith.
- D. Reduction of fees. **[Amended 4-25-1995 by L.L. No. 3-1995]**
  - (1) When an applicant requests approval of an amendment to a previously approved site plan, special permit, other development plan or filed subdivision, the Planning Board may reduce the application fee. The fee may be reduced by the Board upon a finding that the review required will be minimal. The fee may be reduced to an amount deemed appropriate by the Board, but in no event shall the fee be reduced to less than the base amount. The "base amount" shall be defined as the fee less any portion thereof that is determined as a function of the number of building lots, parking spaces or acres.
  - (2) When an applicant requests a rezoning or zoning amendment, the Town Board shall have the authority to reduce the application fee, but only with regard to the \$50 per acre of property owned or controlled by the applicant to which the rezoning or zoning amendment pertains.

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## **ARTICLE XII Amendments**

### **§ 200-52. Procedure.**

This chapter or any part thereof may be amended, supplemented or repealed, from time to time, by the Town Board on its own motion or upon recommendation by the Planning Board. Prior to public hearing, every such proposed amendment shall be referred by the Town Board to the Planning Board for a report. The Town Board shall not take action on any such amendment without such report from the Planning Board unless the Planning Board fails for any reason to render such report within 45 days following the date of such referral.

- A. Report of the Planning Board. In making such report on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:
  - (1) Concerning a proposed amendment to or change in text of this chapter:
    - (a) Whether such change is consistent with the aims and principles embodied in this chapter as to the particular districts concerned.
    - (b) Which areas, land uses, buildings and establishments in the Town will be directly affected by such change and in what way they will be affected.
    - (c) The indirect implications of such change in its effect on other regulations.
    - (d) Whether such proposed amendment is consistent with the aims of the Comprehensive Development Plan of the town.
  - (2) Concerning a proposed amendment involving a change in the Zoning Map:
    - (a) Whether the uses permitted by the proposed change would be appropriate in the area concerned.
    - (b) Whether adequate public school facilities and other public facilities and services, including roads, exist or can be created to serve the needs of any additional residences or other uses likely to be constructed as a result of such change. **[Amended 9-16-1969 by Ord. No. 73]**
    - (c) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

- (d) The effect of the proposed amendment upon the growth of the Town as envisaged by the Comprehensive Development Plan.
  - (e) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Town and the probable effect thereof.
- B. Each petition for a zoning amendment shall be accompanied by a fee of \$20, payable to the Town Clerk upon the filing thereof. No fee shall be required for petitions filed in favor of or against a pending application.
- C. By resolution adopted at a meeting of the Town Board, the Town Board shall fix the time and place of a public hearing on the proposed amendment and shall cause notice thereof to be given in accordance with provisions of § 264 of Article 16 of the Town Law. All notices of public hearing shall specify the nature of any proposed amendment, the land or district affected and the date when and the place where the public hearing will be held. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper.
- D. Notice.
  - (1) If any proposed amendment consists of or includes either of the following two conditions, the Town Clerk shall transmit to the designated office or official a copy of the official notice of the public hearing not later than 10 days prior to the date of hearing:
    - (a) Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any village or town. **[Amended 9-16-1969 by Ord. No. 73]**
    - (b) Any change in the regulations prescribed for any district, any portion of which is located within 500 feet of the boundaries listed in Subsection D(1)(a).
  - (2) The designated official for counties shall be the Clerk of the Board of Legislators. In villages and towns, the designated official shall be the Clerk of the municipality. Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.
- E. If any proposed amendment consists of or includes any of the following conditions, the Town Clerk shall, prior to final action, refer the proposed amendment to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code: **[Amended 9-16-1969 by Ord. No. 73]** Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II. ]
  - (1) Any change in the district classification of, or the regulations applying to, real property abutting:
    - (a) The boundary of any village or town.
    - (b) The boundary of any state or county park or other recreation area.
    - (c) The right-of-way of any state parkway, thruway, expressway or other controlled-access highway or county road or parkway.
    - (d) The right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
    - (e) The boundary of any county- or state-owned land on which a public building or institution is located.
- F. In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of § 265 of Article 16 of the Town Law.

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## ARTICLE XIII Definitions and Interpretation

### § 200-53. Definitions.

- A. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

**ACCESSORY** — A building or use clearly incidental or subordinate to, and customary in connection with, the principal building or use on the same lot. **[Amended 9-16-1969 by Ord. No. 73]**

**BASEMENT** — A story in a building, the structural ceiling level of which is four feet or more above the average level of finished grade where such grade abuts that exterior wall of such building which fronts on any street, and the floor level of which is below finished grade at any point on the periphery of the building.

**BILLBOARD** — A sign, including the type commonly known as a "billboard," which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally upon such lot.

**BUILDING** — Any combination of materials forming any construction, except where entirely underground, so as to permit the use of the ground above same as if no building were present. The term "building" shall include the term "structure," as well as the following:

- (1) Signs.
- (2) Fences.
- (3) Walls, other than retaining walls projecting above the ground not more than three feet at the higher ground level and not more than 6 1/2 feet at the lower ground level.
- (4) Radio and television receiving and transmitting towers and antennae, except for such antennae installed on the roof of a building and extending not more than 20 feet above the highest level of the roof of such building.
- (5) Porches, outdoor bins and other similar structures.

**CELLAR** — Any space in a building, the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street. A "cellar" shall not be considered in determining the permissible number of stories.

**COURT, INNER** — An open space enclosed on all sides by exterior walls of a building.

**COURT, OUTER** — An open space enclosed on three sides by exterior walls of a building.

**COURT, OUTER, DEPTH OF** — The linear average dimension measured from the unenclosed side of the court to the farthest wall thereof.

**COURT, OUTER, WIDTH OF** — The linear dimension of the unenclosed side of the court.

**CURB LEVEL** — The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line.

**DWELLING, MULTIPLE** — A building or portion thereof containing three or more dwelling units.

**DWELLING, ONE-FAMILY** — A detached building containing one dwelling unit only.

**DWELLING, ROW OR ATTACHED** — A one-family dwelling with two common or party walls separating it from adjacent units on both sides.

**DWELLING, SEMIDETACHED** — A one-family dwelling with one wall in common with an adjacent dwelling.

**DWELLING, TWO-FAMILY** — A detached building containing two dwelling units only.

**DWELLING UNIT** — A building, or entirely self-contained portion thereof, containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other "dwelling unit." A house trailer, boarding- or

rooming house, convalescent home, fraternity or sorority house, hotel, inn or lodging, nursing or other similar home or other similar structure shall not be deemed to constitute a "dwelling unit." **[Amended 9-16-1969 by Ord. No. 73]**

**FAMILY** — One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage or adoption, shall not be considered to constitute a "family."

**FLOOR AREA** — The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building. **[Amended 9-16-1969 by Ord. No. 73]**

**FLOOR AREA, LIVABLE** — All spaces within the exterior walls of a dwelling unit, exclusive of garages, breezeways, unheated porches, cellars, heater rooms and basements having a window area of less than 10% of the square foot area of the room. Usable floor area shall include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit and all attic space having a clear height of six feet from finished floor level to pitch of roof rafter with a clear height of seven feet six inches from finished floor level to ceiling level over 50% of the area of such attic space.

**FLOOR AREA RATIO** — The floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

**FULLY ENCLOSED EATING AND DRINKING ESTABLISHMENT** — A public bar or restaurant where food and/or beverages are served within the confines of a building, but specifically excludes establishments or parts thereof which serve food outdoors, whether on a terrace, under a permanent or temporary tent or otherwise. **[Added 3-22-1983 by Ord. No. 111]**

**HEIGHT** — The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat and mansard roofs and to the mean height between eave and ridge for other types of roofs.

**LOT** — Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its accessory buildings, if any, or by a group of buildings accessory thereto, if any, together with the required open spaces appurtenant to such building or group of buildings.

**LOT, CORNER** — A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. A lot abutting a curved street shall be deemed a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

**LOT DEPTH** — The minimum distance from the street line of a lot to the rear lot line of such lot.

**LOT LINE** — Any boundary of a lot other than a street line.

**LOT LINE, REAR** — The lot line generally opposite to the street line. If the rear lot line is less than 10 feet in length or if the lot comes to a point in the rear, the "rear lot line" shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

**LOT WIDTH** — The average distance between side lot lines taken at the front yard or building line and measured at right angles to the side lot lines or along a parallel to the street.

**MAIN FLOOR** — The largest area found by the projection of a horizontal plane through the livable floor area which is enclosed by the exterior walls of the building.

**MANUFACTURING** — Any process whereby the nature, size or shape of articles or raw materials are changed or where articles are assembled. **[Amended 9-16-1969 by Ord. No. 73]**

**PRINCIPAL BUILDING** — A building in which is conducted the main or principal use of the lot on which said building is located.

**PUBLIC WATER AND PUBLIC SEWER** — Sewage disposal and water supply systems approved by the Town Board for municipal operation. **[Amended 9-16-1969 by Ord. No. 73]**

**SELF-STORAGE FACILITY** — A building having two or more compartments or segregated spaces that are used solely for the purpose of storage of personal property. **[Added 2-25-1997 by L.L. No. 1-1997]**

**SIGN** — Any structure or part thereof, or any device attached to a building or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag or representation which is in the nature of, or which is used as, an announcement, direction or advertisement, for commercial purposes or otherwise. A "sign" includes a billboard and a neon tube, string of lights or similar device outlining or hung upon any part of a building or lot, but does not include the flag or insignia of any nation or group of nations or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. Excluded from this definition are signs which are solely devoted to prohibiting trespassing, hunting or fishing.

**SIGN AREA** — Includes all faces of a sign measured as follows:

- (1) When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.
- (2) When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the matter of which such sign consists may be inscribed.

**STORY** — That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

**STORY, HALF** — Any space partially within the roof framing, where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is seven feet six inches or more.

**STREET** — A street, improved to the satisfaction of the Planning Board, which is one of the following: an existing town, county or state highway or street; a street shown on an approved subdivision final plat; a street shown on a map filed with the County Clerk (in accordance with § 280-a of the Town Law) prior to Planning Board authorization to review subdivisions; or a street shown on the Official Map of the town. **[Amended 9-16-1969 by Ord. No. 73]**

**STREET LINE** — The dividing line between a lot and a street.

**STRUCTURAL ALTERATION** — Any change in the supporting members of a building, such as beams, columns or girders.

**TRAILER** — Any vehicle mounted on wheels, movable either by its own power or by being drawn by another vehicle, and equipped to be used for living or sleeping quarters or so as to permit cooking. The term "trailer" shall include vehicles if mounted on temporary or permanent foundations with the wheels removed.

**USABLE OPEN SPACE** — An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces and which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the minimum dimension of which is 40 feet and which is available and accessible to all occupants of the building or buildings on the said lot for purposes of active or passive outdoor recreation.

**USE, ACCESSORY** — A use customarily incidental and subordinate to the main use on a lot, whether such "accessory use" is conducted in a principal or accessory building, provided that such use does not occupy more than 50% of the total of gross area of the lot or 50% of the combined total gross area

of any building or buildings on the lot. **[Amended 3-26-1985 by L.L. No. 3-1985]**

VARIANCE, AREA — The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this chapter. **[Added 4-11-1995 by L.L. No. 2-1995]**

VARIANCE, USE — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is not allowed by this chapter. **[Added 4-11-1995 by L.L. No. 2-1995]**

YARD, FRONT — An unoccupied ground area fully open to the sky between the street line, or by the street line established by the Official Map of the Town or an approved subdivision plat, and a line drawn parallel thereto, at the front building line, from side lot line to side lot line. **[Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 3-1985]**

YARD LINE — A line drawn parallel to a street or lot line at a distance therefrom equal to the representative yard dimension required by this chapter. **[Amended 9-16-1969 by Ord. No. 73]**

YARD, REAR — An unoccupied ground area fully open to the sky between the rear lot line and a line drawn parallel thereto, at the rear building line, from side lot line to side lot line. **[Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 3-1985]**

YARD, SIDE — An unoccupied ground area fully open to the sky between any property line, other than a front or rear lot line, and a line drawn parallel thereto, at the side building line, between the front and rear yards. **[Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 3-1985]**

- B. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as an individual; and the word "lot" includes the word "plot." The term "occupied" or "used," as applied to any building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used." **[Amended 9-16-1969 by Ord. No. 73]**

#### **§ 200-54. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit or by any easement or agreement, the provisions of this chapter shall control.