

# KOCHMAN & ZISKA PLC

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July 27, 2023

James Murphy, Assistant Director  
Planning, Zoning, Building  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

## **Re: Proposed Zoning Text Amendment to R-C MEDIUM DENSITY RESIDENTIAL DISTRICT**

Dear James:

We are pleased to submit the attached proposal for a zoning code text amendment to the R-C (Medium Density Residential District) Zoning District regulations, Division 5. The intent of the proposed text amendment is to provide zoning regulations for a valet-only parking garage structure on an existing non-conforming at-grade parking lot which is an accessory use to a hotel. *(Please see Exhibit-A: existing site plan)*. This would allow the hotel to significantly increase its off-street parking capacity from 60 spaces to 140 spaces, therefore removing more vehicles from the on-street parking in the Town of Palm Beach.

The closest relative zoning regulation under Division 5 (R-C) Medium Density Residential District, would be under Sec. 134-942 (4) Multi-family. Which would greatly restrict the site development based on setbacks, and lot coverage. *(Please see Exhibit-B: allowable site plan)*.

With the text amendment we are proposing, it would allow for a special exception use of Valet only Parking Garages and regulations pertaining to this use. Giving flexibility to the design and allowing a building that can house more cars. For example *(Please see Exhibit-C: proposed site plan)*.

Furthermore, if the existing parking lot were required to meet a conforming design, the lot would hold a maximum of 37 parking spaces. *(Please see Exhibits-D & E: options A & B)*.

The Proposed zoning text amendment would carve out the ability to construct a valet only parking garage in the R-C Zoning District by providing clear and concise regulations, guidelines and definitions for the following Code sections under Division 5 (R-C) Medium Density Residential District.

**Sec. 134-945 Special exception uses; (16)**  
**Sec. 134-948 Lot, yard and area requirements; (1)e Lot area**  
**Sec. 134-948 Lot, yard and area requirements; (2)e Lot width**  
**Sec. 134-948 Lot, yard and area requirements; (3)e Lot depth**  
**Sec. 134-948 Lot, yard and area requirements; (5)e Front yard**

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**Sec. 134-948 Lot, yard and area requirements; (6)e Side yard**

**Sec. 134-948 Lot, yard and area requirements; (7)e Rear yard**

**Sec. 134-948 Lot, yard and area requirements; (8)e Height and overall height**

**Sec. 134-948 Lot, yard and area requirements; (9)e Lot coverage**

**Sec. 134-948 Lot, yard and area requirements; (11)e Landscaped open space**

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

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

Attached is also our proposed text changes to the Zoning Code to allow the parking garage as a special exception approval.

We would like to move this proposal forward and will await direction from you as to what you need to place this on the next Planning and Zoning Commission agenda or any other direction we may need to take.

Looking forward to hearing from you and thank you for your consideration of our request.

Sincerely,

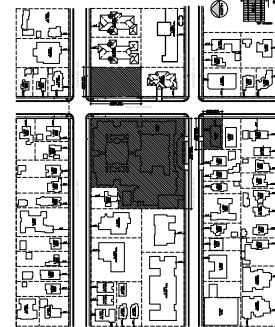


Maura Ziska, Esq.

Attachments

cc: Client

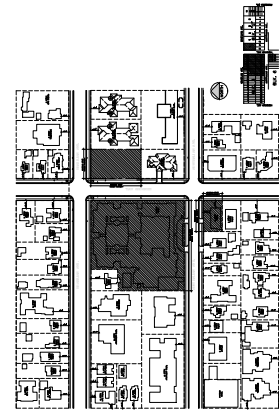
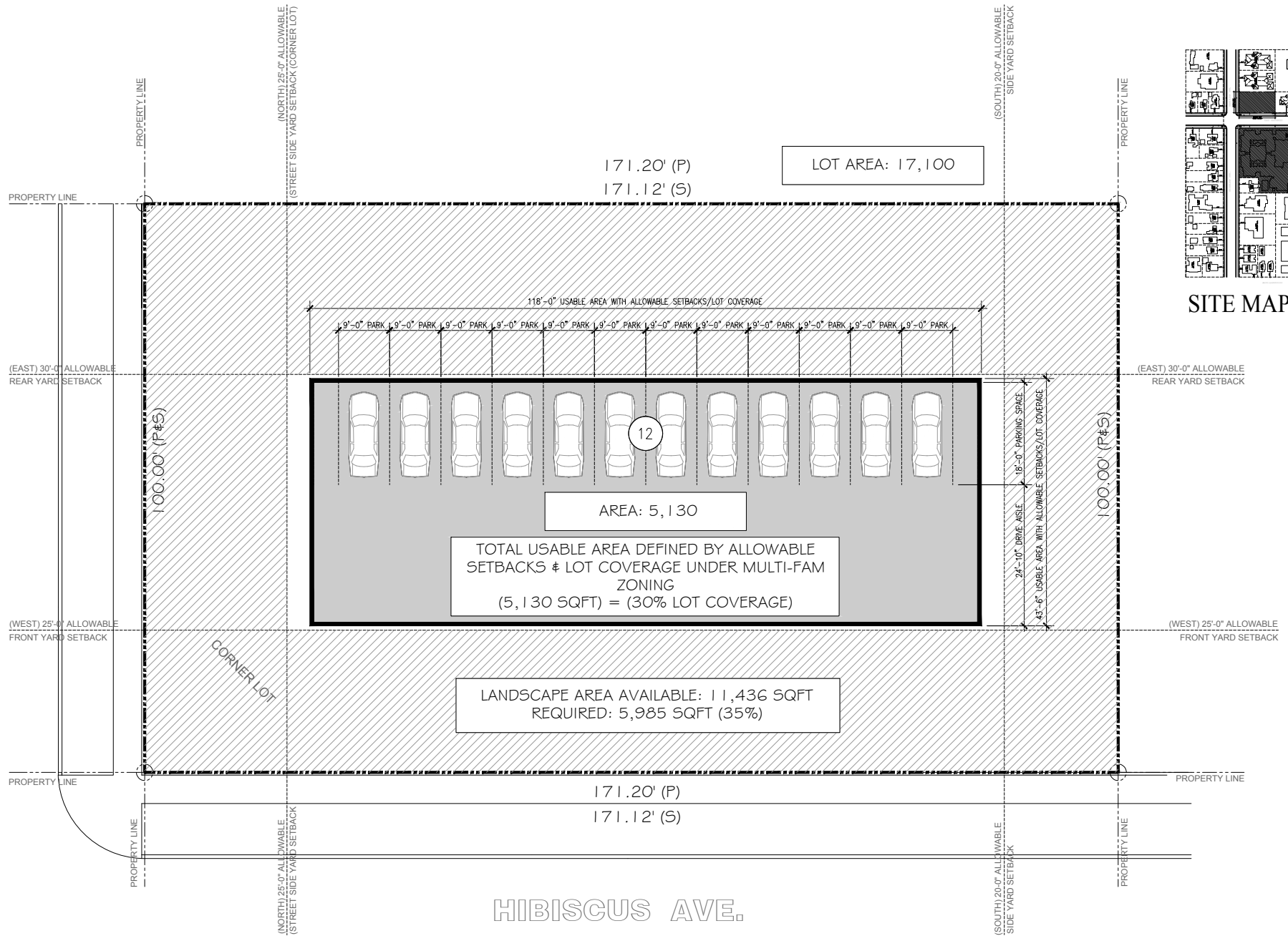
Town Staff



100.00; (P & S)

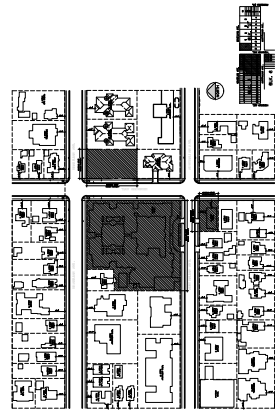
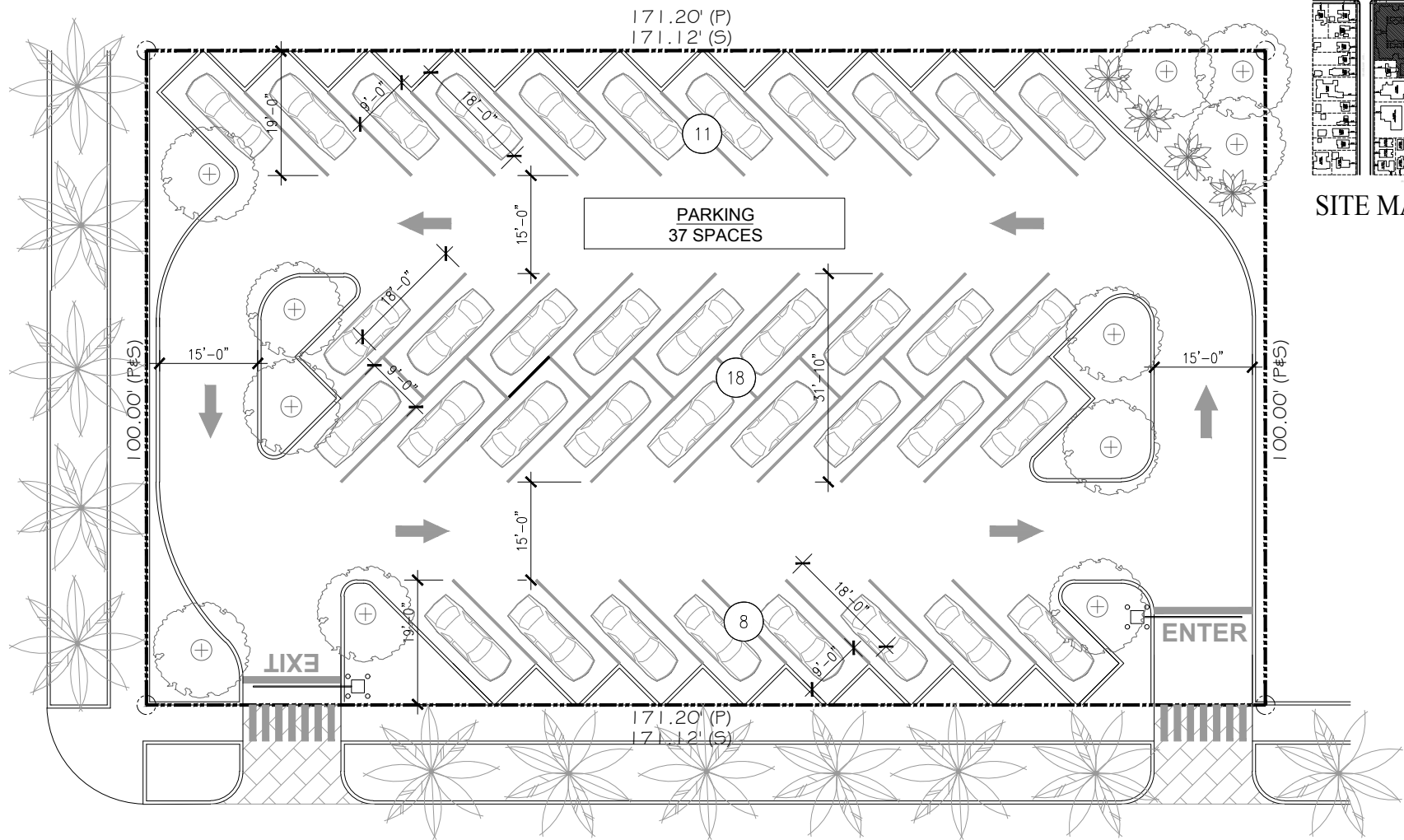
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BRAZILIAN AVE.

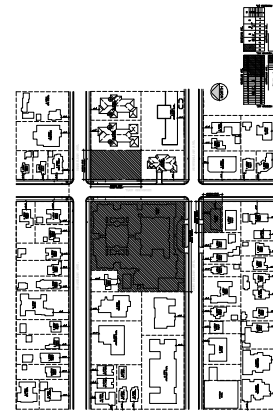
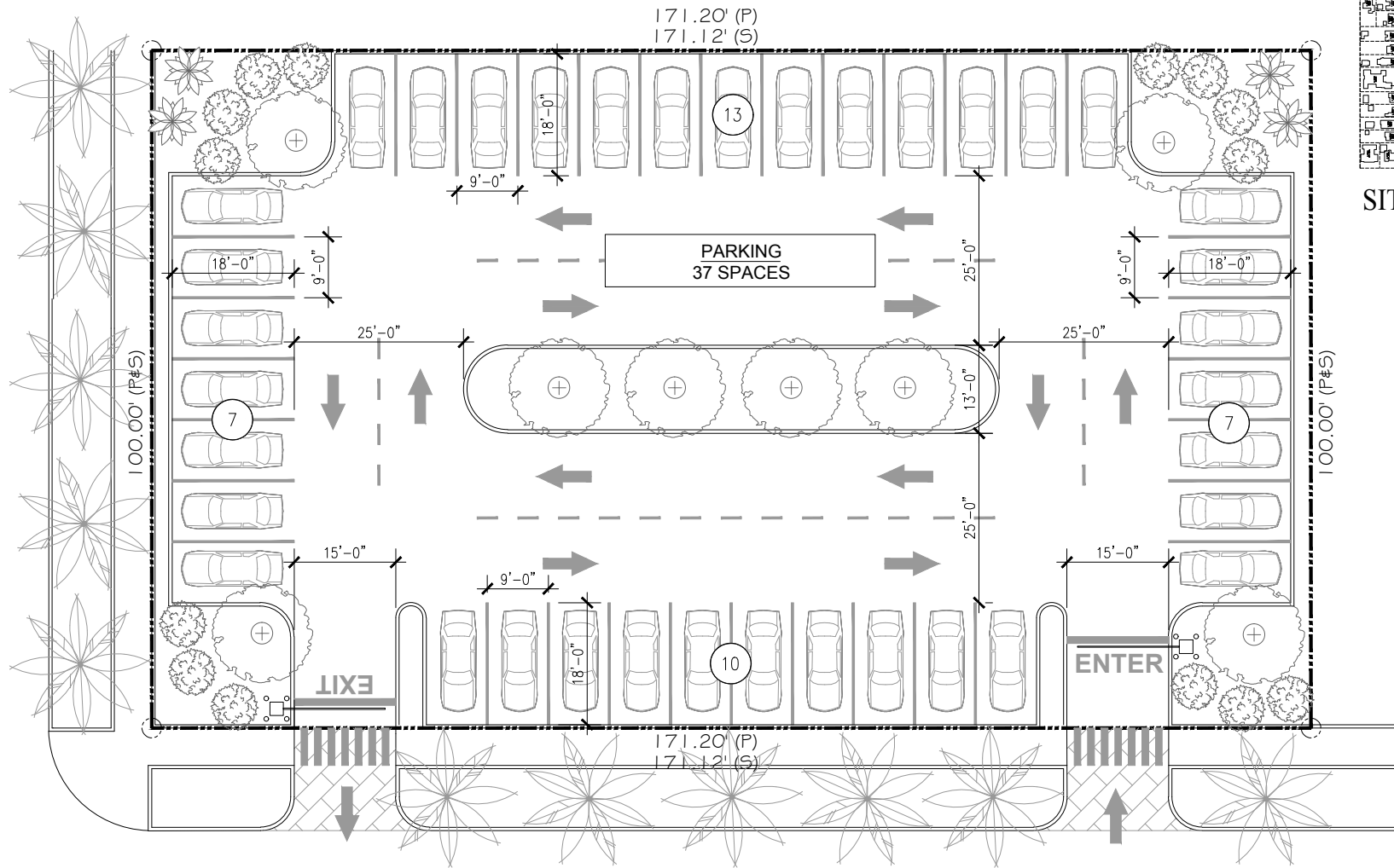


SITE MAP





SITE MAP



SITE MAP

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### **Sec. 134-941. Purpose.**

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

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

### **Sec. 134-942. Permitted uses.**

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

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

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

### **Sec. 134-943. Accessory uses.**

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

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

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



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Ord. No. 1-86, § 2(b), (c), 2-10-86; Ord. No. 1-87, § 2(c)—(f), 2-9-87; Ord. No. 2-88, § 1, 2-8-88; Ord. No. 1-89, § 2(a), 2-6-89; Ord. No. 1-90, § 2(f)—(i), 2-5-90; Ord. No. 1-91, § 2(b), 4-23-91; Ord. No. 1-92, § 2, 2-3-92; Ord. No. 6-93, § 2(a)1—7, 2-9-93; Ord. No. 1-94, § 2(b)(1), (2), 2-7-94; Ord. No. 1-02, § 16, 3-12-02)

### **Sec. 134-944. Prohibited uses.**

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

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

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

### **Sec. 134-945. Special exception uses.**

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

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

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

**(16) Valet only garages to an existing hotel with at least 75% area dedicated to parking and at most 25% dedicated to commercial uses.**

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

### **Sec. 134-946. Accessory structures.**

- (a) *Accessory structures in R-C district.* Accessory structures in the R-C medium density residential district shall comply in all respects with the lot, yard and bulk requirements of this chapter applicable to the principal structure unless stated otherwise.
- (b) *Unattached accessory structures in R-C district.* Accessory structures without kitchen facilities may be erected in accordance with the following requirements:
  - (1) The lot size includes all lots, the maximum story height is two stories, and the maximum building height is 25 feet.
  - (2) All enclosed or partially enclosed accessory buildings shall comply with all open yard requirements contained in this chapter for the principal structure for the zoning district in which the buildings are located, except as otherwise provided in this section. The term "enclosed or partially enclosed" means either all or a portion of the building floor area is protected from the weather by permanent construction.
  - (3) Unenclosed accessory structures shall comply with all open yard requirements contained in this chapter for the principal structure, except that one-story unenclosed accessory structures that do not exceed 15 feet in overall height shall have a minimum ten foot side and rear setback with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
  - (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and enclosed accessory structures as for the principal structure, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter, and except that in the R-C district, enclosed accessory structures may be permitted to be located within that portion of a required side yard that is in excess of the minimum side yard of 20 feet.
  - (5) An accessory structure in the R-C district may be located within that portion of a required front yard that is in excess of the minimum 25-foot front yard.
  - (6) Accessory structures in the R-C district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be

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substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.

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

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

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

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

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

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

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

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

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- b. For two-family uses, the minimum lot area is 13,333 square feet.
  - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
  - d. For multifamily uses, the minimum lot area is 20,000 square feet.

**e. For valet only garages to an existing hotel, the minimum lot area is 15,000 square feet.**

(2) *Lot width.*

- a. For single-family uses, the minimum lot width is 75 feet.
- b. For two-family uses, the minimum lot width is 75 feet.
- c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
- d. For multifamily uses, the minimum lot width is 100 feet.

**e. For valet only garages to an existing hotel, the minimum lot width is 75 feet.**

(3) *Lot depth.*

- a. For single-family uses, the minimum lot depth is 100 feet.
- b. For two-family uses, the minimum lot depth is 100 feet.
- c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
- d. For multifamily uses, the minimum lot depth is 100 feet.

**e. For valet only garages to an existing hotel, the minimum lot depth is 100 feet.**

(4) *Density.*

- a. For single-family uses, the maximum density is four dwelling units per acre.
- b. For two-family uses, the maximum density is six dwelling units per acre.
- c. For townhouses, the maximum density is six dwelling units per acre. See article III of this chapter for site plan review requirements.
- d. For multifamily uses, the maximum density is six dwelling units per acre. See article III of this chapter for site plan review requirements.

(5) *Front yard.*

- a. For single-family uses, the minimum front yard setback is 25 feet.
- b. For two-family uses the minimum front yard setback is 25 feet. If garage doors face a street, at least 40 percent of the entire structure facing said street shall have a setback at least 20 feet greater than the minimum setback otherwise required. Where two-family structure is located on corner lots, the foregoing requirement shall apply only to that street on which the garage fronts. However, in no instance shall a two-family structure have less than 25 percent of the frontage of the building along any street frontage set back less than an additional ten feet beyond the street yard setback otherwise required.
- c. For town houses the minimum front yard setback is 25 feet. If garage doors face a street, at least 40 percent of the entire structure facing said street shall have a setback at least 20 feet greater than the minimum setback otherwise required. Where two-family structure is located on corner lots, the foregoing requirement shall apply only to that street on which the garage fronts.

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However, in no instance shall a townhouse structure have less than 25 percent of the frontage of the building along any street frontage set back less than an additional ten feet beyond the street yard setback otherwise required.

- d. For multifamily uses, the front yard setback shall be either 25 feet or the height of the building, whichever is the greater. When more than one street yard exists (as provided in sections 134-1576 and 134-1577) and the height of a building exceeds 25 feet, the total amount of street yard setbacks shall equal the height of the building times the number of street yards, and any individual street yard setback shall be not less than 25 feet. See also requirements in sections 134-1576 and 134-1577.

**e. For valet only garages to an existing hotel, the minimum front yard setback is 10 feet.**

(6) *Side yard.*

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

**e. For valet only garages to an existing hotel, the minimum side yard setback is 10 feet.**

(7) *Rear yard.*

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

**e. For valet only garages to an existing hotel, the minimum rear yard setback is 10 feet.**

(8) *Height and overall height.*

- a. For single-family uses, the maximum building height is two stories, not to exceed 23½ feet.
- b. For two-family uses, the maximum building height is two stories, not to exceed 23½ feet.
- c. For townhouses, the maximum building height is two stories, not to exceed 23½ feet.
- d. For multifamily uses, the maximum building height of a one or two-story building is 23½ feet; See special exception provisions in sections 134-227 through 134-233, section 134-952, and article III of this chapter.

**e. For valet only garages to an existing hotel, the maximum building height is two-stories, not to exceed 23 ½ feet.**

- f. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus three feet for a flat roof and eight feet for all other roof styles. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(9) *Lot coverage.*

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

**e. For valet only garages to an existing hotel, the maximum lot coverage is 60 percent.**

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

(11) *Landscaped open space.*

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

**e. For valet only garages to an existing hotel, the minimum landscaped open space is 25 percent.**

- f. Additionally, not less than 40 percent of the required front yard must be landscaped open space for single-family and two-family homes in the R-C district and not less than 35 percent must be landscaped open space for all other type of development.

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

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

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

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

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### **Sec. 134-950. Same—Exceptions.**

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

- (1) Cornices, roof eave overhangs, architectural features, not including balconies or habitable floors, and chimneys may extend 48 inches from the main and/or accessory building into any yard areas.
- (2) Areaways, ramps, or steps to the basement may extend into the side or rear yard area within 24 inches from the adjacent property line, provided no part is over 36 inches above the grade.
- (3) Decorative screens and other architectural features projecting into the rear, side or front yard areas as provided in subsection (1) of this section shall be perforated in a manner so that any vertical projection is at least 50 percent open in area in a vertical plane at any given point.
- (4) There shall be no weather enclosures or other solid enclosures of any nature constructed or installed on or in conjunction with the permitted building projections as provided in subsection (1) of this section. Such prohibited installations shall include, but not be limited to, windows; storm shutters, including fixed or moveable type, roll-down curtains of metal, plastic, fabric or other material; insect screening; or any other temporary or permanent enclosures of any nature. Such prohibited enclosures as described in this subsection shall also not be installed or constructed on any existing open balcony.
- (5) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet.
- (6) One arbor shall be allowed in a required setback on a property provided said arbor does not exceed a height of eight feet nor cover more than 15 square feet in area.
- (7) First floor ramps, landings, open terraces, and/or steps may extend six feet into the required front, street side and street rear yard setbacks. In addition, unenclosed entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required side or rear yard setback.

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

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

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

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

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

In the R-C zoning district, one architectural tower feature may be constructed as an integral part of a single-family or two-family dwelling provided that it does not exceed the allowable overall building height by five feet and is setback an additional five (5) feet on the front, rear, side, and street side and street rear yards; and, such tower has no usable floor area. The area of such tower shall not exceed two percent of the gross floor area of the

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dwelling. For a two-family dwelling each unit is allowed one architectural tower feature and said tower feature may not exceed 2% of the individual dwelling unit floor area. It is the intention of this section to allow only one tower as an architectural feature on a house and not to allow habitable space in upper areas of a tower on a house. It is also the intent that this section not apply to entry facades or parapets.

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

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

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

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

### **Sec. 134-954. Supplementary district regulations.**

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

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

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

**Under Sec. 134-945(16) valet only garages are exempt from the off-street parking requirements of Article IX of this chapter. Valet only parking garages shall allow traditional, tandem, mechanical and/or other parking methods.**

### **Sec. 134-956. Signs.**

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

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

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

(Ord. No. 1-99, § 11, 4-5-99)

### **Secs. 134-958—134-995. Reserved.**



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Building.* See *Structure*.

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

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

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

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

*Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL))* means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;
- (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
- (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not

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exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

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

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

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

*Building, height of, (applicable to R-B lots abutting Lake Trail),* means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing building.

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

*Building height plane* means a height limiting plane extending at an inclined angle from the intersection of the front yard property line as determined in section 134-1636(2) and the zero datum as defined in "height of

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building" and "overall height of building", or the minimum floodplain elevation as established in chapter 50 of this Code, whichever is higher.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Garage*, means a building or space used as an accessory to or part of a main building permitted in any residence district and providing for the storage of motor vehicles.

***Garage, valet only*, means a building providing for the storage of a minimum of 100 motor vehicles and may include traditional, tandem, mechanical and/or other parking methods.**

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

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

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

*Group home* means a facility, licensed or funded by the state department of children and family services, providing a living environment for unrelated residents who operate as the functional equivalent of a family,

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including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

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

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

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

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

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

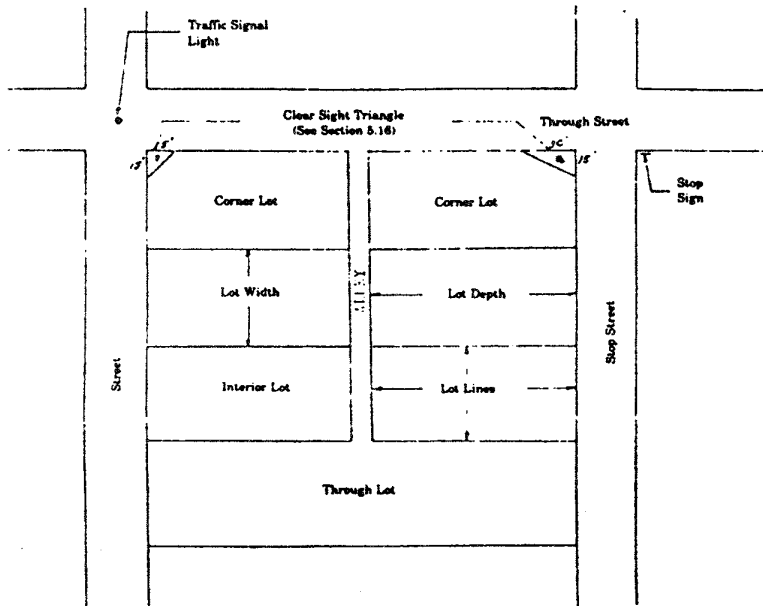
*Landscaped open space* means open space which is covered and maintained with natural growth in a permeable soil.

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

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

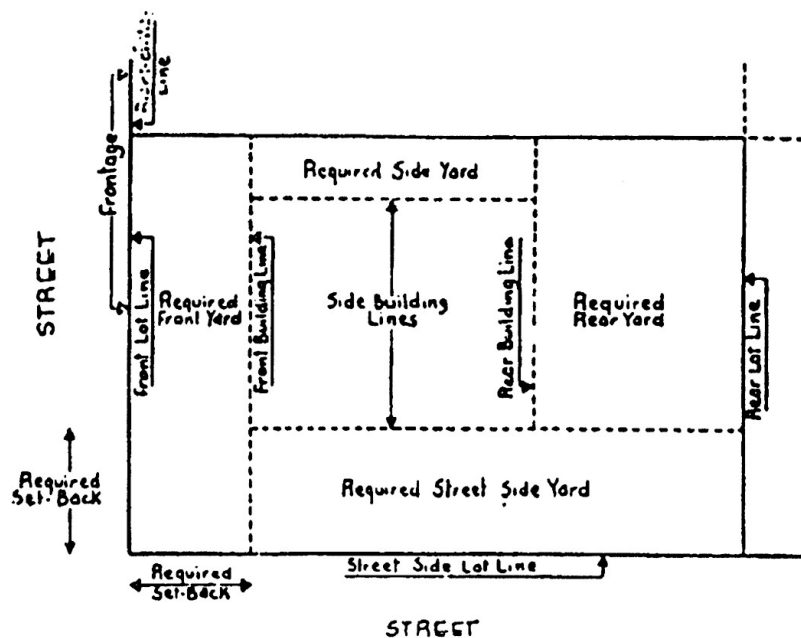
*Lot* means a parcel of land, vacant or occupied. For the purpose of this chapter, the word "lot" shall be taken to mean any number of contiguous lots of record or unplatted parcels of land or portions thereof not separated by a street or public way, upon which one or more principal structures for a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

## Lot Definitions—General



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

## Yard Definitions—Corner Lot



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



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

STREET

Required front yard

Required side yard

Side building lines

Required rear yard

Front lot line

Rear lot line

Front building line

Rear building line

Required side-back

Side lot line

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

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



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(3) A deejay playing recorded music;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Parking, supplemental* means those parking facilities provided as a permitted or special exception and which are in addition to existing required parking as set forth in the schedule of off-street parking requirements. Supplemental off-site parking in an underground garage or surface, enclosed, partially enclosed, or a rooftop parking facility that is a permitted use in the C-TS, C-WA and C-OPI zoning districts is not required to be parking

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that is in addition to what is required in the schedule of off-street parking requirements in the code. This definition will sunset on March 13, 2024 and revert back to the definition prior to the adoption of Ordinance Nos. 1-2021 and 20-2021 unless extended or modified by the town council.

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

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

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

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

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

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

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

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

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

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

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

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

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

*Sign* means signs and/or lettering, pictures, illustrations or trademarks, logograms, posters or characters, visible from a public or private roadway and/or sidewalk, which shall be classified as signs regardless of whether

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they are freestanding or attached or painted to or on a building, structure, display board, screen surface or wall or are projected thereon by artificial lighting.

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

*Sign, awning.* See *Sign, banner*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Cross reference(s)—Definitions generally, § 1-2.