

## ARTICLE III

### AGRICULTURAL AND RESIDENTIAL DISTRICT REGULATIONS

#### CHAPTER 1. STATEMENT OF PURPOSE

##### 3-101 GENERAL PURPOSES OF RESIDENTIAL DISTRICTS

The residential districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following more specific purposes:

- (A) To provide sufficient space in appropriate locations for residential developments to adequately meet the housing needs of the present and expected future population of the urban area, with due allowance to the need for a variety of choices in site selection.
- (B) To permit improved movement on the public ways and to effectively utilize existing public ways, and, as far as possible, to mitigate the effects of heavy traffic and more particularly all through traffic, in residential areas.
- (C) To protect residential areas against flood, fire, explosions, toxic and noxious matter, radiation, and other dangers, and against offensive matter, heat, glare, humidity, and other objectionable influences.
- (D) To protect residential areas against undue congestion, as far as possible, by regulating the density of population, the intensity of activity, and the bulk of buildings in relation to the surrounding land and to one another, and by providing for off-street parking spaces for automotive vehicles.
- (E) To require the provision of open space in residential areas whenever practicable; and to encourage the provision of better standards of open space by permitting moderately larger bulk, higher density, and greater intensity with better standards of open space, in order to open up residential areas to light and air, to provide open areas for rest and recreation, and to break up the monotony of continuous building bulk, and thereby to provide a more desirable environment for urban living.
- (F) To provide for access of light and air to windows and for privacy, as far as possible, by controls over the height of buildings and structures.
- (G) To provide appropriate space for public and private educational, religious, recreational, and similar facilities, and public utilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences, and to coordinate the intensity of residential land use with the appropriate community facilities.

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Note: The agricultural districts presented in this ordinance are in fact mixed use agricultural/residential districts.

- (H) To provide a zoning framework conducive to freedom of architectural design in order to encourage the development of more attractive and economical building forms.
- (I) To provide sufficient space in appropriate locations for agricultural activities.
- (J) To promote the most desirable use of land and direction of building development in accordance with a well considered general plan to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the community's tax revenues.

### **3-102 PURPOSES OF RESIDENTIAL DISTRICTS**

#### **3-102.1 A-R, Agricultural/Residential Districts**

These districts are designed to provide suitable areas for the growing of crops, animal husbandry, dairying, forestry, and other similar activities which generally occur and characterize rural rather than urban areas. These districts are designed, furthermore, to provide for very low density residential development generally on unsubdivided tracts of land whereon public sanitary sewerage service is least practical. In addition, these districts may include areas and lands not suited by reason of soil, geologic, topographic, or other limitations for development. These districts also include community facilities, public utilities, and open uses which serve specifically the residents of these districts or which are benefited by an open environment without creating objectionable or undesirable influences upon residential developments or influences which are incompatible with a rural environment.

#### **3-102.2 R-40, Low Density Residential Districts**

These districts are designed to provide suitable areas for low density residential development characterized by an open appearance. Generally, the residential development will consist of one family dwellings and accessory structures. These districts also include community facilities, public utilities, and open uses which serve specifically the residents of these districts, or which are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. It is the intent of this ordinance that these districts be located in areas where full urban services are not available and may not be economically feasible to provide. It is the express purpose of this ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

#### **3-102.3 R-20 and R-15, Low Density Residential Districts**

These districts are designed to provide suitable areas for low density residential development characterized by an open appearance. Generally, the residential development will consist of one family dwellings and accessory structures. These districts also include community facilities, public utilities, and open uses which serve specifically the residents of these districts, or which are benefited by an open residential environment without creating objectionable or undesirable

influences upon residential developments. Further, it is the intent of this ordinance that these districts be located so that the provision of appropriate urban services will be physically and economically facilitated and so that provision is made for the orderly expansion and maintenance of urban residential development within the urban area. It is the express purpose of this ordinance to exclude from these districts all buildings and other structures and uses having commercial characteristics whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

#### **3-102.4 R-10, Medium Density Residential Districts**

These districts are designated to provide suitable areas for medium density residential development where complete urban services and facilities are provided or where the extension of such services and facilities will be physically and economically facilitated. Most generally these districts will be characterized by single- and two-family detached structures except when otherwise permitted as a residential planned unit development and such other structures as are accessory thereto. These districts are intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of these districts, or which are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated or profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

#### **3-102.5 R-5, Medium-High Density Residential Districts**

These districts are designed to provide suitable areas for medium-high density residential development where sufficient urban facilities are available prior to development. These districts will be characterized by a variety of housing types and such other structures as are accessory thereto. These districts are intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of these districts, or which are benefited by and compatible with a medium-high density residential environment. It is the express purpose of this ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

#### **3-102.6 RM-1 and RM-2, High Density Residential Districts**

These districts are designed to provide suitable areas for high density development where sufficient urban facilities are available or where such facilities will be available prior to development. All types of residential activities are permitted. It is the intent of these districts to not restrict in number the dwelling units contained in a building provided there is sufficient area of zone lot and open

space on such lot relative to the number of dwelling units thereon. These districts are intended also to permit community facility and public utility installations which are necessary to service and do service specifically the residents of the district, or which installations are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from these districts all buildings and other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

**3-102.7 TC-R, Town Center-Residential Districts (ADDED BY ORDINANCE 2006-58, JANUARY 9, 2007)**

These districts are designed to preserve and enhance the residential areas in Town Center while allowing new construction of residential dwelling units that complement the existing development patterns. The TC-R district allows a variety of types of dwelling units as well as limited community facility uses. Infill development of dwelling units is encouraged.

**CHAPTER 2. USES AND STRUCTURES**

**3-201 GENERAL PROVISIONS**

Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in ARTICLE I, CHAPTER 3, of this ordinance. The procedure of interpreting the classes and type of activities is provided in ARTICLE I, CHAPTER 3, Sections 1-301 through 1-304. TABLE 3-201A, presents a tabulation of uses and structures which are classified as either "principal permitted" or "conditional" uses within the various residential districts. Where supplemental provisions have been established for a principal permitted use a cross reference to the section containing these supplemental provisions appears in TABLE 3-201A.

**3-202 PRINCIPAL PERMITTED USES**

Principal permitted uses are permitted within the district indicated:

- (A) Subject to approval of a plot or site development plan, as may be required by Section 11-202, and
- (B) Subject to compliance with any supplemental provisions established for such use.

**3-203 CONDITIONAL USES**

A conditional use is an activity, use, or structure which is subject to a finding by the board of appeals that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in TABLE 3-201A, may be allowed within the districts indicated.

### **3-204 ACCESSORY USES**

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth below.

Accessory uses are segmented into two groupings. Those accessory uses presented in Subsection 3-204.1, are permitted as a matter of right, subject only to the general definition of an accessory use and to any specific criteria enumerated for the particular accessory use. The accessory uses presented in Subsection 3-204.2, may be permitted only upon approval of a conditional use permit.

#### **3-204.1 Accessory Uses Permitted by Right**

The accessory uses enumerated within this subsection are permitted as a matter of right subject to the general definition of any accessory use and to any specific criteria presented herein for the particular use. Such accessory uses include the following:

- (a) Off-street parking and loading serving a principal activity, whether located on the same zone lot or on a different zone lot, but only if the facilities involved are reserved for the residents, employees, patrons or other persons participating in the principal activity.
- (b) Minor home occupations accessory to a residential activity subject to:
  - (i) The specific definition of the term appearing in ARTICLE I, CHAPTER 2;
  - (ii) The operational criteria set forth in Subsections 3-208.1 and 3-208.2, as pertain to minor home occupations.
- (c) Private swimming pools, tennis courts and other outdoor recreational facilities exclusively for the use of the residents.
- (d) Private barns, stables, sheds and other farm buildings.
- (e) Living quarters for persons regularly employed on the premises.
- (f) Child care for four (4) or less preteen age children, provided that the dwelling unit in which this activity occurs shall meet all applicable state and local regulations.
- (g) Family child care homes as governed by the provisions of Section 3-209.

#### **3-204.2 Conditional Accessory Uses**

The accessory uses enumerated within this subsection may be permitted only upon approval of a conditional use permit by the Board of Appeals. Each use shall be limited by the general standards established by this section for accessory uses and by the specific criteria established for review and approval of the particular use. The following may be approved as conditional accessory uses within residential districts:

- (a) Major home occupations as governed by the provisions of Subsection 3-208.3.
- (b) Bed and Breakfast Residences and Inns as governed by the provisions of Section 3-405.
- (c) Group child care homes as governed by the provisions of Section 3-209.

**3-205 TEMPORARY USES**

The temporary uses and structures specified in Subsection 11-203.402, as permissible within residential districts may be permitted for the limited time periods indicated for each such use or activity.

**3-206 USES NOT PERMITTED**

Any uses or structures not allowable as permitted uses, conditional uses, temporary uses or accessory uses are prohibited within the various residential districts.

(Amended by Ordinance 2007-09, MARCH 27, 2007)

TABLE 3-201A

**PERMITTED AND CONDITIONAL USES & STRUCTURES  
ALLOWABLE WITHIN RESIDENTIAL DISTRICTS**

	DISTRICTS								
	AR	R-40	R-20	R-15	R-10	R-5	RM-1	RM-2	TC-R
<b>I. <u>RESIDENTIAL ACTIVITIES</u></b>									
<b>A. <u>Permanent Residential Activity</u></b>									
<b>(1) <u>Dwelling, One-Family</u></b>									
(a) Detached	P	P	P	P	P	P	P	P	P
(b) Semi-Detached	x	x	x	x	x	P	P	P	P
(c) Attached	x	x	x	x	x	3-402	3-402	3-402	P(1)
<b>(2) <u>Dwelling, Two-Family</u></b>									
(a) Detached	x	x	x	x	x	P	P	P	P
(b) Semi-Detached	x	x	x	x	x	P	P	P	P
(c) Attached	x	x	x	x	x	3-402	3-402	3-402	P(1)
(3) Dwelling, Multi-Family	x	x	x	x	x	x	3-401	3-401	P(1)
(4) Dwelling Mobile	P	x	x	x	x	x	x	x	x
<b>B. <u>Semi-Transient Residential Activity</u></b>									
(1) Apartment Hotel	x	x	x	x	x	x	x	P	x
(2) Boarding or Rooming Houses	x	x	x	x	x	x	P	P	x
(3) Residential Hotel	x	x	x	x	x	x	P	P	x

**II. COMMUNITY FACILITIES ACTIVITIES**

A. Administrative Services	C – (No special provisions)-----
B. Community Assembly	C – (11-506.1)-----

C. Educational Facilities	C – (11-506.2)									
D. Cultural and Recreational Services	C – (11-506.3)									
E. Essential Public Transport, Communication & Utility Services	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)
F. Extensive Impact Facilities	C – (11-506.4)	x	x	x	x	x	x	x	x	x
G. Health Care Facilities	C – (11-506.5)									
H. Intermediate Impact Facilities	C – (11-506.4)									
I. Special Personal & Group Care Facilities	C – (11-506.6)									
J. Religious Facilities	C – (11-506.7)									

III. AGRICULTURAL & EXTRACTIVE FACILITIES

A. Agricultural Services	P	P	x	x	x	x	x	x	x	x
B. Crop & Animal Raising	P	P	x	x	x	x	x	x	x	x
C. Feedlots & Stockyards	C – (11-508.1)	x	x	x	x	x	x	x	x	x
D. Plant and Forest Nurseries	C – (11-508.3)	x	x	x	x	x	x	x	x	x
E. Mining & Quarrying Activity	C(3)	x	x	x	x	x	x	x	x	x

IV. COMMERCIAL ACTIVITIES

A. Financial, Consulting and Administrative Services	x	x	x	x	x	x	C(3-404)	x	x
B. Professional Services – Medical and Non-Medical	x	x	x	x	x	x	C(3-404)	x	x

KEY TO INTERPRETING USE CLASSIFICATIONS

P = Permitted use within the district indicated (no special provisions apply).  
C = Conditional use subject to provisions of Section indicated  
Section given = Use permitted subject to supplemental provisions contained within the Section shown  
x = Use not permitted in district.

Notes:

Child care centers which are governed by the provisions of Section 11-506.602, may be permitted as conditional uses only within RM-1 and RM-2, Residential Districts

Where explosives are to be stored on a mining or quarrying site the provisions of Section 11-508.3 shall apply

- (1) See Town Center Design Guidelines
- (2) A public hearing shall be conducted by the Planning Commission in conjunction with the review of the site plan for above ground sewer pump stations. The adjacent property owners shall be notified by U.S. Mail at least 10 days prior to the hearing.
- (3) See 11-508.4 for Special Conditions for Mining and Quarrying Activity

**3-207 RESTRICTION OF BUILDINGS PERMITTED ON RESIDENTIAL ZONE LOTS  
(ADDED BY ORDINANCE 1988-70, JULY 26, 1988.)(Revised by Public Chapter  
246, 2007)**

**3-207.1 Limits on Principal Buildings**

Only one (1) principal building may be permitted on any zone lot, except as may otherwise be approved as follows:

- (a) As part of a multi-family dwelling complex under the provision of Section 3-401, or
- (b) As part of a planned unit development district as provided in ARTICLE VIII, of this ordinance.

**3-207.2 Limits on Moving Homes into Developed Areas**

- (a) No single-family residence shall be moved from an existing foundation to another foundation located within a developed area of single-family residences unless
  - (1) The residence to be moved is consistent with the age, value, size and appearance of existing residences within the developed area into which the residence is proposed to be moved
  - (2) Approval for the movement of the residences has been given by:
    - (i.) the homeowner's association of the development where the residence is to be moved, if a home owner's association exists;
    - (ii.) a neighborhood association that has been in existence in the area for more than 1 year, if a neighborhood association exists;
    - (iii.) the Regional Planning Commission, if there is not a homeowner's association or neighborhood association in existence in the area in question
- (b) The residence is considered consistent if:
  - (1) it is within 10 years of the average age of the existing structures in the developed area;
  - (2) the value of the residence to be moved will initially appraise at least at the average appraisal of the existing structures within the developed area after all planned improvements have been completed once the residence has been moved;
  - (3) it is within 100 square feet of the average size of the existing structures within the developed area; and
  - (4) the appearance of the residence is consistent with those in the developed area, as determined by the body giving approval for the move.

**3-208 OPERATIONAL CRITERIA AND LIMITATIONS PERTAINING TO HOME OCCUPATIONS**

**3-208.1 Purpose and Intent**

The conduct of business in residences may be permitted under the provisions of this section. It is the intent of this section to only allow such uses which:

- (a) Ensure the compatibility of home occupations with other uses permitted in the district;
- (b) Maintain and preserve the character of the community and residential neighborhoods;
- (c) Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than to commercial uses;
- (d) Provide peace, quiet, and domestic tranquility within all areas permitting residences within the planning jurisdiction; and
- (e) Guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in areas permitting residences.

### **3-208.2 Minor Home Occupations**

In all zones permitting residence, minor home occupations in compliance with the following regulations are permitted as accessory uses. Due to their small scale and residential nature, minor home occupations are relatively common accessory uses which are not easily detectable and are not reasonable or desirable to regulate through a conditional use permit. However, in order to assure that such activities remain within the limited scope of this provision, a use permit shall be obtained from the Zoning Administrator. The effective period for the use permit shall not exceed two (2) years. At the end of every two (2) year period, renewal shall be automatically granted upon receipt of properly documented certification that the home occupation continues to be operated within the limitations set forth below:

#### (a) Scale

A minor home occupation shall be conducted within a dwelling and shall be clearly incidental to the use of the structure as a dwelling. No more than five hundred (500) square feet or twenty-five (25) percent of the floor area of the dwelling, whichever is less, may be utilized by the minor home occupation.

#### (b) Residential Appearance and Character

In no way shall the appearance of the structure be altered or the occupation, within the residence be conducted in a manner which would cause the premises to differ from its residential character either by use of colors, materials, construction, lights, signs, or the emission of noise or vibration

#### (c) Traffic and Parking

No traffic shall be generated by such minor home occupation by persons other than the occupants of the dwelling and any parking required as a result of the conduct of such home occupation shall be met off the street and in portions of the lot other than in required yards.

#### (d) Commercial Vehicle Use and Storage

No home occupation shall involve the use, parking, storage or repair of any except for deliveries by Parcel Post, United Parcel Service, or similar in town delivery service trucks. The home occupation shall not result in parking of more than one (1) commercial vehicle upon the site of the home occupation.

(e) Noise, Equipment and Process Restrictions

No equipment or process shall be used in any minor home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or processes shall be used which creates visual or audible interference in any radio or television receivers off the premises.

(f) Display of Products

No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.

(g) Restriction of External Alterations

No home occupation shall require internal or external alterations or involve construction features or the use of mechanical or electrical equipment that would change the fire rating of the structure or the district in which the structure is located.

(h) Participants

No person other than residents of the dwelling shall be employed at the location in the conduct of a minor home occupation.

(i) Specific Use Prohibitions

The following are specifically prohibited as minor home occupations.

1. Appliance Repair
2. Beauty Salons and Barber Shops
3. Cabinet Making
4. Ceramics (with kiln larger than six (6) cubic feet)
5. Dance or Music Studios with more than Four (4) Students
6. Medical or Dental Office
7. Transportation Equipment Repair
8. Upholstering
9. Veterinarian Uses (Including Care, Grooming or Boarding)
10. Commercial kennels

(j) Signs

Only such signs as are permitted by ARTICLE VI, CHAPTER 2, for the district wherein the use is located may be utilized in conjunction with any activity permitted by this section.

**3-208.3 Major Home Occupation**

Home occupations which exceed those permitted by Subsection 3-208.2, as "Minor Home Occupations," may be permitted only if a conditional use permit is secured pursuant to the procedures set forth in ARTICLE XI, Section 11-509.

(a) Participants

The home occupation is to be conducted only by members of the family residing in the dwelling unit, plus no more than one (1) nonresidential assistant or employee. Persons using their dwelling units or residential premises as an office for business activities carried on or off the premises, may have more employees than the limitation set forth above, if such persons are not employed on the premises.

(b) Hours of Operation

In no case shall a home occupation be open to the public at times earlier than 8:00 am., or later than 10:00 p.m.

(c) Scale

A home occupation shall be conducted within a dwelling and shall be clearly incidental to the use of the structure as a dwelling. No more than five hundred (500) square feet or twenty-five (25) percent of the floor area of the dwelling, whichever is less, may be utilized by the home occupation.

(d) Residential Appearance and Character

In no way shall the appearance of the structure be altered or the occupation, within the residence be conducted in a manner which would cause the premises to differ from its residential character either by use of colors, materials, construction, lights, signs, or the emission of noise or vibration.

(e) Noise, Equipment and Process Restrictions

No equipment or process shall be used in any home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or processes shall be used which creates visual or audible interference in any radio or television receivers off the premises.

(f) Restriction of Wholesale and Retail Sales

There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products, except that orders previously made by telephone or at a sales party may be picked up and products or goods produced or fabricated on the premises as a result of the home occupation may be sold. However, direct sales of products produced off premises are not permitted.

(g) Outside Storage

There shall be no storage of equipment, vehicles, or supplies associated with the home occupation outside the dwelling or accessory building.

(h) Display of Products Prohibited

There shall be no display of products visible in any manner from outside the dwelling.

(i) Signs

Only such signs are permitted by ARTICLE VI, Chapter 2, for the district wherein the use is located may be utilized in conjunction with any activity permitted by this section.

(j) Hazards

No home occupations shall require internal or external alterations or involve construction features or the use of mechanical or electrical equipment that would change the fire rating of the structure or the district in which the structure is located. No hazardous materials shall be used or stored on the property in conjunction with any home occupation permitted hereunder. No use shall be permitted which involves the manufacture or storage of products which are dangerous in terms of risk of fire, explosion or hazardous emissions.

(k) Deliveries and Large Vehicle Storage

No home occupation shall involve the use, parking, storage or repair of any vehicle exceeding a gross vehicle weight of twenty-six thousand (26,000) pounds, except for deliveries by Parcel Post, United Parcel Service, or similar in town delivery service trucks. The home occupation shall not result in parking of more than one (1) commercial vehicle upon the site of the home occupation.

(l) Heavy Transportation and Construction Equipment Prohibited

Regardless of weight or tonnage of equipment or vehicle, no major home occupation shall involve the on-site use, parking or storage of the following; this includes but is not limited to, tractor trailers, semi-trucks or heavy construction equipment.

(m) Parking

A parking plan shall be presented with each request for a conditional use permit presented hereunder. The plan shall demonstrate:

1. That adequate off-street parking can be provided on the site to accommodate the additional needs generated by the home occupation.
2. That any added parking will not detract from the visual appearance of the residence or adversely impact adjoining properties.

**3-208.4 Status of Home Occupations Previously Approved**

All home occupations which upon the effective date of this amendment have been issued use and occupancy permits may continue to function subject to compliance with the original conditions and limitations upon such use. Following adoption, all home occupations not holding use and occupancy permits shall be subject to the conditions and limitations set forth in this amendment.

### **3-209 OPERATIONAL CRITERIA AND LIMITATIONS GOVERNING FAMILY CHILD CARE HOMES**

The provisions of this section shall apply to family child care homes as defined by this ordinance. Family child care homes may be permitted as accessory uses within all residential districts subject to the following:

- (A) All state and local licensing and code requirements including those pertaining to building, fire safety and health shall be met at all times during operation of the facility.
- (B) Lot size, building coverage and setback provisions shall conform to those applicable to residential uses located within the zoning district.
- (C) One (1) off-street parking space shall be provided for each nonresident or non family member employee in addition to the spaces required for the dwelling. The residential driveway is acceptable for this purpose.
- (D) An off-street drop-off/pick-up area shall be provided.
- (E) Signage shall conform to the provisions of ARTICLE VI, CHAPTER 2.
- (F) No structural or decorative alteration that will alter the character of an existing residential structure or be incompatible with surrounding residences may be permitted.
- (G) An outside play area of sufficient size to meet the minimum requirements established by the Tennessee Department of Human Services shall be provided. This area shall be fenced and shall be located within portions of the lot other than that utilized for a septic disposal field or any portion of the lot existing from the street line to a line drawn parallel to the front wall of the dwelling extending from one side lot line to the other.

### **CHAPTER 3. HEIGHT, DENSITY, LOT SIZE, AND OPEN SPACE REQUIREMENTS**

#### **3-301 APPLICABILITY AND GENERAL PURPOSES**

The provisions of this chapter, except as provided in ARTICLE VIII, and in Section 3-403, of this article, apply to any building or other structure on any zone lot or portion of a zone lot located in any residential district, including all new developments, enlargements, extensions, and conversions.

#### **3-302 MAXIMUM PERMITTED LOT COVERAGE**

Within the various residential districts, the maximum zone lot coverage by all buildings (principal and accessory) shall not exceed the percentage of the total area of the zone lot indicated in TABLE 3-301A.

### **3-303 MINIMUM ZONE LOT REQUIREMENTS**

#### **3-303.1 Basic Requirements**

Within the various residential districts the minimum area and width (measured at the building line) of zone lots used for residential purposes shall not, except as provided in Subsection 3-303.2 and Section 3-403, be less than that indicated in TABLE 3-301A.

For all community facility uses the minimum area and width required for zone lot shall be twice that required for a residential uses. Within those districts where agricultural activities are permitted, the minimum zone lot required for such use shall be ten (10) acres.

#### **3-303.2 Special Provisions for Existing Small Lots**

In all residential districts, a single family dwelling may be built upon a zone lot consisting entirely of a tract of land:

- (a) Which was owned separately and individually from all other adjoining tracts of land, both on the effective date of this ordinance, and on the date of application for a zoning permit, and
- (b) Which contain a minimum total lot area of five thousand (5,000) square feet or one-half (1/2) the minimum lot area for the district in which the lot is located, whichever is greater.

### **3-304 DENSITY REGULATIONS**

#### **3-304.1 Basic Requirements**

The residential density permitted upon any zone lot found within the various residential districts is controlled by the development area required for each dwelling or rooming unit permitted to locate thereon. This is determined by dividing the total area of the zone lot by the "development area per dwelling or rooming unit" which is presented in TABLE 3-301A, for the residential zoning districts.

**AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007**

**TABLE 3-301A**

**HEIGHT, DENSITY, LOT SIZE AND OPEN SPACE  
REQUIREMENTS WITHIN RESIDENTIAL DISTRICTS**

	DISTRICTS								
	A-R	R-40	R-20	R-15	R-10	R-5	RM-1	RM-2	TC-R
I. MAX LOT COVERAGE BY ALL BUILDINGS (As % of Total Lot Area)	20	15	20	25	30	30	40	40	40
II. <b>MINIMUM ZONE LOT REQUIREMENTS</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>
<b>A. Area (In Square Feet)</b>	<b>40,000</b>	<b>40,000</b>	<b>20,000</b>	<b>15,000</b>	<b>10,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>
<b>B. Width (In Feet, Measured at the Building Line) (7)*</b>	100 (4)	100 (4)	100 (4)	75 (4)	60 (4)	50 (3-4)	50 (3-4)	50 (3-4)	40 (3-4)
III. DEVELOPMENT AREA PER DWELLING OR ROOMING UNIT (In Square Feet)	40,000	40,000	20,000	15,000	7,500	5,000	2,500	1,250	2,500
IV. MAXIMUM HEIGHT (In Feet)	35	35	35	35	35	35	45(5)	(2)	(8)
V. MINIMUM YARD REQUIREMENTS (IN FEET)									
<b>A. Residential Buildings</b>									
1. Front	40	40	30	30	20(6)	20(6)	20(6)	20(6)	10-30 (6,8)
2. Side	20	15	15	10	7	7	7	7	10 (8)
3. Rear	20	20	20	20	20	20	20	20	20 (8)
<b>B. Community Facility and Mixed Use Buildings</b>									
1. Front	60	50	40	40	30	30	30	30	10-30 (8)
2. Side	30	25	25	20	20	20	20	20	10 (8)
3. Rear	30	25	25	20	20	20	20	20	20 (8)
VI. IMPERVIOUS SURFACE RATIO	N/A	N/A	N/A	N/A	N/A	N/A	80	80	80

**NOTES:**

- (1) Applicable to Residential Uses Only--For All Other Uses, See Subsection 3-303.1.
- (2) See Subsection 3-305.3, Special Height Provisions Applicable Within RM-2 Districts.
- (3) The Minimum Lot Width for Attached Dwellings Shall be Twenty-Four (24) Feet.
- (4) Within Developments Approved Under the Provisions of Section 3-403, Minimum Lot Widths Shall be Established by the Planning Commission.
- (5) Any Building Exceeding Thirty-Five (35) Feet in Height Shall be Approved by the Fire Department Prior to the Issuance of a Building Permit. The Fire Department May Stipulate Special Fire Protection Measures as a Condition of Approval of Any Such Structure. In Such Instance, The Stipulations Made by the Fire Department Shall be Required.
- (6) See Subsection 3-306.610, for Special Yard Provisions Along District Boundaries.
- (7) AMENDED BY ORDINANCE 1987-14, APRIL 28, 1987.

(8) See Town Center Design Guidelines, Table 4.0

**3-304.2 Adjustment for Lot Area Remainder**

In all districts where residential uses are permitted, if an amount of lot area not allocated to a dwelling unit is less than that required for one (1) such dwelling, the remaining lot area may be used to satisfy lot area requirements if it represents not less than three-fourths (3/4) of the total required.

**3-305 HEIGHT REGULATIONS**

**3-305.1 Basic Requirements**

The maximum permitted height for buildings shall not, except as provided in Subsection 3-305.2, exceed that set forth for the various residential districts in TABLE 3-301A.

**3-305.2 General Exception to Height Regulations**

The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, radio towers, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

**3-305.3 Special Height Controls Applicable Within RM-2 Districts**

Except as provided in Subsection 3-306.610, the provisions of this section shall apply to all buildings within RM-2 Districts.

Note: Any building exceeding thirty-five (35) feet in height shall be approved by the fire department prior to the issuance of a building permit. The fire department may stipulate special fire protection measures as a condition of approval of any such structure. In such instance the stipulations made by the fire department shall be required.

**3-305.301 Maximum Height of Front Wall and Required Front Setbacks**

Within the RM-2 Districts, if the front wall or other portion of a building or other structure is located at the street line or within the initial required setback distance, the height of such front wall or other portion of a building or other structure shall not exceed the maximum height above curb level set forth in this section. Above such specified maximum height and beyond the initial setback distance, the building or other structure shall not penetrate the sky exposure plane set forth in this section. The regulations of this section shall apply, except as otherwise provided in Subsection 3-305.302.

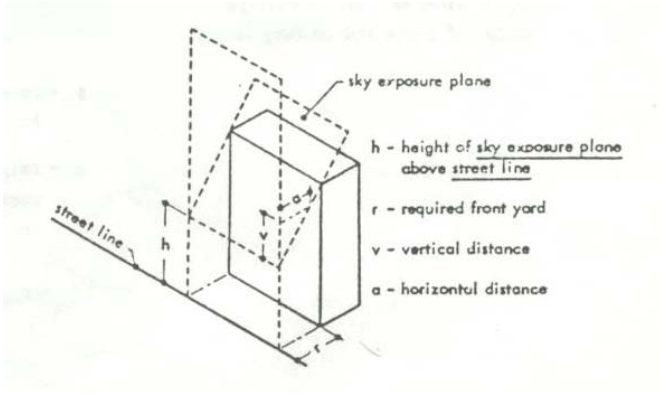
For the purpose of applying the regulations of this section, any zone lot improved with a building or other structure shall be considered to have at least one (1) front wall for each street line of such zone lot, and any zone lot shall have an initial setback distance, an initial setback area, and a sky exposure plane as set forth in this section for each of such lot's street frontage.

Within all RM-2 Districts, the maximum height of a front wall and the required yard and initial setback of a building or other structure, except as otherwise set forth in this section, shall be as set forth in the following table, (Maximum Height of Front Wall and Required Front Setback):

**MAXIMUM HEIGHT OF FRONT WALL  
AND REQUIRED FRONT SETBACK**

<u>Districts</u>	<u>Depth of Required Front Yard or Initial Setback Distance (in feet)</u>	<u>Height Above Street Line (in feet)</u>	<u>Slope Over Zone Lot (Expressed as a Ratio of Vertical Distance to Horizontal Distance)</u>
RM-2	20	30	1.5 to 1

**ILLUSTRATION 3-305.301A  
SKY EXPOSURE PLANE**



**3-305.302 Tower Regulations**

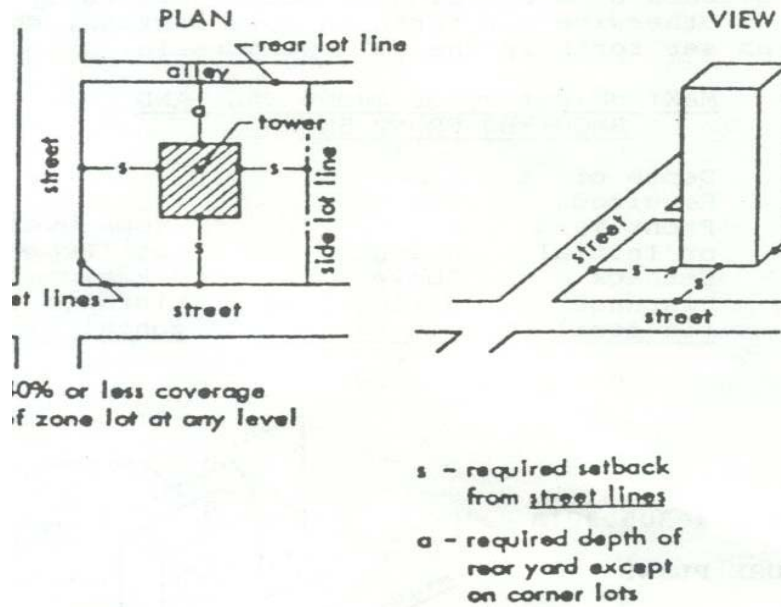
Within RM-2 Districts, any building or other structure which in aggregate occupies not more than forty (40) percent of the area of a zone lot may penetrate an established sky exposure plane. Such building or other structure or portion thereof is hereinafter referred to as a tower. However, at any given level, such tower shall be set back from all lot lines the distance indicated in the following table, (Required Setback of Towers from Street Lines and Side Lot Lines):

**REQUIRED SETBACK OF TOWERS FROM STREET LINES AND SIDE LOT LINES**

<u>Districts</u>	<u>Depth of Required Setback (in feet)</u>
RM-2	40

**ILLUSTRATION 3-305.302A**

**TOWER ILLUSTRATION**



### **3-306 YARD REGULATIONS**

#### **3-306.1 Application of the Lot Line Equivalent to Measurement of Yards**

The following provisions shall apply in the determination of a lot line equivalent.

- (a) A front lot line equivalent is a straight line joining the foremost points of the side lot lines. In the case of rounded property corners at street intersections, the foremost point of a side lot line shall be assumed to be the point at which the side lot and the front lot line would have met without such rounding.
- (b) A rear lot line equivalent is a straight line joining the rearmost points of the side lot lines.
- (c) A side lot line equivalent is a straight line joining the ends of the front yard line and the rear yard line on the same side of the zone lot.

In all residential districts, the width or depth of a yard shall be measured perpendicular to lot line equivalents.

#### **3-306.2 Yard Diagrams**

The yard diagrams appearing in ILLUSTRATION 1-202B, YARD DIAGRAM, shall be used in clarifying the meaning of the "line" and "yard" definitions of this section.

#### **3-306.3 Permitted Obstructions in Required Yards**

In all residential districts, the following shall not be considered obstructions when located within a required yard, except that these items shall comply with Subsection 3-306.4.

(a) In Any Yard:

Air conditioning units, provided that no such unit shall extend more than one-half (1/2) the required width of the yard.

Arbor and trellises.

Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.

Chimneys projecting not more than three (3) feet into and not exceeding two (2) percent of the area of the required yard.

Driveways subject to other specific provisions of this ordinance related directly thereto.

Eaves, gutters, or downspouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.

Fire escapes or staircases, the riser of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not project more than three (3) feet into, and not exceeding ten (10) percent of the area of the required yard.

Flagpoles having only one structural ground member.

Fountains.

Mailboxes.

Open terraces, including natural plant landscaping.

Sculpture or other similar objects of art.

Street furniture such as, but not limited to, benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.

Vehicular parking areas, unless otherwise specifically prohibited by applicable sections of this ordinance.

Vents necessary for use of fallout shelters constructed below grade of such yards, but excluding all other parts of such shelters.

Walls, including retaining walls, or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls, including retaining walls, or fences, and not roofed or structurally part of a building.

In ground swimming pools provided that no such structure may be located less than five (5) feet to the property line.

(b) In Any Rear Yard:

Clothes poles or clothes lines.

Recreational equipment.

(c) In Any Side or Rear Yard:

Decks provided no roof, awning or walls may be attached to the deck and the structure may extend no closer to the side or rear lot line than five (5) feet.

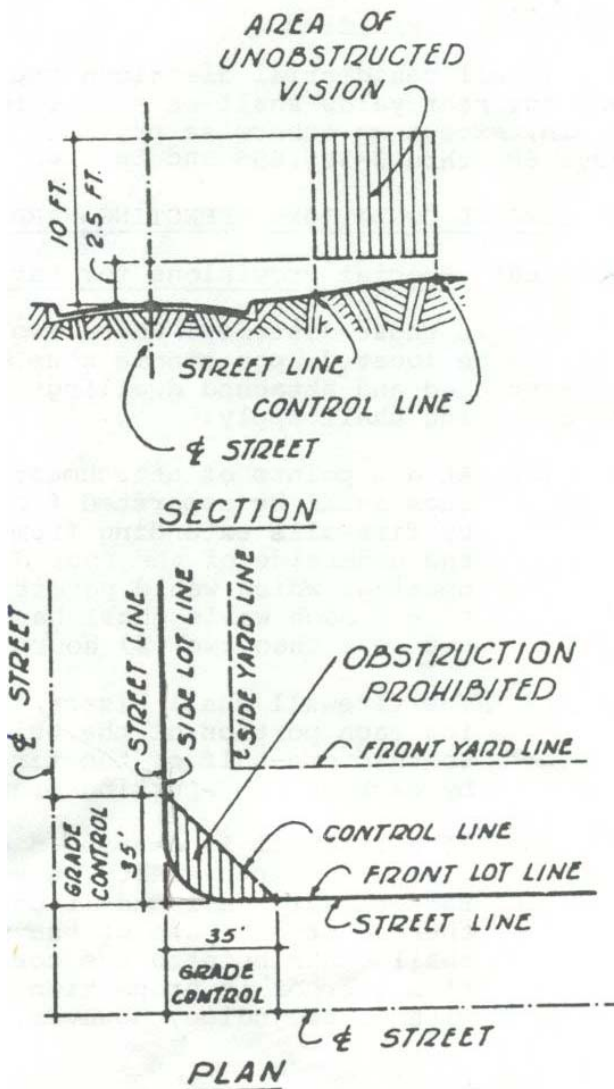
**3-306.4 Obstruction Prohibited at Street Intersections**

On a corner lot, no fence, wall, hedge, or other planting or structure that will materially obstruct vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the street lines at such corner lots and a straight line joining such street lines at points which are thirty-five (35) feet distance from the intersection of the street lines and measured along said street lines (see the ILLUSTRATION 3-306.4A, VISION

CLEARANCE AREA). In case of rounded street lines at the intersecting streets, such measurement shall be made from the point of intersection of the tangents of the curve constituting the rounding.

**ILLUSTRATION 3-306.4A**

**VISION CLEARANCE AREA**



### **3-306.5 Basic Requirements**

#### **3-306.501 Front Yards**

In all residential districts the minimum requirement for front yards, excepting as otherwise provided in Section 3-403, shall be as set forth in TABLE 3-301A.

#### **3-306.502 Side Yards**

In all residential districts the minimum requirement for side yards shall be as set forth in TABLE 3-301A, except as otherwise provided in Subsections 3-306.601, 3-306.602, 3-306.607, 3-306.608, and Section 3-403.

#### **3-306.503 Rear Yards**

In all residential districts the minimum requirement for rear yards shall be as set forth in TABLE 3-301A, except as otherwise provided in Subsections 3-306.603 thru 3-306.605, and Section 3-403.

### **3-306.6 Special Conditions Affecting Yards**

#### **3-306.601 Special Provisions for Party Walls**

Within those districts where two family dwellings may be located upon single zone lots or where semi-detached and attached dwellings are permitted the following shall apply:

- (1) At all points of attachment, such buildings shall be separated from each other by firewalls extending from footings to the underside of the roof deck without openings which would permit the spread of fire. Such walls shall have fire rating of not less than two (2) hours duration.
- (2) The firewall shall bisect the line dividing each portion of the building or lot so that one-half (1/2) of the firewall is held by each of the abutting properties.
- (3) If a firewall is destroyed or damaged by fire or other casualty, any owner may restore said wall and if other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule of law requiring liability for negligent or willful acts and omissions.
- (4) Each abutter who may share in the ownership of any firewall shall have an easement on the property of any other owner(s) for the purpose of reconstruction and protection of remaining unit(s) from the elements.

**3-306.602 Exception for Subdivision of Zone Lots After Development**

In all residential districts, after a detached residential building has been constructed on a zone lot, such lot may be subdivided, subject to any other applicable regulations of this ordinance, so that portions of the building are located on different zone lots, providing that, after such a subdivision, no zone lot line may divide an area designed or intended for use as a single dwelling unit within such building. Furthermore, after such a subdivision, side yard requirements shall apply only:

- (1) Where side yard requirements applied along a side lot line of the original zone lot; and
- (2) Where side lot lines of the subdivided zone lot separate detached buildings.

**3-306.603 Special Provisions for Shallow Interior Lots**

In all residential districts, if an interior lot consists entirely of a tract of land:

- (1) Which was owned separately and individually from all other tracts of land, both on the effective date of this ordinance and on the date of application for a zoning permit; and
- (2) Which is less than one hundred (100) feet in depth.

The depth of a required rear yard for such interior lot may be reduced by one (1) foot for each foot by which the maximum depth of such zone lot is less than one hundred (100) feet, provided that such reduction in the depth of the required rear yard does not exceed ten (10) feet.

**3-306.604 Rear Yard Exception for Through Lots**

In all residential districts, no rear yard regulations shall apply to any through lot which extends less than two hundred fifty (250) feet in depth from street to street. The depth of such lot shall be considered to be the mean length of its side lot lines. In lieu thereof a front yard shall be required for each street frontage.

**3-306.605 Yard Requirements for Zone Lots of Unusual Shape**

In all residential districts, wherever a zone lot is of such unusual shape that the yard provisions of these regulations cannot be specifically applied, the Zoning Administrator may substitute special yard requirements for such lot only to the extent that these regulations are inapplicable and not to exceed the average of the yard requirements on adjacent lots in the district.

**3-306.606 Special Yard Requirements for Agricultural Activities**

Within those residential districts where agricultural activities are permitted there shall be provided a minimum yard from all property lines of not less than two hundred (200) feet for all permitted barns and other structures, including feed lots and pens, where animals are maintained.

**3-306.607 Special Yard Requirements for Corner Lots**

The minimum required width of a side yard abutting a street shall be one-half (1/2) the minimum required front yard depth for the district. Parking within this side yard is prohibited.

**3-306.608 Minimum Side Yard for Residential Structure with Facade Parallel to a Side Lot Line**

For any residential structure constructed with a front and/or rear building facade parallel to a side lot line, the required side yard shall be not less than one-half (1/2) the minimum required front yard depth for the district.

**3-306.609 Special Provisions for Front Yard Setback**

Any alteration, addition or construction of a building or structure on a zone lot shall extend no closer to the street which abuts the designated front yard than the average of the distances of the buildings located within one hundred (100) feet on each side of the lot whereon the alteration, addition or construction is to occur; provided that no building shall be required to provide a front yard of greater than twice the minimum front yard for the district. The average front yard requirement shall not prohibit alterations or additions to an existing structure which has irregular front walls provided said alteration or addition extends no closer to the street than the existing closest front wall to the street. The board of appeals shall have jurisdiction to vary from this strict application upon property where such provision would create an undue hardship.

**3-306.610 Special Yards and Setbacks Along District Boundaries  
(AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)**

Along such portion of the boundary any R-5, RM-1, RM-2 or TC-R District, which coincides with a side or rear lot line of a zone lot in any A-R, R-40, R-20, R-15, or R-10 District, the following shall apply:

(1) Buffer Yards

An open area unobstructed from the ground to the sky shall be provided within the R-5, RM-1, RM-2, or TC-R District, said area being at least thirty (30) feet in width or depth.\* Such open area shall not be used for accessory off-street parking, or for accessory off-street loading, or for storage or processing of any kind.

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\* Minimum required yards shall be increased one (1) foot for each one and one-half (1 1/2) feet of height of a building or other structure in excess of thirty (30) feet above the mean of the elevations at the base of the building.

(2) Special Front Setbacks

Regardless of the front yard provisions established for any R-5, RM-1, RM-2 or TC-R District, no building located on any zone lot adjacent to any A-R, R-40, R-20, R-15, or R-10 District, shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot; provided that no building shall be required to set back more than twice the minimum front yard applicable within the zoning district wherein it is located.

3-306.611 Special Rear Yard Requirements for Residential Garages Abutting Alleys (ADDED BY ORDINANCE 2007-09, MARCH 27, 2007)

The minimum rear yard specified by Table 3-301A for alley-loaded garages may be reduced by the Planning Commission in conjunction with the review and approval of the site plan and/or subdivision plat provided, however, there shall be a minimum of 5 feet between said garage and the alley. Adequate off-street parking shall be provided. The intent of this provision is to allow for creative and optimum design of rear yards and alleys in town home and other small lot developments.

**3-307 COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES**

**3-307.1 Unattached Buildings Regulated by Minimum Formula**

In all residential districts, at any level at which two or more portions of a single building are not attached one to the other, the minimum distance between such portions shall comply with Section 3-308. The height of the portions of such building may be measured from the roof line of the connecting portion of the building instead of from the finished grade level.

**3-307.2 Attached Building Walls Regulated by Court Regulations and Minimum Distance Between Legally Required Windows and Building Walls at Lot Lines**

**3-307.201 Minimum Dimension of Courts**

In all residential districts, a legally required window may face upon an inner court containing an area of at least twelve hundred (1,200) square feet and a minimum dimension of thirty (30) feet or an outer court provided such outer court has a minimum dimension of thirty (30) feet, and further meeting the requirements of Subsection 3-307.202.

**3-307.202 Minimum Distance Between Legally Required Windows and Building Walls**

In all residential districts, the minimum distance between legally required windows and any building wall opposite such window shall be at least thirty (30) feet or a distance equal to one-half (1/2) the total height of the opposing wall above the sill level of such window, provided, however, such minimum distance need not exceed sixty (60) feet.

**3-307.203 Minimum Distance Between Legally Required Windows and Side or Rear Lot Lines for Buildings Greater Than Three Stories in Height Other Than One- or Two-Family Detached Residences**

In all residential districts, any legally required window contained within a structure having more than three (3) stories shall be a minimum distance of thirty (30) feet from any side or rear lot line. Said distance shall be measured in a horizontal plane at the sill level and perpendicular to such window.

**3-308 STANDARD MINIMUM DISTANCE BETWEEN BUILDINGS**

In all residential districts, the minimum distance between any two buildings anyone of which has legally required windows facing the other (referred to as Building A and Building B) shall vary according to the length and height of such buildings. Such minimum distance shall be either thirty (30) feet or the distance required under the following formula, whichever is the greater distance:

$$S = \frac{l_a + l_b + 2(h_a + h_b)}{6} \text{ where:}$$

**S =** required minimum horizontal distance between any wall of Building A, at any given level, and any wall of Building B, at any given level, or the vertical prolongation of either.

**l<sub>a</sub> =** total length of Building A.

The total length of Building A, is the length of that portion or portions of a wall or walls of Building A, from which, when viewed directly from above, lines drawn perpendicular or radial from Building A, will intersect any wall of Building B.

**l<sub>b</sub> =** total length of Building B.

The total length of Building B, is the length of that portion or portions of a wall or walls of Building B, from which, when viewed directly from above, lines drawn perpendicular or radial from Building B, will intersect any wall of Building A.

**h<sub>a</sub> =** height of Building A.

The height of Building A, at any given level is the height above natural grade level of any portion or portions of a wall or walls along the total length of Building A.

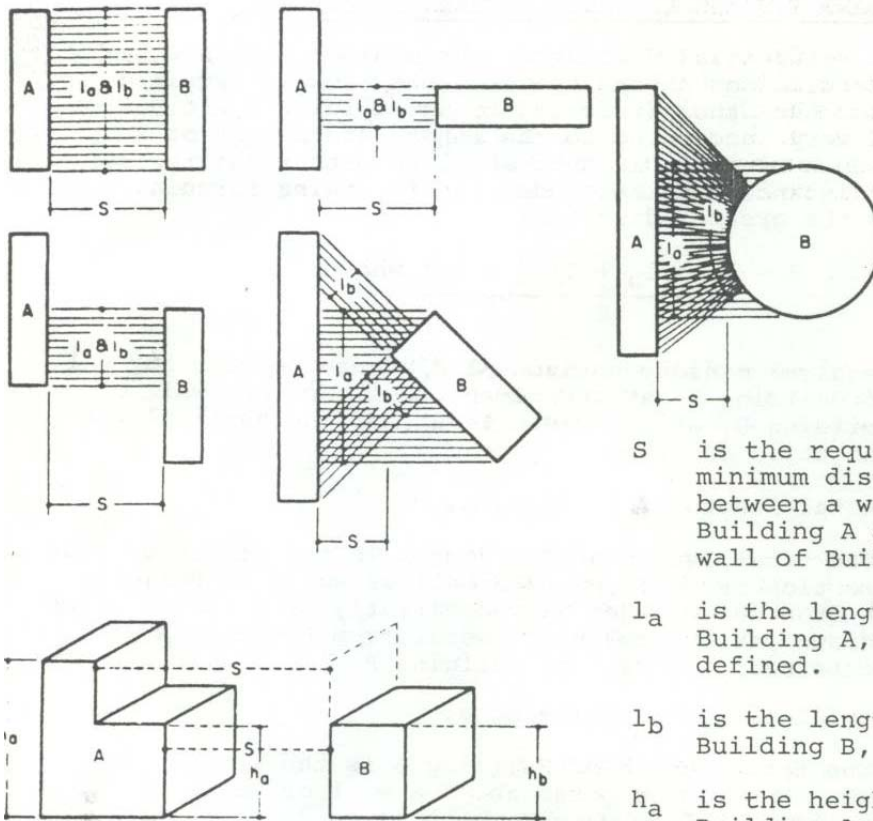
**h<sub>b</sub> =** height of Building B.

The height of Building B, at any given level is the height above natural grade level of any portion or portions of a wall or walls along the total length of Building B.

If l<sub>a</sub> + l<sub>b</sub> are equal to zero, the formula set forth above shall not apply, and the minimum distance shall be thirty (30) feet.

ILLUSTRATION FOR SECTION 3-308

STANDARD MINIMUM DISTANCE BETWEEN BUILDINGS



$S$  is the required minimum distance between a wall of Building A and a wall of Building B.

$l_a$  is the length of Building A, as defined.

$l_b$  is the length of Building B, as defined.

$h_a$  is the height of Building A, as defined.

$h_b$  is the height of Building B, as defined.

### **3-309 ACCESS REQUIREMENTS**

Every structure hereafter erected or moved shall abut a public street, or a private street approved for said lot, for a distance of not less than that indicated for the particular use in TABLE 3-309A, below. All principal buildings shall be so located upon lots as to provide safe and convenient access for servicing, fire protection, and off-street parking.

**TABLE 3-309A**  
**REQUIREMENTS FOR PUBLIC ACCESS**

<u>USE</u>	<u>APPLICABLE TO EACH UNIT AS INDICATED</u>	<u>FRONTAGE REQUIRED NORMAL</u>	<u>(IN FEET) CUL-DE-SAC</u>
<b><u>RESIDENTIAL</u></b>			
Dwelling, One-Family Detached	Dwelling Unit	50	35
Dwelling, One-Family Semi-Detached	Building	40	25
Dwelling, One-Family Attached	Dwelling Unit	20	20
Dwelling, Two-Family Detached	Building	40	25
Dwelling, Two-Family Semi-Detached	2-Family Unit	40	25
Dwelling, Two-Family Attached	2-Family Unit	20	20
Dwelling, Multi-Family	Building	50	35
Dwelling, Mobile Home	Dwelling Unit	50	35
<b><u>ALL OTHER USES</u></b>		100	50

### **3-310 IMPERVIOUS SURFACE RATIO**

Within the various residential districts, the maximum impervious surface (See Definition) shall not exceed the percentage of the total area of the zone lot indicated in TABLE 3-301A when the property is used for residential purposes. **(ADDED BY ORDINANCE NO. 2002-15, JANUARY 14, 2003.)**

## **CHAPTER 4. SUPPLEMENTAL PROVISIONS**

### **3-401 DEVELOPMENT STANDARDS FOR MULTI-FAMILY DWELLINGS (AMENDED IN ITS ENTIRETY BY ORDINANCE NO. 1996-20, AUGUST 13, 1996.)**

#### **3-401.1 Purpose**

The special provisions set forth herein are intended to provide design criteria for multi-family dwellings located on a zone lot or portion of a zone lot. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning Commission review of the site plan required for all such development by Subsection 11-202.102. Provided, however, that in any instance where this use is located within a development subject to the provisions of Section 3-403, or a planned unit development this requirement may be fulfilled by submission of the plans required by those sections.

#### **3-401.2 Design Criteria, General**

It is the intent that multi-family dwellings where they are permitted:

- (a) May be appropriately intermingled with other types of housing;
- (b) Shall not contain more than twelve (12) dwelling units per floor on a single unbroken frontage; and
- (c) Shall constitute groupings making efficient economical, comfortable, and convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

#### **3-401.3 Design Criteria, Detailed (AMENDED BY ORDINANCE 2008-05 ADOPTED MAY 27, 2008)**

- (a) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. A masonry fence at least six (6) feet in height shall enclose the boundary of each multi-family development site. A detail of the proposed fence is to be presented with the site development plan. The aesthetic and protective nature of the proposed fence shall be considered an integral element of the overall site design and shall be reviewed as part of the design review process. Where in the judgment of the Planning Commission alternative measures such as landscaping or placing of berms are found to provide equal or superior protection, these measures may be substituted for the fence.
- (b) Sidewalks shall be placed on both sides of all internal streets and along all adjacent external streets five (5) feet back of the street curb. Paved pedestrian walkways shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.
- (c) The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features as specified in ARTICLE IX, of this ordinance. Prior to any site

clearing or development activity, the developer shall submit a landscape plan along with the site development plan. Where necessary to provide both internal and external privacy and to screen out objectionable features such as noise or automobile lights, additional new plant material may be required.

- (d) Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes from erosion.
- (e) Adequate amenity package for occupants of the development shall include the following:
  - (1) Exterior sitting areas with a total minimum area of twenty (20) square feet per bedroom, easily accessible by paved walkways to the residents such facilities are designed to serve. Generally, such facilities shall be located no more than seven hundred-fifty (750) feet from the residential building it is to serve. All sitting areas shall be equipped, with benches, picnic tables and other passive recreational facilities. All such sites shall be suitably landscaped to enhance their intended function.
  - (2) Play lots and/or playgrounds with a total minimum area of one hundred (100) square feet per bedroom. These areas shall be provided with playground equipment sufficient to meet the needs of children expected to reside within the complex. The individual pieces of playground equipment shall be specified on the site plan. All recreational equipment provided shall be durable commercial grade equipment which shall meet all Consumer Production Safety Commission safety guidelines, as well as, the ASTM F1487-93, Public Use Playground Standards. The playground shall be served by paved pedestrian walks linking individual buildings to the recreational facility. Additional sitting areas may be substituted for playgrounds on a square foot for square foot basis when the development is planned for elderly adults only.
  - (3) Club house facilities with a minimum floor space of twenty (20) square feet for each dwelling unit located within the development.
  - (4) All multi-family complexes containing one hundred (100) or more dwelling units shall provide swimming pool facilities for the residents.
  - (5) Centralized refuse (garbage) disposal facilities are strongly recommended. All dumping cart/bins shall be opaquely screened and landscaped.
  - (6) A screened and fenced parking and storage area for boats, trailers and campers with a minimum of one (1) space for each eight (8) dwelling units. This requirement may be waived by the Planning Commission if the developer agrees to prohibit the parking of boats, trailers and campers at any location within the development and a contingency plan is provided for said parking and storage area. In the event that the prohibition is not being enforced, the Planning

Commission may require the implementation of the contingency plan.

- (7) Street and area lights lighting the entire development.
- (f) All private drives, parking areas or other vehicular ways used for the common access for two (2) or more residences shall be suitably paved and maintained as a condition of approval of the project.
- (g) All dwelling units shall be positioned so as to assure the availability of adequate fire protection. All buildings shall have a fire hydrant located within one hundred-fifty (150) feet of the furthest point of each dwelling unit. A flow of two thousand-five hundred gallons per minute (2,500 GPM) for one (1) hour duration with residual pressure of twenty pounds per square inch (20 psi) shall be available to all dwellings. As an alternative to upgrading water mains to fully meet these flow standards, multi-family dwellings may be provided internal protection in the form of sprinkling systems. In the event such systems are provided, the required fire flow may be reduced by fifty (50) percent from that required without such systems.
- (h) Every building utilized for multi-family dwellings shall be accessible to fire apparatus by way of access roadways with all-weather driving surfaces of not less than twenty (20) feet of obstruction width, (measured from curb face to curb face), with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum vertical clearance of thirteen feet-six inches (13'-6"). The required width of the access roadway shall not be obstructed in any manner, including the parking of vehicles. No parking signs or other appropriate notice, or approved obstructions inhibiting parking, may be required and if installed shall be maintained. No barriers may be placed within the development which would prevent emergency vehicles from pulling around or between buildings.

### **3-401.4 Required Improvements**

#### **(a) Internal Streets**

- (1) In general, internal drives or travelways located within any multi-family development shall be privately constructed and maintained.
- (2) All such streets shall be paved with a dustless surface.
- (3) Within any multi-family development, all streets proposed for public dedication and maintenance shall be constructed to the pavement depth and design standards specified within the Subdivision Regulations, of Hendersonville, Tennessee. Sidewalks shall be placed on both sides of all internal streets and along all adjacent external streets at a distance of five (5) feet measured from the nearest edge of the sidewalk to the back of the street curb.

(b) Public Street Access

- (1) The minimum distance between access points along public street frontage, center line to center line shall be two hundred (200) feet.
- (2) The minimum distance between the center line of an access point and the nearest curb line or street line of a public street intersection shall be one hundred (100) feet.

(c) Storage of Waste

All refuse disposal areas shall be maintained in such manner as to meet county and city health requirements and shall be screened from view.

(d) Service Buildings

Service buildings housing laundry, sanitation or other facilities for use by the occupants shall be permanent structures complying with the applicable codes.

(e) Sanitary Sewage Requirements

All development projects approved under this section shall be served by public sanitary sewage systems that meet the standards of the Tennessee Department of Environment and Conservation.

(f) Utilities Requirement

All electrical, phone cables, television cables and high intensity street lighting cables shall be placed underground.

**3-401.5 Parking Space and Traffic Circulation Requirements**

Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. A minimum of two (2) parking spaces shall be provided for each dwelling unit. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit and space it is to serve. Where appropriate, common driveways, parking areas, walks and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls. All parking areas shall meet the design requirements of ARTICLE IX.

**3-401.6 Open Space Requirements**

Any common open space provided within a development of multi-family dwellings shall:

- (a) Meet the requirements for quality and improvement established in Subsection 8-109.1.

- (b) Be protected by covenants as outlined in Subsection 8-109.4, which will ensure the improvement and continued maintenance of all such properties.
- (c) Serve as recreational area and open space only.
- (d) Be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

### **3-401.7 Density Permitted**

The density, or number of dwelling units permitted within a given area, shall be computed utilizing the development area per dwelling unit for the district in which the multi-family dwellings are to be located. In any instance where a particular development is located in more than one (1) district, the density shall be separately computed for each district and no density may be transferred between districts.

### **3-401.8 Yard and Building Spacing Requirements**

Within any development approved under the provisions of this section, the following yard requirements shall apply:

- (a) For units located entirely within the interior of the site no yards as such are required.
- (b) For all dwelling units located along the boundary of any multi-family district, which coincides with a side or rear lot line of a zone lot in any other residential district, the following shall apply:

- (1) Residential Buffer Yards

An open area unobstructed from the ground to the sky shall be provided within the multi-family district, said area being at least thirty (30) feet in width or depth. Such open area shall remain open and unobstructed, except for landscaping and shall not be used for accessory off-street parking, or for accessory off-street loading, or for storage of any kind.

- (2) Special Front Setbacks

Regardless of the front yard provisions established for any multi-family district, no building located on any zone lot adjacent to any other residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot; provided that no building shall be required to set back more than twice the minimum front yard applicable within the zoning district wherein it is located.

### **3-401.9 Building Spacing**

The provisions for spacing of buildings set forth in Section 3-308, shall apply to all buildings and structures approved under the provisions of this section.

## **3-402 DEVELOPMENT STANDARDS FOR ATTACHED DWELLINGS**

### **3-402.1 Purposes**

The provisions set forth herein are intended to apply to all attached dwellings, as defined by this ordinance, whether such units are popularly described as town houses, atrium houses, or by any other name. The specific provisions appearing below shall apply to all attached dwellings regardless of the district in which such may be located.

Provided, however, that in any instances where this use is located within a development approved under the provision of Section 3-403, or a planned unit development alternative standards for yards, building spacing and open space may be substituted. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning Commission review of the site plan required for all developments by Subsection 11-202.102. Provided, however, that in any instance where this use is located within a development subject to the provisions of Section 3-403, or a planned unit development, this requirement may be fulfilled by submission of the plans required by those sections.

### **3-402.2 Design Criteria, General**

It is intended that attached dwellings where they are permitted:

- (a) May be appropriately intermingled with other types of housing;
- (b) Shall not form long, unbroken lines of row housing; and
- (c) Shall constitute groupings making efficient economical, comfortable, and convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

### **3-402.3 Design Criteria, Detailed**

- (a) The density, or number of dwelling units permitted within a given area, shall be computed utilizing the development area per dwelling unit for the district in which the attached dwellings are to be located. In any instance where a particular development is located in more than one district the density shall be separately computed for each district and no density may be transferred between districts.
- (b) The minimum zone lot for any single family attached dwelling not located within a development approved under the provisions of Section 3-403, or a planned unit development shall be as required to meet basic district provisions.
- (c) The maximum lot coverage ratio set forth for the district may be exceeded for a given lot within a development of attached dwellings. However, such ratio shall apply to the project when considered in aggregate (i.e. total building coverage divided by total gross development site area). In any

instance where a development may lie within two or more zoning districts the coverage ratio for each district shall apply to all development within it. No transfer of bulk or site coverage shall be permitted among zoning districts.

- (d) Minimum width for the portion of the lot on which an attached dwelling is to be constructed shall be twenty-two (22) feet.
- (e) Not more than six (6) contiguous dwellings shall be built in a row with the same or approximately the same front line, and not more than twelve (12) dwellings shall be contiguous.
- (f) Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

#### **3-402.4 Access**

- (a) Each attached dwelling shall meet the requirements for access set forth in Section 3-309, of this article;
- (b) Access and circulation shall adequately provide for fire fighting equipment, service deliveries, furniture moving vans, and refuse collection; and
- (c) Pedestrian access shall be provided at the rear of each attached dwelling.

#### **3-402.5 Parking**

Parking shall be provided in accordance with ARTICLE VI, CHAPTER 1, of this ordinance. Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least, one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit and space is to serve. Where appropriate, common driveways, parking areas, walks and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls.

#### **3-402.6 Open Space Requirements**

Any common open space provided within a development of attached dwellings shall:

- (a) Meet the requirements for quality and improvement established in Subsection 8-109.1, and as may be required as a condition of approval by the Planning Commission.
- (b) Be protected by covenants as outlined in Subsection 8-109.4, which will ensure the improvement and continued maintenance of all such properties.

- (c) Serve as recreational area and open space only; and
- (d) Be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

### **3-402.7 Recreation Areas**

Adequate recreational facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.

Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents. Active recreation areas shall be provided which are appropriate for the needs of the residents. Activities may vary from horseshoe pitching, shuffleboard, swimming, or tennis or golf, horseback riding, and boating in large projects. Well equipped playgrounds of adequate size and number shall be provided where it is anticipated that children will occupy the premises.

### **3-402.8 Planting**

The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds, and to screen out objectionable features. The planting plan shall be submitted with site plans.

Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

### **3-402.9 Yard Requirements**

The yard requirements established for the district shall be met excepting along points of attachment between attached dwellings. Along all points of attachment party walls (see Subsection 3-306.601) shall be provided.

## **3-403 ALTERNATIVE PROVISIONS FOR THE LOCATION OF OPEN SPACE AND PLACEMENT OF BUILDINGS**

### **3-403.1 Purpose**

The purpose of this section is to provide a permissive voluntary alternative procedure to be utilized in the placement of buildings and in the location of open spaces associated therewith. These provisions are intended to provide for variations in lot size and open space requirements within the residential districts. The density standards established for individual districts are to be maintained on an overall basis and thereby provide desirable and proper open air space, tree cover, recreation areas or scenic vistas; all with the intent of preserving the natural beauty of the area, while at the same time maintaining the necessary maximum population density limitations of the district in which this procedure may be permitted.

### **3-403.2 General Provisions**

The provisions contained within this section are intended to provide a flexible procedure for locating dwellings upon sites. As such, the provisions do not constitute a use but an alternative procedure for the spacing of buildings and the use of open areas surrounding those buildings. It is necessary, however, that the purposes and intent of this ordinance be assured and that proper light, air, and privacy be made available for each dwelling unit.

The site development plan required in Subsection 3-403.3, is intended to provide not only an accurate statement of the development scheme proposed for each such density development but an enforceable legal instrument whereby the Planning Commission may be assured that the general purposes, standards, etc., contained in this ordinance are being met.

### **3-403.3 Site Development Plan Required**

#### **3-403.301 Contents**

A site development plan containing the information required by ARTICLE XI, Subsection 11-202.102, shall be prepared and submitted to the Planning Commission for its review and approval along with a sketch plat as required by the Subdivision Regulations.

#### **3-403.302 Coordinated Review**

Upon receipt of a site development plan and sketch plat containing information as required above, the Planning Commission may:

- (1) Concurrently review the site development plan and sketch plat;
- (2) Jointly approve, approve with modification, or disapprove these documents; and
- (3) In the instance of approval, or approval with modification, transfer the site development plan to the Zoning Administrator for enforcement.

#### **3-403-303 Enforcement**

Upon approval of a site development plan the Zoning Administrator shall become responsible for enforcement of the plan. Only minimal adjustments involving the placement of any structure will be permitted once a site development plan has been approved. Any other change shall require submission of a proposed amendment to the approved plan.

### **3-403.4 Development Standards**

The following standards and requirements shall apply to all density developments.

### **3-403.401    General Standards for Development**

In the interest of promoting the most appropriate and economical use of the land while assuring that the character of the residential district is maintained, the Planning Commission in its review of a proposed development shall consider the following:

- (1) The protection of the character, property values, privacy and other characteristics of the surrounding neighborhood;
- (2) The provision for surface drainage control, sewage disposal, and water supply, recreation and traffic control; and
- (3) The preservation and protection of existing trees, ground cover, top soil, streams, rock outcroppings and scenic or historic sites from dangers and damage caused by excessive and poorly planned grading for streets and building sites.

### **3-403.402    Availability of Public Utilities**

Generally all public utilities, specifically including water and a central sewage collection and treatment system, as defined by this ordinance, shall be available. Where public sewer is not available, no lot or housing site may be created which is less than twenty thousand (20,000) square feet in area and all septic fields for each dwelling unit shall be located within the area of fee simple ownership of said dwelling unit.

### **3-403.403    Permitted Density**

The density permitted is intended to be within the range of that permitted within more typical developments offering no common open space. The maximum number of dwelling units permitted shall be computed as follows:

- (1) From the gross acreage available within the development shall be subtracted: (1) any portion of the site which is within the right-of-way and/or easement for major utilities such as gas or electric transmission lines where the full use of the land is not available to the landowner because of restrictions thereon; (2) any portion of the site which lies within a floodway district.
- (2) The area remaining after the above adjustments shall be divided by the minimum development area per dwelling unit for the district in which the dwelling unit is located. For developments located in more than one zoning district the density shall be computed separately for that portion of the development lying within each district. No developmental density may be transferred across zoning district boundaries.

**3-403.404 Minimum Lot Area and Lot Width**

No lot of record may be created within the district indicated which has less area than required for the type dwelling indicated:

**MINIMUM LOT AREA BY DWELLING UNIT TYPE**

<u>Dwelling Type</u>	<u>DISTRICT</u>							
	<u>R-2A</u>	<u>R-40</u>	<u>R-20</u>	<u>R-15</u>	<u>R-10</u>	<u>R-5</u>	<u>RM-1</u>	<u>RM-2</u>
	<u>(In Thousand Square Feet)</u>							
<u>One-Family</u>								
Detached	40	20	10	7.5	5	3	3	3
Semi-Detached	/*	/	/	/	5	3	3	3
Attached	/	/	/	/	/	1.5	1.5	1.5
<u>Two-Family</u>								
Detached	/	/	/	/	4	4	4	4
Semi-Detached	/	/	/	/	/	4	4	4
Attached	/	/	/	/	/	3	3	3

**NOTE:** Use not permitted.

The minimum lot width at the building line shall be as approved by the Planning Commission.

**3-403.405 Yard Requirements**

Within any development approved under the provisions of this section the following yard requirements shall apply:

- (1) For units located entirely within the interior of a site no yards as such are required. However, each dwelling unit shall on its own lot have one yard containing not less than six hundred (600) square feet. This yard shall be reasonably secluded from view from streets and from neighboring property and shall not be used for off-street parking or for any accessory building.
- (2) In addition to the provisions of subsection (1) above, for units located along the periphery of the site the basic yard provisions established for the district within which the development is located shall apply along all portions of such lots as may abut the periphery, excepting any portion of such lots as may involve the use of party walls.

**3-403.406 Building Spacing**

The provisions for spacing of buildings set forth in Section 3-308, shall apply to all buildings and structures approved under the provisions of this section.

### **3-403.407 Lot Coverage**

Individual dwellings may exceed the maximum lot coverage provisions established for the district in which such site is located. However, in no instance shall the aggregated site coverage of all dwellings exceed the coverage provisions established for the district in which such site is located. In the event a project lies within two or more zoning districts, the coverage ratio applicable to each zone district shall apply to these dwellings located within it. No transfer of bulk is permitted among zoning districts.

### **3-403.408 Access to Dwellings**

Access to dwellings shall be provided in accordance with the provisions of Section 3-309.

### **3-403.409 Pedestrian Circulation**

The pedestrian circulation system and its related walkways shall be insulated as completely as possible from the street system in order to provide separation of pedestrian underpasses or overpasses in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

### **3-403.5 Open Space Requirements**

Any common open space provided within a development of this type shall:

- (a) Meet the requirements for quality and improvement established in Subsection 8-109.1, and as may be required as a condition of approval by the Planning Commission.
- (b) Be protected by covenants as outlined in Subsection 8-109.4, which will ensure the improvement and continued maintenance of all such properties.
- (c) Serve as recreational area and open space only.

## **3-404 SPECIAL PROVISIONS GOVERNING OFFICE ACTIVITIES PERMITTED WITHIN RM-1, HIGH DENSITY RESIDENTIAL DISTRICTS**

### **3-404.1 Purpose**

The purpose of this section is to establish provisions governing commercial office activities which are, or may in the future be, located within RM-1 High Density Residential District which were in existence upon the effective date of this ordinance.

### **3-404.2 Applicability**

These provisions are applicable only to RM-1 Districts, which were created upon the effective date of this ordinance and which had been classified as "Residential-C" under the provisions of the previous zoning ordinance

**(Ordinance 1970-16).** Nothing contained within these provisions shall be construed so as to permit these activities within RM-1 Districts where such may subsequently be created after the effective date of this ordinance. Where such activities existed, or a building permit had been obtained for such prior to the effective date of this ordinance the provisions contained in Section 3-404.3, shall apply. Where such use did not exist upon the effective date of this ordinance but may have been permissible under the provisions of **Ordinance 1970-16**, the provisions contained in Subsection 3-404.4, shall apply.

**3-404.3 Provisions Governing Office Activities Existing Within RM-1, High Density Districts upon Adoption of This Ordinance**

The provisions of this section are applicable to office activities where such lawfully existed as uses permitted on appeal (termed conditional uses in this ordinance) under the provisions of **Ordinance 1970-16**.

**3-404.301 Continuation**

Where such uses or activities were lawfully approved and existed upon the effective date of this ordinance they shall continue to exist under the provisions and subject to any constraints or conditions under which the activity was originally authorized.

**3-404.302 Alteration or Expansion**

Any building subject to this provision may be repaired or altered so long as such action neither violates any condition to which such approval was originally subject nor any provision of this ordinance. Any expansion shall be subject to review and approval as provided in Subsection 3-404.4.

**3-404.4 Provisions Governing Office Activities Established Within RM-1, High Density Residential Districts After Adoption of This Ordinance**

The provisions of this section are applicable to office activities where such:

- (a) Are permitted within RM-1, High Density Residential Districts, but have not previously existed, or
- (b) Previously existed and wish to expand.

**3-404.401 Conditional Use Only**

Any expansion or establishment of any use or activity requested herein under shall be acted on in the manner set forth for a conditional use in ARTICLE XI, CHAPTER 5, of this ordinance. **(AMENDED BY ORDINANCE NO. 1988-71, JULY 26, 1988.)**

**3-404.402 Development Standards**

The development standards set forth in ARTICLE IV, CHAPTER 3, applicable within OPS-Office/Professional Service Districts, shall apply as a condition precedent to all approvals granted herein under.

### **3-404.403 Parking Provisions**

The off-street parking and loading requirements established in ARTICLE VI, CHAPTER 1, shall be fully applicable to all approvals granted herein under.

## **3-405 DEVELOPMENT STANDARDS FOR BED AND BREAKFAST RESIDENCES AND INNS**

### **3-405.1 General**

Bed and breakfast residences and inns are facilities designed to provide temporary travelers' accommodations and breakfast, for a fee, on a daily or weekly room retnal basis. Bed and breakfast residences and inns may be permitted as conditional accessory uses in the manner specified in Article XI, Chapter 5. Additionally, the conditional use permit for a bed and breakfast inn may also include the right to hold special events on a limited basis **(REVISED BY ORDINANCE NO. 2005-35, October 25, 2005.)**

The provisions set forth herein shall apply to bed and breakfast residences and to bed and breakfast inns, which are further governed by the provisions of Subsections 3-405.2 and 3-405.3 respectively.

### **3-405.101 Structural Type and Appearance**

The following shall apply, as indicated, to structures utilized as either bed and breakfast residences or bed and breakfast inns.

- (1) Bed and breakfast residences may be established only within preexisting one-family residences and accessory structures located upon the same zone lot.
- (2) Bed and breakfast inns may be established within one-family dwellings and accessory guest houses or in preexisting historic landmark buildings. No new structures may be built for this use.
- (3) Except for documented historic landmark structures, no nonresidential structures of any type shall be eligible to be used for bed and breakfast inns.
- (4) No exterior alterations, other than those necessary to ensure the safety of the structure, shall be made to any building for the purpose of providing any bed and breakfast facility.
- (5) Any interior modification proposed for a bed and breakfast inn shall be described in the application for a permit and shall not be injurious to the character of the structure, woodwork, stairways, fireplaces, windows and doors, cornices, festoons, moldings, chair rails and light fixtures.

### **3-405.102 Health and Safety Requirements**

All bed and breakfast facilities shall:

- (1) Fully comply with the following:
  - (i) All bed and breakfast residences shall comply with the CABO One- and Two-Family Dwelling Code.
  - (ii) All bed and breakfast inns shall comply with CHAPTER 20, NFPA, 101 LIFE SAFETY CODE, as it pertains to “Lodging or Rooming Houses.”
- (2) Be required to present evidence of the adequacy of sewage disposal and fire protection facilities.
- (3) Be required to continuously maintain current licenses and permits required by all state and local agencies.

### **3-405.2 Bed and Breakfast Residences**

Any bed and breakfast residence approved, herein under, shall be continuously subject to the following:

- (a) The general restrictions set out in Subsection 3-405.1, above, and the restrictions established for a major home occupation within Subsection 3-208.3.
- (b) The bed and breakfast residence shall be operated by a member of the family residing in the residence.
- (c) The primary use of the dwelling shall be residential and the dwelling shall not be altered in any manner which would hamper reconversion of the dwelling to its original state upon cessation of the bed and breakfast operation.
- (d) The architectural integrity and arrangement of existing interior spaces within the dwelling shall be maintained and rooms used for sleeping shall not have been specifically constructed or remodeled for rental purposes.
- (e) The only meal to be provided shall be breakfast, and it shall only be served to guests taking lodging in the facility.
- (f) No food preparation or cooking for guests shall be conducted within any bedroom made available for rent.
- (g) No exterior alterations, other than those necessary to ensure the safety of the structure, providing a bed and breakfast residence.
- (h) In addition to the off-street parking required by ARTICLE VI, CHAPTER 1, for the residence, one additional space shall be provided for each room offered for rent. Such spaces shall be screened from view from adjoining property and shall not be located within any required front yard, located within any required front yard, provided, however, garage spaces and tandem or stacked parking spaces on a paved driveway shall qualify for guest room requirements.

- (i) No signs, other than those permitted by ARTICLE VI, CHAPTER 2, shall be located upon any site utilized as a bed and breakfast residence.

### **3-405.3 Bed and Breakfast Inns**

Any bed and breakfast in approved, herein under, shall be continuously subject to the following:

- (a) The general restrictions, set out in Subsection 3-405.1, above.
- (b) The facility shall be owner occupied and managed.
- (c) Any meals provided shall be limited to guests taking lodging at the facility, except when in conjunction with a special event **(REVISED BY ORDINANCE NO. 2005-35, October 25, 2005.)**
- (d) No food preparation or cooking for guests shall be conducted within any bedroom made available for rent.
- (e) Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the neighborhood or area and the intent of the zoning district in which it is located.
- (f) The architectural integrity and arrangement of existing interior spaces shall be maintained and the number of guest rooms shall not be increased, except as may be required to meet health, safety and sanitation requirements.
- (g) In addition to the off-street parking required by ARTICLE VI, CHAPTER 1, for the residence, one (1) additional space shall be provided for each room offered for rent. Such spaces shall be screened from view from adjoining property and shall not be located within any required front yard, provided, however, garage spaces and tandem or stacked parking spaces on a paved driveway shall qualify for guest room requirements. In instances where a bed and breakfast inn is approved for special events, parking will be required to accommodate the special events at a rate to be determined by the planning department at the time of site plan approval. Parking will be based on maximum capacity for special events. **(REVISED BY ORDINANCE NO. 2005-35, October 25, 2005.)**
- (h) Special events may be held at a bed and breakfast inn as provided by the Board of Zoning Appeals with conditional use approval. At the time of application for conditional use approval for a bed and breakfast inn with special events, an applicant wishing to be approved must include information as to the following:
- The approximate number of events that will be held per month at the facility
  - Average number of persons that will be attending the special events
  - Plans for use of outdoor areas for special events
  - Plans for use of amplification/stereo equipment or live musical acts for special events
  - Use of outdoor catering services

In addition to the above information, the following restrictions will apply to the use of bed and breakfast inns for special events:

- A site plan must be approved by the Hendersonville Regional Planning Commission to ensure adequate parking, buffering of adjacent residential areas, and compliance with other requirements of the zoning ordinance
- Any sale or service of alcoholic beverages must be in conjunction with applicable state and local regulations
- The hours of operation for special events must be established at the time of approval of the conditional use permit to ensure minimal impact on surrounding residential areas.

- (i) No signs, other than those permitted by ARTICLE VI, CHAPTER 2, shall be located upon any site utilized as a bed and breakfast inn.