

ZONING TEXT AMENDMENT
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Sec. 134-2. - Definitions and rules of construction.

Story, ~~unless provided for elsewhere,~~ 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.

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

Sec. 134-1051. Purpose.

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

Sec. 134-1052. Permitted uses.

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

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

Sec. 134-1053. Accessory uses.

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

- (1) Private nurseries and greenhouses.
- (2) Private garages.
- (3) Private swimming pools and/or cabanas.
- (4) Newsstands, dining rooms, bars, beauty shops and similar personal service uses for the convenience of tenants and their bona fide guests in a multifamily dwelling.
- (5) Charitable events specifically approved by the town manager.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business.

Sec. 134-1054. Prohibited uses.

The specific prohibited uses of buildings or land in the R-D(2) high density residential district are as follows:

- (1) No person shall use any portion of any building or accessory building or any land used for residential purposes in this district for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose (with the sole exception of meetings of the corporate ownership of the premises involved), banquets or

entertainments, film-making or movie producing, magazine feature photography and the like, and such uses are declared to be a violation of this chapter.

- (2) Executive/employee/group, vacation/retreats are prohibited in this zoning district.

Sec. 134-1055. Special exception uses.

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the R-D(2) high density residential district are as follows:

- (1) Planned unit development, PUD-2, PUD-3.
- (2) Public structures/uses.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Public or private academic schools.
- (5) Churches, synagogues and other houses of worship.
- (6) Supplemental parking.
- (7) Accessory commercial uses to hotel uses.
- (8) Municipally owned or operated parking areas.
- (9) Beach houses intended for the use of family and guests only.
- (10) Hotels.
- (11) Timesharing uses.
- (12) Roof-deck automobile parking.
- (13) Group home.
- (14) Foster care facility.
- (15) Pedestrian access tunnel to the beach as an accessory use provided that the applicant owns the land on both sides of the roadway, provides unity of title, and provides prior written approval from all governmental agencies having jurisdiction.
- (16) Outdoor cafe seating for dining purposes related to hotels, condo-hotels and dining rooms provided that all requirements and conditions contained in sections 134-2104 and 134-2108 are met.
- (17) Condo-hotels in accordance with section 134-2110.
- (18) Municipally owned and operated parks and recreation areas.

Sec. 134-1056. Reserved.

Ord. No. 16-2021, § 9, adopted August 11, 2021, repealed § 134-1056, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 5-09, § 4, 4-15-09

Sec. 134-1057. Accessory structures.

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

exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter.

- (4) For corner or through lots the street side yard or rear street yard setback shall be the same for unenclosed and enclosed accessory structures as for the principal structure, with the exception of garden walls and fences, which are regulated by division 5 of article VIII of this chapter, and except that in the R-D(2) district enclosed accessory structures may be permitted to be located within that portion of a required side yard that is in excess of the minimum side yards of 30 feet.
- (5) An accessory structure in the R-D(2) district may be located within that portion of a required front yard that is in excess of the minimum 25-foot front yard.
- (6) Accessory structures in the R-D(2) district used for auto storage; lot coverage computations. In determining the percentage of coverage of a lot by buildings, enclosed accessory structures, the height of which do not exceed plus eight feet above zero datum for the lot, and for which they are designed and used exclusively for the purpose of auto storage, shall be counted, for the purpose of computing maximum lot coverage of buildings, at 50 percent of its roof area, provided that the structure shall be substantially screened through the use of earth berms, ground cover and other means of landscaping, and further provided that the roof thereof shall be landscaped.
- (7) Dish antennas. A dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions of this chapter applicable to accessory structures. Dish antennas shall not exceed three meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on each building. Such dish antenna which exceeds one meter in diameter shall not be attached to a building; shall not be closer than ten feet to any side or rear property line; shall not exceed 12 feet in height above the average grade; and, shall not be located in a required front yard, street side yard or rear street yard setback. There shall be no limit on dish antennas one meter or less in diameter and said antenna(s) may be attached or unattached to a building. If said dish antenna(s) is unattached, said antenna(s) shall not exceed 12 feet in height above the average grade, be located no closer than ten feet to any side or rear lot line; and, shall not be located in a required front yard, street side yard or rear street yard setback. All attached and unattached dish antennas in this residential zoning district shall be screened from public view, and private and public streets and ways; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such antenna or its framework (other than the manufacturer's small identification plate). Note: One (1) meter in the metric system of measurement equals 39.37 inches or 3.28 feet.
- (8) One dock, as defined in section 134-2 and as regulated in sections 62-74, 62-75 and 134-1697, shall be unenclosed accessory structures as defined in this section.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1058. Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.

In the R-D(2) high density residential district, no accessory structure shall be used as or converted to a dwelling unit. Further, if any accessory structure and use is subdivided from the principal structure and use to which it is accessory or, alternately, if the principal structure is demolished or removed, the use of such accessory structure shall be terminated until a new principal structure and use is established on the lot on which the accessory structure and use is located.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1059. Accessory uses in apartment houses, hotels and condo-hotels.

Incidental services used in connection with either apartment houses, hotels or condo-hotels in an R-D(2) high density residential district, including cigar or candy stands, delicatessens, personal service shops and similar uses, may be permitted provided the following conditions are fulfilled:

- (1) At least 25 dwelling units shall be contained within the building group.

- (2) Not more than five percent of the total floor area within the building shall be so used.
- (3) All such incidental services shall be situated within the interior of the building, so that no part thereof shall be directly accessible to the street or public way, except for outdoor seating for dining purposes in accordance with sections 134-2104 through 134-2108 and section 134-1906.
- (4) No sign or window display shall be discernible from the sidewalk or public way.
- (5) No exterior or external advertising shall be permitted.

Editor's note(s)—Ord. No. 5-09, § 4, renumbered the former section 134-1058 as section 134-1059. Subsequently, section 20 of said ordinance changed the title of section 134-1059 from "Accessory uses in apartment houses and hotels" to "Accessory uses in apartment houses, hotels and condo-hotels."

Sec. 134-1060. Lot, yard and area requirements—Generally.

In the R-D(2) high density residential district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.*
 - a. For single-family uses, the minimum lot area is 10,000 square feet.
 - b. For two-family uses, the minimum lot area is 10,000 square feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot area is 40,000 square feet.
 - e. For timesharing uses, the minimum lot area is 40,000 square feet.
 - f. For hotels and condo-hotels, the minimum lot area is 40,000 square feet.
- (2) *Lot width.*
 - a. For single-family uses, the minimum lot width is 75 feet.
 - b. For two-family uses, the minimum lot width is 75 feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot width is 150 feet.
 - e. For timesharing uses, the minimum lot width is 150 feet.
 - f. For hotels and condo-hotels, the minimum lot width is 150 feet.
- (3) *Lot depth.*
 - a. For single-family uses, the minimum lot depth is 100 feet.
 - b. For two-family uses, the minimum lot depth is 100 feet.
 - c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
 - d. For multifamily uses, the minimum lot depth is 200 feet.
 - e. For timesharing uses, the minimum lot depth is 200 feet.
 - f. For hotels and condo-hotels, the minimum lot depth is 200 feet.
- (4) *Density.*
 - a. For single-family uses, the maximum density is four dwelling units per acre.
 - b. For two-family uses, the maximum density is eight dwelling units per acre.
 - c. For townhouses, the maximum density is ten dwelling units per acre. See article III of this chapter for site plan review requirements.
 - d. For multifamily uses, the maximum density is 13 dwelling units per acre. See article III of this chapter for site plan review requirements.
 - e. For timesharing uses, the maximum density is nine dwelling units per acre. See article III of this chapter for site plan review requirements.
 - f. For hotels, the maximum density is 26 dwelling units per acre. See article III of this chapter for site plan review requirements.
 - g. For condo-hotels, the maximum density is 20 dwelling units per acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*

- a. For single-family uses, the minimum front yard setback is 25 feet.
- b. For two-family uses, the minimum front yard setback is 25 feet.
- c. For townhouses, the minimum front yard setback is 25 feet.
- d. For multifamily uses, the front yard setback shall be either 25 feet or the height of the building, whichever is the greater. When more than one street yard exists (as provided in sections 134-1576 and 134-1577) and the height of a building exceeds 25 feet, the total amount of street yard setbacks shall equal the height of the building times the number of street yards, and any individual street yard setback shall be not less than 25 feet. See also requirements in sections 134-1576 and 134-1577. To encourage the redevelopment of existing multifamily use buildings on lots located south of Sloan's Curve and north of Lake Worth Road, these buildings are exempt from this requirement and may instead utilize the established front yard setback of the existing multifamily use building.
- e. For timesharing uses, the minimum front yard setback is 25 feet.
- f. For hotels, the minimum front yard setback is 25 feet.

(6) *Side yard.*

- a. For single-family uses, the minimum side yard setback is ten feet.
- b. For two-family uses, the minimum side yard setback is 12½ feet.
- c. For special requirements regarding townhouses, see subdivision II of division 10 of article VIII of this chapter.
- d. For multifamily uses, the side yard setback shall be 30 feet or the height of the building, whichever is greater.
- e. For timesharing uses, the minimum side yard setback is 30 feet.
- f. For hotels, the minimum side yard setback is 30 feet.

(7) *Rear yard.*

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

(8) *Height and overall height.*

- a. For single-family uses, the maximum building height is two stories or 25 feet.
- b. For two-family uses, the maximum building height is two stories or 25 feet.
- c. For townhouses, the maximum building height is two stories or 25 feet.
- d. For multifamily uses, the maximum building height of two-story buildings is 25 feet; the maximum building height of three-story buildings is 35 feet. In this district, the maximum building height for multifamily uses is three stories, with provision for a special exception for up to five stories. See special exception provisions in sections 134-227 through 134-233, section 134-1063, and article III of this chapter.
- e. For timesharing uses, the maximum building height is three stories or 35 feet.
- f. For hotels, the maximum building height is three stories or 35 feet.
- g. Maximum overall height of a building shall be the maximum allowable building height, as defined in section 134-2, plus five feet for a flat roof and ten feet for all other roof styles. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(9) *Lot coverage.*

- a. For single-family uses, the maximum lot coverage is 30 percent.
- b. For two-family uses, the maximum lot coverage is 30 percent.
- c. For townhouses, the maximum lot coverage is 35 percent.
- d. For multifamily uses, the maximum lot coverage is 40 percent.
- e. For timesharing uses, the maximum lot coverage is 45 percent.
- f. For hotels, the maximum lot coverage is 45 percent.

g. Balconies above the first floor and garages below the point of measurement (zero datum), shall not be included in the calculation of lot coverage.

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

(11) *Landscaped open space.*

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

(12) Enclosures below the point of measurement (zero datum).

- a. With the exception of areas necessary for pedestrian and vehicular access, enclosures below the point of measurement (zero datum), shall be screened from view of any public rights of way with landscaping, berm, or similar screening.
- b. Any portion of an enclosure below the point of measurement (zero datum) which is covered with landscaping shall count towards landscaped open space.
- c. Enclosures below the point of measurement (zero datum) and balconies shall not count towards the maximum dimension of any structure or group of attached structures. The requirements of this section shall supersede the requirements contained in section 134-1874 for maximum dimension.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1061. Same—Existing single-family dwelling development.

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

Editor's note(s)—See note at section 134-1056.

Sec. 134-1062. Same—Exceptions.

In the R-D(2) high density residential district, exceptions to the yard regulations in section 134-1548 are as follows:

- (1) Cornices, roof eave overhangs, architectural features, not including balconies or habitable floors, and chimneys, may extend 48 inches from the main and/or accessory building into any yard areas. Balconies may extend into any yard setback, provided that there is a minimum thirty feet of setback between the balcony and the lot line.
- (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.
- (8) Buildings with a flat roof may utilize the rooftop for private amenity uses such as, but not limited to, pools, hot tubs, bar-b-que areas, cabana tents, and similar outdoor amenities and support spaces, provided that:
 - a. The private amenity use area is limited to a maximum of 50% of the rooftop. The rooftop area utilized to calculate the maximum 50% shall be based on the net rooftop area after subtracting any areas utilized for mechanical equipment; and,
 - b. Subject to subsection (a) above, all remaining rooftop areas shall be landscaped.
 - c. The private amenity rooftop uses provided for in this section shall not count as a story. This shall supersede section 134-2 for definitions and rules of construction.
- (9) The requirements of this section shall supersede the requirements contained in section 134-1874 for maximum dimension. For multifamily uses on lots located south of Sloan's Curve and north of Lake Worth Road, the maximum dimension of any structure shall not exceed 195 feet for any one building face, provided that the building is arranged to provide access for emergency services.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1063. Awnings or trellises in side or rear yards.

In the R-D(2) high density residential district, as an exception to the yard regulations in section 134-1548, an awning and/or open trellises located in a side or rear yard which meet applicable minimum yard requirements may be erected, provided the area of the principal structure and all awnings and open trellises combined does not exceed allowable lot coverage by more than three percent. Awnings and/or trellises so erected may not be converted to permanent additions to the principal structure if such conversion would increase lot coverage of the principal structure above the allowed percentage.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1064. Special exception to height regulations; special exception structures; special exception lot coverage.

- (a) In order to encourage increased open space, landscaped open space, reduced density and lot coverage and architectural detail, the town council may at its discretion, upon review of an application and public hearing thereon, allow for the increase of the maximum building height in the R-D(2) high density residential district, upon a finding being made by the town council that the proposed increase in height for a contemplated special exception structure is in the public interest, that careful attention is given to architectural detail, and that it meets the standards of sections 134-227 through 134-233 and the following goals and guidelines:

- (1) Four-story guidelines. Lot coverage not more than 27 percent.
 - (2) Five-story guidelines. Lot coverage not more than 22 percent.
- (b) In no event shall the building height in an R-D(2) zoning district exceed five stories and 55 feet, unless increased to a maximum of 62½ feet as follows:
- (1) Three-story/35 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches, up to a maximum of 37 feet six inches.
 - (2) Four-story/45 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches, up to a maximum of 50 feet.
 - (3) Five-story/55 feet, plus one additional foot for each foot of ceiling height of each story over eight feet six inches, up to a maximum of 62 feet six inches.
- (c) If a portion of a deeded property boundary is located east of the town's bulkhead line or the mean high water line, or within the waters of Lake Worth, then a maximum of 5% increase in lot coverage is allowed provided that at least three or more of the following are met:
- (1) The proposed density is less than the maximum density allowed on the property;
 - (2) The project includes innovative design or additional architectural detail;
 - (3) The project proposes subgrade parking;
 - (4) The building is built to a minimum LEED Silver, or equivalent rating system;
 - (5) The project proposes more landscaped open space than required by code; or,
 - (6) There is a reduction in an existing non-conformity for number of stories in the building.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1065. Lot grade topography and drainage.

In the R-D(2), high density residential district, the natural grade and topography of a lot shall not be altered to raise and the grade the lot to meet base flood elevation requirements except as provided for in section 134-1600. The grade shall not be raised on a vacant or occupied piece of property unless a building permit is issued which addresses the paving and drainage requirements of the town.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1066. Supplementary district regulations.

The supplementary district regulations which may be applicable to the R-D(2) high density residential district are contained in article VIII of this chapter.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1067. Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the R-D(2) high density residential district are contained in article IX of this chapter.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1068. Signs.

The sign regulations which may be applicable in the R-D(2) high density residential district are contained in article XI of this chapter.

Editor's note(s)—See note at section 134-1056.

Sec. 134-1069. Air conditioning and generator equipment.

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

Editor's note(s)—See note at section 134-1056.

Sec. 134-1070. Exemption to height limitations.

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

Editor's note(s)—See note at section 134-1056.

Secs. 134-1071—134-1105. Reserved.