

**ARTICLE IV**  
**COMMERCIAL DISTRICT REGULATIONS**

**CHAPTER 1. STATEMENT OF PURPOSE**

**4-101 GENERAL PURPOSES OF COMMERCIAL DISTRICTS**

The commercial districts established by 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:

- (A) To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.
- (B) To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences.
- (C) To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.
- (D) To provide sufficient and appropriate space, and in particular sufficient area, to meet the needs of the area's expected future need for modern, planned commercial floor space, including the need for off-street parking space in areas where a large proportion of customers come by automobile, and to encourage the tendency of commercial establishments to concentrate in integrated planned developments, to the mutual advantage of both consumers and merchants.
- (E) To provide sufficient space in appropriate locations for commercial districts to satisfy specific functional needs of the area, and in particular the need for medical services, and the needs of the general public traveling along major thoroughfares.
- (F) To provide sufficient space in appropriate locations for the mixture of compatible high density residential and restricted commercial developments where standards for development will provide protection for the environmental essentials of either.
- (G) To provide appropriate locations for transitional uses intervening between commercial developments and residential areas, and thereby alleviate the frictions inherent between dissimilar activities.
- (H) To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.
- (I) To provide freedom of architectural design, in order to encourage the development of more attractive, efficient, and economic building forms, within

appropriate standards which ensure that buildings are in character with their surroundings. **(AMENDED BY ORDINANCE NO. 1991-27, JULY 23, 1991.)**

- (J) To promote the most desirable use of land and direction of building development in accord with a well considered plan, to promote stability of commercial development, to strengthen the economic base of the area, to protect the character of the districts and their peculiar suitability for particular uses, to conserve the value of land and buildings.

#### **4-102 PURPOSES OF COMMERCIAL DISTRICTS**

##### **4-102.1 NCS, Neighborhood Convenience Service Districts**

These districts are designed to provide for uses to serve the recurring household needs and personal service requirements of the occupants of nearby residential areas. The permitted establishments are those which provide for regular local shopping and which, therefore, are visited frequently by customers. These districts may occur along or away from arterial streets, characteristically are small, and are widely distributed throughout the community for convenient accessibility. The bulk regulations are established to provide for maximum compatibility between the commercial activity in these districts and adjacent residential activity. The establishment of a new district of this nature must be preceded by the development of residential areas capable of supporting the proposed activities.

##### **4-102.2 TC-C, Town Center-Commercial District (AMENDED BY ORDINANCE 2006-58, January 9, 2007)**

This district is designed to encourage the redevelopment of the original commercial areas of the city that were substantially developed prior to 1980. The TC-C district allows a wide variety of uses, including retail, professional office, service-oriented businesses, residential and/or combinations of the above uses but encourages a more compact arrangement and a commercial pedestrian-oriented approach for development activity. Within the TC-C zoning district there are 2 sub-districts (Main Street, Transitional Residential, Core/Lakefront). These sub-districts allow the same uses. However, bulk regulations are not constant among the sub-districts. The bulk regulations as provided in this Article represent the range allowed in the sub-districts. For specific regulations on each sub-district, please refer to the Town Center Design Guidelines, which are incorporated into and made a part of this Ordinance.

##### **4-102.3 GCS, General Commercial Service Districts**

These districts are designed to provide for a wide range of commercial uses concerned with retail trade and consumer services; amusement and entertainment establishments; automotive and vehicular service establishments; transient sleeping accommodations; drive-in stores; eating and drinking places, financial institutions; and offices. The uses in this district service a wide market area and, therefore, ease of automotive access is a requirement. However, it is not intended that this district permit uses which generate large volumes of truck traffic. Appropriate open space between commercial and residential areas is required.

#### **4-102.4 MCD, Mixed Use Commercial Service Districts**

These districts are designed primarily to provide sufficient space in appropriate locations for establishments and uses engaged in wholesale trade, the warehousing of a wide variety of products or materials, manufacturing processes having the highest performance standards and the least objectionable characteristics, and services ancillary thereto. As these districts tend to generate relatively large volumes of heavy vehicular traffic and have other characteristics detrimental to residential environments, their locations are removed from the proximity of residential districts insofar as possible. Where these districts must necessarily abut residential areas, requirements designed to lessen incompatible features of commercial development are stipulated. In addition, a selection of consumer retail trade establishments, consumer service uses, and community facilities and utilities, considered necessary to service the principal uses in these districts or necessary for the general community welfare, are permitted.

#### **4-102.5 MRO, Multiple Residential/Office Districts**

These districts are designed to provide adequate and suitable space in appropriate locations for high intensity office uses mutually compatible with high density residential areas. Characteristics of permitted residential developments are buildings designed for multiple dwelling units, or designed to be attached with party walls. Commercial development, having a minimum of characteristics objectionable in a high density residential environment, is permitted, if the activities therein minimize direct contact with the ultimate consumers of goods or services, or do not principally involve the sale, transfer, storage, or processing in these districts of goods or chattels. However, a selective list of retail trade and personal service uses are permitted if their principal purpose is to serve the recurring needs of the occupants or employees of other permitted uses in this district. In addition, use of buildings and land is permitted for community facilities and utilities necessary for serving these districts or for general community welfare. This class of district is appropriately located between districts characterized by lower density residential development and areas of more intensive commercial use, or as nodes along major traffic arteries.

#### **4-102.6 OPS, Office/Professional Service Districts**

These districts are designed to provide for transitional uses between more intensive commercial activities occurring along major traffic arteries and residential areas. The permitted uses are ones which tend to produce relatively low volumes of traffic. In addition to the office activities, certain community facilities are permitted which are compatible with other uses permitted within these districts. The intensity of use permitted within these districts is controlled by more restrictive regulation of the bulk of buildings consistent with their intended transitional function.

#### **4-102.7 HSD, Highway Service Districts**

These districts are designed to provide adequate space along major traffic arteries to serve the needs of the motoring public. Automobile and other vehicular service establishments, transient sleeping accommodations, and eating and drinking establishments primarily characterize these districts. Appropriate locations for these districts are along major traffic arteries in an environment of general commercial activity. Due to the high traffic volumes and general incompatibility between the

uses permitted within these districts and residential activities they shall not be located in residential areas.

## **CHAPTER 2. USES AND STRUCTURES**

### **4-201 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 4-201A, presents a tabulation of uses and structures which are classified as either "principal permitted" or "conditional" uses within the various commercial 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 4-201A.

### **4-202 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.
- (C) MOVED BY ORDINANCE 2007-31, SEPTEMBER 25, 2007

### **4-203 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 4-201A, may be allowed within the districts indicated.

### **4-204 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.

Such accessory activities shall be controlled in the same manner as the principal activities within such type except as, otherwise, expressly provided in this ordinance.

**(AMENDED BY ORDINANCE 2009-12, August 25, 2009)**

**TABLE 4-201A**

**PERMITTED AND CONDITIONAL USES AND  
STRUCTURES ALLOWABLE WITHIN COMMERCIAL DISTRICTS**

		DISTRICTS						
		NCS	TC-C	GCS	MCD	MRO	OPS	HSD
<b>I. RESIDENTIAL ACTIVITIES</b>								
<b>A. Permanent Residential Activity</b>								
(1)	Dwelling, One-Family							(The
(a)	Detached	X	x	X	X			provi-
(b)	Semi-Detached	X	x	X	X			sions
(c)	Attached	X	P(1)	X	X			appli-
(2)	Dwelling, Two-Family							cable
(a)	Detached	X	x	X	X			to RM-2
(b)	Semi-Detached	X	x	X	X			Districts
(c)	Attached	X	x	X	X			shall
(3)	Dwelling, Multi-Family	X	P(1)	X	X			apply
(4)	Dwelling, Mobile Home	X	x	X	X			to all
<b>B. Semi-Transient Residential Activity</b>								
(1)	Boarding or Rooming Houses	X	x	X	X			tial
(2)	Apartment Hotel	X	x	X	X			uses
(3)	Residential Hotel	X	x	X	X			permitted
in MRO Districts)								
<b>II. COMMUNITY FACILITY ACTIVITIES</b>								
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 and Utility Services	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)	P(2)
F.	Extensive Impact Facilities	C-(11-506.4) x C-(11-506.4)-----						
G.	Health Care Facilities	C-(11-506.5)-----						
H.	Intermediate Impact Facilities	C-(11-506.4)-----						
I.	Minor Impact Facilities	C-(11-506.4)-----						
I.	Special Personal and Group Care Facilities	P-(11-506.6)-----						
J.	Religious Facilities	C-(11-506.7)-----						
<b>III. COMMERCIAL ACTIVITIES</b>								
A.	Animal Care and Veterinarian Services	X	P	P	P	X	X	P
B.	Automotive Parking	X	P	P	P	P	P	P
C.	Automotive Service and Repair	X	X	P	P	X	X	P
D.	Building Materials and Farm Equipment Sales	X	X	P	P	X	X	X

E.	Contract Construction Services	X	X	P	P	X	X	X
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TABLE 4-201A (Continued)

Permitted and Conditional Uses and Structures Allowable Within Commercial Districts

		DISTRICTS						
		NCS	TC-C	GCS	MCD	MRO	OPS	HSD
F.	Convenience Retail Sales and Services	P	P(3)	P	P	P	X	P
G.	Equipment Repair Services	X	P/C(4)	P	P	X	X	X
H.	Entertainment and Amusement Services	X	P/C(5)	P	P	P	X	P
I.	Financial, Consulting and Administrative Services	X	P	P	P	P	P	P
J.	General Business and Communications Service	X	P	P	P	P	P	X
K.	General Personal Service	X	P(6)	P	P	P	P	P
L.	General Retail Trade	X	P	P	P	X	X	P
M.	Group Assembly	X	x	P	P	P	X	P
N.	Professional Services - Medical	X	P	P	P	P	P	X
O.	Professional Services - Nonmedical	X	P	P	P	P	P	X
P.	Restaurant, Carry-Out	P	P	P	P	P	X	P
Q.	Restaurant, Full-Service	X	P	P	P	P	X	P
R.	Restaurant, Quick-Service	X	x	P	P	P	X	P
R.	Transient Habitation	X	P(7)	P	X	P	P	P
S.	Warehousing, Goods, Transport, and Storage	X	X	P	P	X	X	X
T.	Vehicular, Marine Craft, Aircraft and Related Equipment Sales, Rental and Delivery	X	P(8)	P	P	X	X	P
U.	Wholesale Sales	X	X	P	P	X	X	P

IV. MANUFACTURING ACTIVITIES

A.	Manufacturing - Limited	X	X	X	P	X	X	X
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KEY TO INTERPRETING USE CLASSIFICATIONS

- P = Use permitted by right within the district.
- C = Conditional use subject to provisions of Section.
- () = Use permitted subject to supplemental provisions.
- X = Use not permitted within the district.

Table 4-201A Notes:

- (1) Such residential activity is permitted on upper floors of buildings which contain Commercial Activities. Said residential floor(s) shall be no larger than the size of the first floor containing Commercial Activities.
- (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) Excluding gasoline sales
- (4) Permitted – Watch, clock and jewelry repair  
Conditional – Instrument Repair Shops; Locksmith Shops; Reupholsters and Furniture Repair
- (5) Permitted – Art Galleries, Marinas, Boat Docks, Boat Rental  
Conditional – Billiards, Arcades, Theater, Bowling and Skating
- (6) Excluding funeral and crematory services
- (7) Limited to hotels having less than 50 rooms provided that the rental and occupancy of the hotel shall be limited to a nightly or weekly basis; and further provided that hotels shall have an inside lobby supervised at all hours of operation, with public access to the building after dark being restricted to the lobby entrance. Ingress and egress to and from all guest rooms shall be through internal hallways.

(8) Limited to boat dealers and motorcycle dealers

#### **4-204.1 Partial List of Accessory Activities**

Such accessory activities include, but are not limited to, the activities indicated below:

- (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) Child care for preteen age children when operated by a health care, commercial or industrial activity where the care is provided solely for the children of their employees. The facility shall be located on the same zone lot as the principal activity and meet all applicable state and local regulations for a day care center for children.
- (c) Residential occupancy in connection with a principal nonresidential activity on the same zone lot, but only if:
  - 1. No more than one (1) dwelling or rooming unit is permitted,
  - 2. The unit is occupied by person(s) employed in the principal nonresidential activity located upon the zone lot, and
  - 3. The nonresidential activity does not constitute a hazardous occupancy as defined by this ordinance.
- (d) Operation of a cafeteria for employees, residents, patrons or others participating in the principal activity by an organization engaged in a community facility activity on the same zone lot. Where the principal activity is permitted by conditional use only, an accessory cafeteria must be approved as a part of the action granting said permit.
- (e) Production of goods for sale by a firm engaged in a principal commercial activity on the same zone lot, but only if:
  - 1. All goods so produced are sold at retail by the same firm either on the same or other zone lots;
  - 2. Such production does not occupy more than forty-nine (49) percent of the total floor area and open sales, display, storage and service area occupied by such firm on the zone lot;
  - 3. Such production does not in any case occupy more than two thousand (2,000) square feet of such floor area; and
  - 4. Such production may only be permitted in an enclosed building.
- (f) Indoor storage of goods sold by a principal commercial activity engaged in by the same firm on the same zone lot, and such storage does not occupy more than forty-nine (49) percent of the total floor area. **(REVISED BY ORDINANCE 2005-34, NOVEMBER 22, 2005)**

- (g) Outdoor storage and display of merchandise, products, supplies and other items in the locations and under the terms listed as follows **(ADDED BY ORDINANCE 2005-34, NOVEMBER 22, 2005):**
1. Such storage and display shall be limited to goods sold by the principal commercial activity engaged in by the same firm on the same lot;
  2. Storage and display shall be located:
    - (i) behind the building; or
    - (ii) if a corner lot or double frontage lot, behind the building and an approved fence; or
    - (iii) if in the front of the building, adjacent to and within 20 feet of the principal building, but at least 50 feet from any street; or
    - (iv) completely concealed by an approved fence at least 50 feet from any street (see specifications for approved fences)
  3. The display of vehicles, trucks, trailers, boats, RVs, motorcycles, shall not be on street right of way and shall be at least 20 feet from any street;
  4. Temporary sales, including vendors, are permitted in any yard area or on excess off street parking spaces provided the merchandise is located 50 feet from any public street, except in TC-C districts, and the sales do not exceed three (3) 3-week periods per calendar year and provided a permit is secured from the Planning Department. In TC-C districts, such sales shall be adjacent to and within 20 feet of, the building and may be on the sidewalk provided a minimum of 5 feet of unobstructed walkway remains for pedestrians. All temporary sales merchandise shall be removed and placed in the building at the end of each business day. (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)
  5. Any proposed storage or display not conforming to the above may be approved by the Planning Commission in the form of Site Plan approval in accordance with Article XI.

Where there is no principal building on the site, such storage and/or display shall not be considered an accessory use, rather the principal use and Site Plan approval shall be required as per Article XI.

- (h) Operation of an administrative office of a firm engaged in a principal manufacturing or commercial activity on the same zone lot, but only if such office does not occupy more than forty-nine (49) percent of the total floor area and open sales, display, storage, production, and service area occupied by the same firm on the same zone lot.

#### **4-205 TEMPORARY USES**

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

#### **4-206 USES NOT PERMITTED**

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

**CHAPTER 3. HEIGHT, BULK, LOT SIZE AND OPEN SPACE REQUIREMENTS APPLICABLE TO COMMERCIAL, AND COMMUNITY FACILITIES ACTIVITIES**

**4-301 APPLICABILITY AND GENERAL PURPOSES**

The provisions of this chapter apply to all buildings used principally for commercial, manufacturing, or community facility activities, or to buildings used partly for community facility activities and partly for commercial activities, on any zone lot or portion of a zone lot located in any commercial district, including all new development or enlargements.

Residential buildings and mixed buildings involving residential occupancy shall be controlled by the provisions of CHAPTER 4, of this article.

**4-302 MAXIMUM PERMITTED LOT COVERAGE**

**4-302.1 Building Coverages**

Except as provided in Section 4-306, within the various commercial districts the maximum lot coverage by all buildings (principal and accessory) utilized by commercial, manufacturing, or community facility activities shall not exceed the percentage of the total area of the zone lot indicated in TABLE 4-301A.

**4-302.2 Impermeable Surface Ratio**

In all commercial districts, the impermeable surface ratio, computed by dividing the impermeable surface area of the site by the total site area, shall not exceed 0.8. **(ADDED BY ORDINANCE NO. 1991-23, JULY 23, 1991.)**

**4-303 MINIMUM LOT AREA REQUIREMENTS**

Within the various commercial districts the minimum area of zone lots utilized commercial, manufacturing, or community facility activities shall not be less than that indicated in TABLE 4-301A.

**4-304 HEIGHT REGULATIONS**

**4-304.1 Basic Requirements**

Within the various commercial districts the maximum height of all buildings shall not, except as provided in Subsection 4-304.2 and Section 4-306, exceed that set forth in TABLE 4-301A.

**4-304.2 Permitted Obstructions**

In all commercial districts, the following shall not be considered obstructions and may therefore exceed the maximum height provision otherwise applicable within the districts.

- (a) **(DELETED BY ORDINANCE NO. 1991-23, JULY 23, 1991.)**
- (b) Chimneys or flues.

- (c) Elevator or stair bulkheads, roof water tanks, or cooling towers.
- (d) Flagpoles and Aerials.
- (e) Ornamental church towers, spires, and belfries.
- (f) Parapet walls not more than four (4) feet high.
- (g) Wire, chain link, or other transparent fences.
- (h) Balconies which are unenclosed except for a parapet or railing not exceeding three (3) feet, eight (8) inches in height; are located at or higher than the floor level of the fourth story of a building; have an aggregate length, at the level of any story, not exceeding thirty (30) percent of the length at the level of the plane surface of the building wall from which they project. However, no such balcony may penetrate any sky exposure plane by a distance exceeding six (6) feet.

**TABLE 4-301A (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)**

**HEIGHT, BULK, LOT SIZE, AND OPEN SPACE  
REQUIREMENTS WITHIN COMMERCIAL DISTRICTS**

	DISTRICTS						
	NCS	TC-C	GCS	MCD	MRO	OPS	HSD
<b>I. PROVISIONS APPLICABLE TO COMMERCIAL AND INDUSTRIAL ACTIVITIES</b>							
A. Maximum Lot Coverage by all Buildings (as % of Total Lot Area)	25	70	65	60	(3)	40	40
B. Minimum Area Requirement for Zone Lots (in 000 Square Feet)	10	5	20 <sup>(9)</sup>	(2)	10	10	10
C. Maximum Height (in Feet)	25	(10)	35	45	(3)	35	35
D. Minimum Yard Requirements							
(1) Front	30 <sup>(1)</sup>	0-30 <sup>(10)</sup>	30 <sup>(6)</sup>	20 <sup>(1&amp;5)</sup>	20 <sup>(1&amp;5)</sup>	20 <sup>(1&amp;5)</sup>	30 <sup>(1&amp;7)</sup>
(2) Side	10 <sup>(1)</sup>	0-10 <sup>(10)</sup>	10 <sup>(5&amp;6)</sup>	10 <sup>(1&amp;5)</sup>	10 <sup>(1&amp;5)</sup>	10 <sup>(1&amp;5)</sup>	10 <sup>(1&amp;5)</sup>
(3) Rear	10 <sup>(1)</sup>	5-20 <sup>(10)</sup>	20 <sup>(5&amp;6)</sup>	20 <sup>(1&amp;5)</sup>	20 <sup>(1&amp;5)</sup>	20 <sup>(1&amp;5)</sup>	20 <sup>(1&amp;5)</sup>
<b>II. PROVISIONS APPLICABLE TO RESIDENTIAL AND COMMUNITY FACILITY ACTIVITIES</b>							
A. Maximum Lot Coverage by all Buildings (as % of Total Lot Area)	X	70	X	X		X	X
B. Minimum Zone Lot Requirements	X		X	X	(See Note	X	X
(1) Area (in Square Feet)	X	5	X	X		X	X
(2) Width (in Feet, Measured at the Building Line)	X		X	X	#8)	X	X
C. Development Area per Dwelling or Rooming Unit (in Square Feet)	X	N/A	X	X		X	X
D. Maximum Height (in Feet)	X	4 stories	X	X		X	X
E. Minimum Yard Requirements	X		X	X		X	X
(1) Front	X	0-30 <sup>(10)</sup>	X	X		X	X
(2) Side	X	0-10 <sup>(10)</sup>	X	X		X	X
(3) Rear	X	5-20 <sup>(10)</sup>	X	X		X	X

- NOTES:** (1) Where This District Abuts a Residential District see Subsection 4-305.7, for Special Yard Setback Requirements.
- (2) The Minimum Zone Lot Shall be Required to Meet Other Provisions of the District.
- (3) See Section 4-306, for Bulk and Height Provisions Applicable Within MRO Districts.
- (4) DELETED BY ORDINANCE 2006-58, JANUARY 9, 2007
- (5) See Subsection 4-305.9, for Party Wall Provisions.
- (6) See Subsection 4-305.11, for Special Yard Provisions Applicable Within GCS Districts.
- (7) See Subsection 4-305.12, for Special Front Yard Provisions Applicable Within HSD Districts.
- (8) See CHAPTER 4, of This Article.
- (9) A Minimum Site of 20,000 Square Feet is Required to Establish Any GCS District. After the District is Established, the Site May Be Subdivided into Lots Such Minimum Area as Required to Meet Other Provisions of This District.
- (10) See Town Center Design Guidelines, Table 4.0

## **4-305 YARD REGULATIONS**

### **4-305.1 Permitted Obstructions in Required Yards**

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

- (a) Arbors and trellises.
- (b) 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.
- (c) Chimneys projecting not more than three (3) feet into, and not exceeding two (2) percent of the area, of the required yard.
- (d) Driveways subject to other specific provisions of this ordinance related directly thereto.
- (e) 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.
- (f) Fire escapes or staircase, the riser area of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not exceed thirty (30) percent of the area of such yard.
- (g) Flagpoles, having only one structural ground member.
- (h) Fountains.
- (i) Mailboxes.
- (j) Open terraces, including natural plant landscaping.
- (k) Retaining walls.
- (l) Sculpture or other similar objects of art.
- (m) Street furniture such as, but not limited to benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.
- (n) Vents necessary for use of fallout shelters constructed below grade of such yards, but excluding all other parts of such shelters.
- (o) Wall 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 or fences, and not roofed or structurally part of a building.

#### **4-305.2 Measurement of Yard Width**

In all commercial districts, the width or depth of a yard shall be measured perpendicular to lot lines.

#### **4-305.3 Dimension of Yards**

Except as otherwise provided herein, in all commercial districts yards of such dimensions as set forth in TABLE 4-301A, shall be provided for all commercial, manufacturing and community facilities activities.

#### **4-305.4 Accessory Off-Street Parking in Required Yards**

Accessory off-street parking may be permitted within the required yards of commercial districts only to the extent set forth below. Within any area where permitted such parking areas shall:

- (a) Be properly maintained and have no obstructions thereon, except as permitted by Subsection 4-305.1.
- (b) Not obstruct the visibility triangle as required by Subsection 3-306.4.

##### **4-305.401 Accessory Off-Street Parking in Required Front Yards**

Within any commercial service districts, permitted or required accessory off-street parking may be permitted within ten (10) feet of the front lot line. Within TC-C Districts, however, there shall be no parking in the front yard, or in the case of a corner lot, in any yard adjacent to a street. In instances where parking is allowed adjacent to the street right-of-way, please refer to the Town Center Design Guidelines for buffering requirements. On-street parking is permitted as per the Town Center Design Guidelines, Section 7.0. (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)

##### **4-305.402 Accessory Off-Street Parking in Side Yards**

In all commercial districts, accessory off-street parking may be located within any side yard, except when such yard is adjacent to a residential district (See Subsection 4-305.7, for special provisions applicable to residential district boundaries). provided no more than fifty (50) percent of the area of any required yard may be paved or used for parking. (Ordinance 2000-4)

##### **4-305.403 Accessory Off-Street Parking and Loading in Rear Yards**

Except as provided by Subsection 4-305.7, in all commercial districts, the rear yard may be used for accessory off-street parking or loading provided no more than fifty (50) percent of the area of any required yard may be paved or used for. Within the TC-C Districts, however, up to 80% of the rear yard may be used for parking. (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)

#### **4-305.404 Accessory Storage in Required Side and Rear Yards**

In all commercial districts, accessory storage may be located within any required side or rear yard setback provided that no more than fifty (50) percent of the area of any required yard may be used for storage purposes. All storage areas must meet provisions of the Design Review Manual, Section 2.7 (3) Nuisance Screening. No storage on any commercial lot shall be allowed in over the road trailers or freight containers or vehicles of any kind other than to deliver or pick up materials or merchandise. (Ordinance 2000-4.)

#### **4-305.5 Special Provisions for Shallow Interior Lots**

In all commercial districts if an interior lot consists 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 is less than one hundred (100) feet deep, the depth of a required rear yard for such interior lot may be reduced by one (1) foot for each two (2) feet by which the maximum depth of such interior lot is less than one hundred (100) feet. No rear yard is required on any interior lot with a maximum depth of eighty (80) feet or less. However, if an open area extending along the rear lot line of an interior lot eighty (80) feet or less in depth is provided, it shall be at least ten (10) feet in depth and it shall be open and unobstructed from the ground to the sky.

#### **4-305.6 Special Provisions for Through Lots**

In all commercial districts no rear yard is required for a through lot. In lieu thereof a front yard shall be required for each frontage.

#### **4-305.7 Special Provisions Applying to Required Yards and Building Setbacks Along District Boundaries Coincident with Side or Rear Lot Line of Zone Lot in any Residential District**

In all commercial districts, along such portion of the boundary of a commercial district which coincides with a lot line of a zone lot in any residential district the following yard provisions shall apply. Except as required to meet the provisions of Subsection 4-305.703, the open space may be utilized for parking.

##### **4-305.701 Special Front Setback**

Regardless of the front yard provisions established for any commercial district, no building located on any zone lot adjacent to any 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 whereon the commercial activity is located; provided that no building shall be required to setback more than twice the minimum front yard applicable within the commercial district.

#### **4-305.702 Special Side and Rear Yards**

Along all portions of the boundary of any commercial zone lot where such lot abuts or is contiguous to a side or rear yard of any residential zone lot the minimum yards within the commercial district shall generally conform to the respective yard requirements for the adjoining residential district. However, in no instance shall any rear or side yard required herein have a minimum width or depth of less than ten (10) feet.

#### **4-305.703 Buffer Yards**

Along all portions of the boundary of any commercial zone lot where such lot abuts or is contiguous to any residential zone lot without an intervening public street or an open area, unobstructed from the ground to the sky, shall be provided within the commercial district, said area being at least ten (10) feet in width or depth. Such open area shall not be used for accessory off-street parking, or accessory off-street loading, or for storage or processing of any kind.

Note: Minimum required yards shall be increased one (1) foot for each one and one-half (1 ½) 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.

#### **4-305.704 Screening Along Residential District Boundaries**

To assist in the prevention of the transmission of light and noise from within any commercial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening alley or other public way. Such screening shall be provided within the commercial district, but not within a public street or alley, along the entire contiguity of said districts. Screening shall be of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of such plant materials as will provide a year-round evergreen screening. Screening as provided herein, shall not be less than six (6) feet in height, shall be provided from the grade of the property upward, and shall be permanently maintained. Additional guidelines are detailed in Section 2.7(3), of the Design Review Manual. **(AMENDED BY ORDINANCE NO. 1991-23, JULY 23, 1991.)**

#### **4-305.8 Court Regulations and Minimum Distance Between Windows and Walls or Lot Lines**

##### **4-305.801 Unattached Buildings Regulated by Minimum Spacing Formula**

In all commercial districts at any level at which two (2) or more portions of a single building are not attached one to the other, the minimum distance between such portions shall comply with Subsection 3-307.1. 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.

**4-305.802 Attached Building Walls Regulated by Court Regulations and Minimum Distance Between Legally-Required Windows and Building Walls or Lot Lines**

In all commercial 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 twenty (20) feet, and further meeting the requirements of Subsection 4-305.803.

**4-305.803 Minimum Distance Between Legally-Required Windows and Building Walls**

In all commercial districts, the minimum distance between legally-required windows and any building wall opposite such window shall be at least twenty (20) 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 forty (40) feet.

**4-305.804 Minimum Distance Between Legally-Required Windows and Side or Rear Lot Lines for Two-Story Buildings Other Than One- or Two-Family Detached Residences**

In all commercial districts, any legally-required window contained within a one- or two-story building other than a one- or two-family detached residence shall be a minimum distance of ten (10) 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.

**4-305.805 Minimum Distances Between Legally-Required Windows and Side or Rear Lot Lines for Buildings Greater Than One- or Two-Family Detached Residences**

In all commercial districts, any legally-required window contained within a structure having more than three stories shall be a minimum distance of twenty (20) 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.

**4-305.9 Special Provisions for Party Walls (AMENDED BY ORDINANCE NO. 1988-89, JULY 26, 1988.)**

In commercial districts, side or rear yard requirements may be waived along the side or rear adjacent to another commercially zoned lot if the following conditions are met:

- (1) At all points of attachment adjoining buildings shall be separated from each other by a four (4) hour wall in accordance with the Standard Building Code.
- (2) A fire wall may bisect the dividing line of two (2) adjacent lots so that one-half (1/2) of the fire wall is located on each of the properties, provided that the owners of each property sign a covenant running with the land and granting an easement on the property to the owners of the adjoining property the right to maintain, reconstruct and protect the fire wall.

- (3) In the event of the construction of a building on the lot line, the wall along the lot line, if it is not constructed as a party wall between two (2) buildings, shall be built in such a manner that it will meet all requirements of the Standard Building Code, without regard to the wall or building on the adjoining property.
- (4) No wall constructed within ten (10) feet of a property line shall have less than a four (4) hour fire rating and shall have such additional ratings as required by the Standard Building Code.

**4-305.10 DELETED BY ORDINANCE 2006-58, JANUARY 9, 2007**

**4-305.11 Special Provisions for Yards Within General Commercial Service (GCS) Districts**

Within General Commercial Service (GCS) districts the minimum width of open space from the site boundary to the nearest building line shall be as required herein, except any portion of the zone lot coincident with the boundary of a residential district where the provisions of Subsection 4-305.7, shall apply. Except as provided in Subsection 4-305.7, and as further provided herein the open space may be utilized.

**4-305.1101 Front Yard Setback**

Within General Commercial Service (GCS) districts the minimum front setback from the site boundary to the nearest building line shall be thirty (30) feet. Provided, however, that 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; and further provided a front yard of greater than twice the minimum front yard for the district SHALL NOT BE REQUIRED. The average front yard requirement shall not prohibit alterations or additions extending no closer 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. (AMENDED BY ORDINANCE NO. 1988-68, JULY 26, 1988.)

The open space from the site boundary to the nearest building line may be utilized for parking; provided, however, that along all portions of the lot frontage not utilized as access points a buffer yard at least five (5) feet in width shall be provided. This buffer yard shall be open and unobstructed and may be utilized only for ornamental landscaping purposes.

**4-305.1102 Side Yard Provisions**

Except as provided in Subsections 4-305.7 and 4-305.9, side yards shall be a minimum of ten (10) feet in width. Except as further provided in Subsection 4-305.7, the side yards may be utilized for parking.

**4-305.1103 Rear Yard Provisions**

Except as provided in Subsections 4-305.7 and 4-305.9, rear yards shall be a minimum of twenty (20) feet in width. Except as further provided in Subsection 4-305.7, the rear yards may be utilized for parking.

**4-305.12 Special Front Yard and Setback Provisions for Highway Service Districts**

Except as provided in Subsection 4-305.7, within Highway Service District (HSD) the minimum front setback from the site boundary to the nearest building line shall be thirty (30) feet. Provided, however, that 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; and further provided that no building shall be required to provide a front yard of greater than twice the minimum front yard of 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.

The open space from the site boundary to the nearest building line may be utilized for parking; provided, however, that along all portions of the lot frontage not utilized as access points a buffer yard at least five (5) feet in width shall be provided. This buffer yard shall be open and unobstructed and may be utilized only for ornamental landscaping purposes.

**4-305.13 Setback for Pump Island Canopies**

Pump island canopies shall be so located that a vertical downward projection of the edge nearest the front lot line shall not violate the required building setback for the district in which the use is located.

**4-306 SPECIAL HEIGHT AND BULK CONTROLS APPLICABLE WITHIN MRO DISTRICTS (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)**

The provisions of this section establish overall bulk and height controls which are consistent with the intensive usage and flexibility intended within the MRO Districts.

**4-306.1 Floor Area Ratio**

The maximum floor area permitted within this district shall be in terms of a ratio of floor area per total area within a zone lot.

**DISTRICT**

**FAR PERMITTED**

**Multi Residential/Office**

**4.0**

The above maximum floor area ratio shall be calculated so as not to include minimum space for required off-street parking within a building. Any parking provided above such required minimum within such a building shall be included in calculating the floor area ratio.

**4-306.2 Building Height**

Except as provided in Subsection 4-305.7, the provisions of this section shall apply within MRO 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.

**4-306.201 Maximum Height of Front Wall and Required Front Setbacks**

Within the MRO 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 4-306.202.

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 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 (ILLUSTRATION 4-306.201A) for each of such lot's street frontage.

In all districts, as indicated, the maximum height of a front wall and the required front 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**

<b><u>Districts</u></b>	<b><u>Depth of Required Front Yard or Initial Setback Distance (in Feet)</u></b>	<b><u>Height Above Street Line (in Feet)</u></b>	<b><u>Slope Over Zone Lot (Expressed as a Ratio of Vertical Distance to Horizontal Distance)</u></b>
<b>MRO</b>	<b>20</b>	<b>45</b>	<b>1.5 to 1</b>

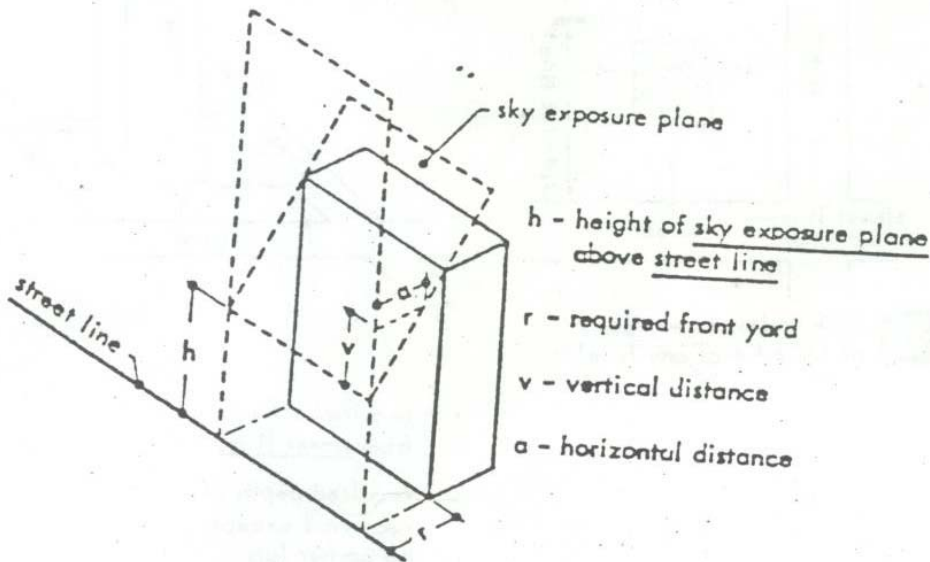
**4-306.202 Tower Regulations**

Within the MRO 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 (ILLUSTRATION 4-306.202A). 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**

<u>Districts</u>	<u>Depth of Required Setback (in Feet)</u>
MRO	40

**ILLUSTRATION 4-306.201A  
SKY EXPOSURE PLANE**



# ILLUSTRATION 4-306.202A

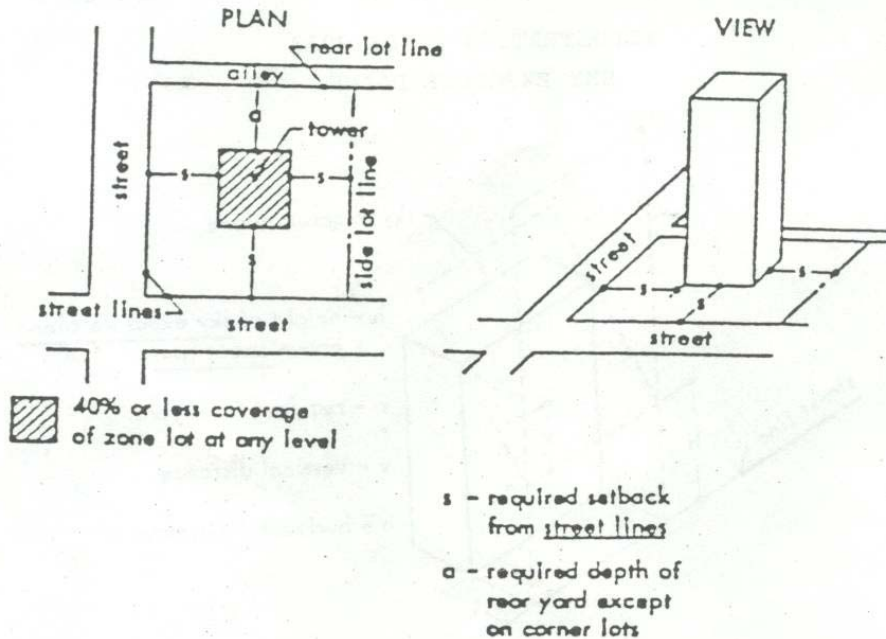
## TOWER ILLUSTRATION

REQUIRED SETBACK OF TOWERS FROM  
STREET LINES AND SIDE LOT LINES

<u>Districts</u>	<u>Depth of Required Setback (in feet)</u>
MRO	40
CBD	30

### ILLUSTRATION 4-306.202A

#### TOWER ILLUSTRATION



**CHAPTER 4. HEIGHT, DENSITY, LOT SIZE, AND OPEN SPACE REQUIREMENTS APPLICABLE TO RESIDENTIAL ACTIVITIES**

The provisions of this chapter apply to any residential building or mixed building located on any zone lot or portion of a zone lot in any commercial district in which such building is permitted.

**4-401 PROVISIONS APPLICABLE TO RESIDENTIAL BUILDINGS**

The density, bulk, yard and lot size provisions applicable to the RM-2 District shall apply to all residential buildings located upon any zone lot or portion of a zone lot in any commercial district in which such building is permitted. Where more than one building is located upon a single zone lot the building space provisions of Section 3-308 shall apply. The supplemental provisions appearing in ARTICLE III, CHAPTER 4, shall apply to all residential buildings located in any commercial district.

**4-402 PROVISIONS APPLICABLE TO MIXED BUILDINGS**

The provisions appearing below shall apply to all mixed buildings where such are permitted within any commercial district.

**4-402.1 Maximum Floor Area Ratio and Bulk Permitted**

The maximum floor area ratio as well as the bulk permitted for any mixed building shall not exceed that established for commercial buildings in CHAPTER 3, of this article.

**4-402.2 Calculation of Residential Density Permitted in Mixed Buildings**

To determine the residential density permitted within any mixed building the following procedure shall be utilized.

- (a) The zone lot upon which the mixed building is located will be apportioned as to its nonresidential-residential components. (Example: If twenty-five (25) percent of a mixed building is to be utilized for commercial purposes and seventy-five (75) percent of the lot area will be used in calculating the residential density permitted).
- (b) The residential density permitted will then be calculated in a like manner for any zone lot located within the RM-2 District, with the exception that within TC-C Districts, the residential density permitted shall be calculated in a like manner as for any zone lot located within the TC-R District. (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)
- (c) In no instance, however, shall the total building bulk permitted be increased beyond that established in CHAPTER 3, of this article, for commercial buildings.

**CHAPTER 5 GENERAL SITE DESIGN CRITERIA**

**4-501** Underground Utilities: All utility service to individual structures within all commercial zone districts shall be underground in accordance with the individual utility entities current standards.