

ORDINANCE NO. 004-2024

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE VI, DIVISION 4. R-B LOW DENSITY RESIDENTIAL DISTRICT; DIVISION 8. C-TS TOWN-SERVING COMMERCIAL DISTRICT; DIVISION 12. C-B COMMERCIAL DISTRICT; AMENDING SECTION 134-616, DISTRICTS WHERE PERMITTED, TO CREATE A “PUD-D” DISTRICT AS A DISTRICT WHERE PLANNED UNIT DEVELOPMENTS ARE PERMITTED; AMENDING SECTION 134-617, COMPLIANCE, TO CREATE A PUD-D DISTRICT AS A DISTRICT THAT WHEN DEVELOPED AS A PERMITTED USE MUST CONFORM TO THE REGULATIONS IN THIS SUBDIVISION; AMENDING SECTION 134-618, MINIMUM AREA, TO CREATE A PUD-D DISTRICT AS A DISTRICT WHOSE MINIMUM AREA REQUIREMENT SHALL BE AT LEAST SIX (6) CONTIGUOUS ACRES; AMENDING SECTION 134-620, RESIDENTIAL DENSITY, TO CREATE A PUD-D DISTRICT THAT WHEN DEVELOPED AS A PERMITTED USE MUST CONFORM TO A DENSITY OF FOUR UNITS PER ACRES FOR THE PORTION OF THE PROPERTY WITH A SINGLE FAMILY FUTURE LAND USE DESIGNATION AND SIX UNITS PER ACRE FOR THE PORTION OF THE PROPERTY WITH A COMMERCIAL FUTURE LAND USE DESIGNATION; CREATING SECTION 134-625, PERMITTED LAND USES IN THE PUD-D DISTRICT; AMENDING RESERVED SECTIONS 134-626 – 134-650; AMENDING SECTION 134-651, ESTABLISHMENT OF SPECIAL EXCEPTION PLANNED UNIT DEVELOPMENTS, TO CREATE A PUD-5 MIXED USE DEVELOPMENT SPECIAL EXCEPTION PLANNED UNIT DEVELOPMENT DISTRICT; AMENDING SECTION 134-652, DISTRICTS WHERE PERMITTED, TO CREATE A PUD-5 MIXED USE DEVELOPMENT PLANNED UNIT DEVELOPMENT DISTRICT THAT MAY BE PERMITTED BY SPECIAL EXCEPTION ONLY IN THE PARCEL OF LAND MORE PARTICULARLY DESCRIBED IN EXHIBIT A; AMENDING SECTION 134-653, MINIMUM AREA, TO CREATE A PUD-5 MIXED USE DISTRICT AS A DISTRICT WHOSE MINIMUM AREA REQUIREMENT SHALL BE AT LEAST SIX (6) CONTIGUOUS ACRES; AMEND SECTION 134-654, RESIDENTIAL DENSITY, TO CREATE A PUD-5 MIXED USE DISTRICT THAT WHEN DEVELOPED AS A PERMITTED USE MUST CONFORM TO THE RESIDENTIAL DENSITIES OF FOUR UNITS PER ACRE FOR THE PORTION OF THE PROPERTY ZONED R-B AND SIX UNITS PER ACRE FOR THE PORTION OF THE PROPERTY ZONED C-TS AND C-B; AMENDING SECTION 134-656, PERMITTED LAND USE, TO CREATE A PUD-5 DISTRICT AND OUTLINES THE PERMITTED USES IN THE PUD-5 DISTRICT; AMENDING ARTICLE VI, DIVISIONS 4, SECTION 134-890,

SPECIAL EXCEPTION USES TO ESTABLISH PUD-D AS A SPECIAL EXCEPTION USE IN THE R-B LOW DENSITY RESIDENTIAL ZONING DISTRICT; AMENDING ARTICLE VI, DIVISIONS 8, SECTION 134-1109, SPECIAL EXCEPTION USES TO ESTABLISH PUD-D AS A SPECIAL EXCEPTION USE IN THE C-TS TOWN SERVING COMMERCIAL ZONING DISTRICT; AMENDING ARTICLE VI, DIVISIONS 12, SECTION 134-1304, SPECIAL EXCEPTION USES TO ESTABLISH PUD-5 AS A SPECIAL EXCEPTION USE IN THE C-B COMMERCIAL ZONING DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITHIN; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Code Section 134-261, the Town Council of the Town of Palm Beach may from time to time on its own motion or on petition, signed by the fee simple property owner of the property involved or authorized designee, agent or representative of the owner by power of attorney filed with the director of the planning, zoning and building department or designee, amend, supplement, change, modify or repeal the regulations, restrictions or district boundaries; and

WHEREAS, on January 29, 2024, the Town of Palm Beach received a privately initiated development review application to amend Chapter 134, the Town of Palm Beach Zoning Code, of the Town's Code of Ordinances to create a new PUD-D Zoning District (the "Amendment") as a district where planning unit developments are permitted and to create the corresponding PUD-5, mixed-use development as a special exception planned unit development district subject to applicable requirements of district; and

WHEREAS, on March 5, 2024, the Town of Palm Beach Planning and Zoning Commission reviewed the proposed text amendments to the Code of Ordinances and recommended to the Town Council that the Amendment be approved; and

WHEREAS, on March 13, 2024, the Town Council conducted a public hearing wherein it considered the recommendations of the Planning, Zoning and Building Department and the Planning and Zoning Commission regarding the text amendment to the Code of Ordinances; and

WHEREAS, the Town Council has determined that creation of a new PUD-D Zoning District would be consistent with the adopted Town of Palm Beach Comprehensive Plan as amended on November 9, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals.

The above recitals are incorporated as fully set forth herein.

Section 2. Amendment of the Zoning Code of the Town of Palm Beach Code of Ordinances.

The Town Council directs that the Town of Palm Beach Code of Ordinances be amended at Chapter 134, to create a new PUD-D Zoning District as described on Exhibit “A” and displayed on Exhibit “B” attached hereto and incorporated herein by reference.

Section 3. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 6. Effective Date.

This Ordinance shall take effect 31 days subsequent to its enactment on second and final reading, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this (date) day of (Month), (year), and for second and final reading this (date) day of (Month), (year).

Danielle H. Moore, Mayor

Margaret A. Zeidman, Town Council President

Bobbie Lindsay, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Lewis S.W. Crampton, Town Council Member

Exhibit A

PART II - CODE OF ORDINANCES
Chapter 134 - ZONING
ARTICLE VI. - DISTRICT REGULATIONS
DIVISION 4. R-B LOW DENSITY RESIDENTIAL DISTRICT

DIVISION 4. R-B LOW DENSITY RESIDENTIAL DISTRICT

Sec. 134-886. Purpose.

The purpose of the R-B low density residential district is to provide for low density single-family residential use, as that term is defined in section 134-2, of moderately spacious character together with publicly operated recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. This district is located to protect and preserve existing development of this character and contains vacant land considered appropriate for such development in the future.

(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. 134-887. Permitted uses.

The permitted uses in the R-B low density residential district are as follows:

- (1) Single-family dwellings.
- (2) 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. 2-05, § 10, 5-10-05; Ord. No. 10-2012, § 3, 9-11-12; Ord. No. 16-2012, § 3, 12-12-12)

Sec. 134-888. Accessory uses.

The accessory uses in the R-B low 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) Off-street parking at private social, swimming, golf, tennis and yacht clubs, for construction related personal employee vehicular off-street parking for projects within the town's municipal limits provided such parking is located a minimum of 75 feet from a single-family home and is separated from a street by a landscape island.
- (6) Other accessory uses, customarily incident to permitted or approved special exception uses, not involving the conduct of business except such uses as may be associated with the town's operation of its municipal dock, golf course and tennis court facilities.

(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; Ord. No. 1-01, § 2, 2-19-01; Ord. No. 2-05, § 11, 5-10-05; Ord. No. 26-10, § 18, 12-15-10; Ord. No. 04-2018, § 14, 4-11-18)

Sec. 134-889. Prohibited uses.

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

- (1) With the exception of construction related employee parking of personal vehicles for projects within the municipal limits of the town. 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; Ord. No. 04-2018, § 15, 4-11-18)

Sec. 134-890. 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-B low density residential district are as follows:

- (1) Planned unit development, PUD(1) and PUD (5) (see article V of this chapter for standards).
- (2) Public structures, including essential services west of Lake Trail.
- (3) Essential services related to town-owned municipal buildings and structures.
- (4) Beach houses intended for the use of family and guests.
- (5) Public and private academic schools.

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- (6) Private social, swimming, golf, tennis and yacht clubs, and houses of worship in existence prior to January 1, 1996.
- (7) Churches and synagogues and other houses of worship.
- (8) Required off-street parking in accordance with subsection 134-2177(3) and supplemental parking, allowed only in a manner consistent with the zoning of the district in which it is located.
- (9) Nonprofit cultural centers.
- (10) Municipally owned or operated parking areas.
- (11) 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.
- (12) Group home with up to six occupants.
- (13) Foster care facility with up to six occupants.
- (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.
- (15) Municipally owned and operated parks and recreation centers.

(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, § 5, 2-5-96; Ord. No. 1-99, § 9, 4-5-99; Ord. No. 16-2012, § 11, 12-12-12; Ord. No. 04-2018, § 16, 4-11-18; Ord. No. 02-2019, § 5, 3-19-19)

Sec. 134-891. Accessory structures.

- (a) *Accessory structures in R-B district.* Accessory structures in the R-B low 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-B 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.

Lot Size (square feet)	Maximum Story Height	Maximum Building Height
Up to 20,000	1	15 feet overall
20,000 [and more]	2	25 feet overall, provided unity of title deed restriction is furnished prohibiting any

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		division of the lot which would leave less than 20,000 square feet
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- (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 a one-story garage in a street side yard based on section 134-1576 of this chapter and garden walls and fences, which are regulated by division 5 of article VIII of this chapter.
- (5) In the R-B district, nothing contained in this section shall prohibit the construction of an enclosed accessory building containing bedrooms with bath facilities to be used in connection with and as a part of the main residence within the building lines as provided in this chapter. Such enclosed accessory building shall be used only for the occupancy of nonpaying guests of the owners of the main residence or bona fide members of the family or servants, and no kitchen or cooking facilities shall be constructed or used therein except by submission of a written agreement with the town stating that such accessory structure will be used only by family members or household staff and approval of the planning, zoning and building director or his designee.
- (6) Accessory structures in the R-B 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 two meters in diameter. Only one dish antenna that exceeds one meter in diameter shall be permitted on a building lot. 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 eight 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 eight 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, 62-57 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. 1-02, § 5, 3-12-02; Ord. No. 2-05, § 7, 5-10-05; Ord. No. 17-2019, § 3, 6-12-19; Ord. No. 16-2021, § 4, 8-11-21)

Sec. 134-892. Conversion of accessory structure to dwelling unit; termination of use of accessory structure separated from principal structure.

In the R-B low 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. 134-893. Lot, yard and area requirements—Generally.

- (a) In order to protect the unique, residential character of Seaview Avenue, Seaspray Avenue and Seabreeze Avenue (Sea Streets), partial or complete demolition and reconstruction of a single-family dwelling and/or accessory buildings on a lot 75 feet or less in width are exempt from the lot, yard, and area requirements as set forth in this section if redeveloped substantially on the same footprint as existed prior to demolition provided the following conditions are met:

- (1) The proposed single-family dwelling and/or accessory buildings are of an architectural style consistent with the architecture of the single-family dwellings within the R-B zoning district on both sides of the subject street, between the intersecting streets in both directions, where the dwelling is situated, as determined by the architectural commission.
- (2) The proposed single-family dwelling and/or accessory building(s) shall meet the requirements in subsection (c) of this section.
- (3) If the existing footprint of the single-family dwelling and/or accessory building(s) lay within five feet of a side or rear lot line, the replacement footprint must be shifted such that an absolute minimum five foot side and rear lot line setback is created, and further the redeveloped home must be situated at least ten feet apart from any structure on a neighboring lot.
- (4) The height and overall height from the point of measurement of the proposed single-family dwelling and/or accessory buildings are no higher than the dwelling and/or accessory buildings being demolished.
- (5) Any square footage added to the proposed single-family dwelling and/or accessory buildings shall meet all lot, yard and bulk zoning requirements in the Code.

- (6) If using the provisions of this subsection (a) above, no variances can be requested for any new additions which add additional square footage or cubic content than existed prior to demolition of a single-family dwelling and/or accessory buildings.
- (b) *Schedule of regulations.* In the R-B low density residential district, the schedule of lot, yard and area requirements is as given in this section:
- (1) *Lot area.* The minimum lot area is 10,000 square feet. For lots of 20,000 or more square feet in the R-B district, except for those lots between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth, the following shall apply:
- a. When the width of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum side yard setback and angle of vision provisions of the R-A district.
 - b. When the width of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the angle of vision provisions of the R-AA district, and lots of 150 feet or more in width shall have the following side yard setbacks: Lots of 150-154 feet in width are required to have a 17.5 foot setback; lots of 155—159 feet in width are required to have a 20-foot setback; and for lots of 160 feet or more in width the setback shall be 22 feet plus two feet for each additional ten feet in width in excess of 169 feet, to a maximum side yard setback of 30 feet.
 - c. When the depth of a lot in the R-B district is equal to or greater than the minimum required for a lot in the R-A district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-A district.
 - d. When the depth of the lot is equal to or greater than the minimum required for a lot in the R-AA district, development of the lot shall be subject to the minimum front and rear yard setbacks and building height plane provisions of the R-AA district.
 - e. When the area of a lot in the R-B district is equal to or greater than 20,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-A district, except that the maximum allowable lot coverage for single-story development shall be 30 percent.
 - f. When the area of the lot is equal to or greater than 60,000 square feet, development of the lot shall be subject to the maximum coverage and minimum open space provisions of the R-AA district, except the minimum allowable lot coverage for single-story development shall be 30 percent.
 - g. The provisions in subsections (1)a. through f. above do not apply to lots 20,000 square feet or greater in area between Dunbar Road and Reef Road which are adjacent to the waters of Lake Worth.
- (2) *Lot width.* The minimum lot width is 100 feet.
- (3) *Lot depth.* The minimum lot depth is 100 feet.
- (4) *Density.* The maximum density is four dwelling units per acre.
- (5) *Front yard.*
- a. The minimum front yard setback for the first story is 25 feet, however the front yard setback may be reduced to a minimum of 20 feet, or portion thereof, provided the required rear yard setback for the first story is increased by the amount of reduction in the front yard.

- b. The minimum front yard setback for the second story is 30 feet, however the front yard setback may be reduced to a minimum of 25 feet, or portion thereof, provided the required rear yard setback for the first and second story is increased by the amount of reduction in the front yard.
- (6) *Angle of vision.*
- a. The building angle of vision (front setback) for one-story buildings is 100 degrees.
 - b. The building angle of vision (front setback) for two-story buildings is 100 degrees.
 - c. Building angle of vision is not applicable to lots fronting on cul-de-sacs.
 - d. No portion of any individual building shall extend beyond a line drawn from the front property line 50 degrees either side of a line drawn perpendicular or radial to the front yard property line. For lots exceeding the minimum required width, the base angle of vision (50 degrees on either side of the line) shall be increased by two degrees for each ten feet of increased lot width over the minimum up to a maximum additional width of 40 feet in the R-B district.
 - e. In the case of corner lots or through lots with frontage on the following primary north-south roadways, the building angle of vision shall be applied only to the frontage along the designated primary north-south roadway: North Ocean Boulevard; South Ocean Boulevard; North County Road; South County Road; and North Lake Way.
 - f. In the case of other corner or through lots, the building angle of vision shall be applied only to the front yard as determined by the orientation of the building.
 - g. For exceptions to these regulations, see section 134-895.
 - h. For the purposes of determining application of the building angle of vision, an accessory structure shall be considered part of the principal structure when it is separated from the principal structure by a distance of less than 25 feet. When an accessory structure is separated by a distance of 25 feet or more from the principal structure, it shall be treated as separate structure and individually subject to the building angle of vision.
- (7) *Side yard.*
- a. The minimum side yard setback for the first story shall be 12½ feet.
 - b. The minimum side yard setback for the second story shall be 15 feet.
- (8) *Rear height plane setback.* 25 feet.
- (9) *Rear yard.*
- a. The minimum rear yard setback for the first story is ten feet except as provided for in subsection (5)a.
 - b. The minimum rear yard setback for the second story is 15 feet except as provided for in subsection (5)b.
- (10) *Height and overall height.*
- a. For one-story buildings, the maximum building height is 14 feet.
 - b. For two-story buildings, the maximum building height is 22 feet.
 - c. Maximum overall height of a building in the R-B district shall be the maximum allowable building height plus three feet for a flat roof and eight feet for all other roof styles. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height

will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.

(11) *Lot coverage.*

- a. The maximum lot coverage for one-story buildings is 40 percent.
- b. The maximum lot coverage for two-story buildings is 30 percent.

(12) *Landscape open space.*

- a. 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. Additionally, not less than 40 percent of the required front yard must be landscaped open space in the R-B district.

(13) *Cubic content ratio.*

- a. The maximum cubic content ratio shall be as follows:
 - 1. For lots of less than 10,000 square feet, the maximum allowable CCR shall be calculated as follows: $4.00 + [(10,000 - \text{the lot size}) \div 10,000]$.
 - 2. For lots between 10,000 and 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be calculated as follows: $3.50 + [(60,000 - \text{the lot size}) \div 50,000] \times 0.5$.
 - 3. For lots of greater than 60,000 square feet which are not identified in subsection 4 of this section, the maximum allowable CCR shall be 3.50.
 - 4. For lots of 20,000 square feet or greater which are adjacent to the waters of Lake Worth from Dunbar Road to Reef Road, the maximum allowable CCR shall be 4.50. For purposes of determining whether a lot is adjacent to the waters of Lake Worth, the traversing of all or a portion of the lot by Lake Trail shall not be considered when determining that adjacency.
- (5) Exceptions. One architectural tower feature involving no habitable space, as otherwise permitted under subsection 134-896(b), shall not be counted in calculating the cubic content of the structure. Unenclosed loggias, pergolas, porches, terraces and covered patios located on the first floor shall be excluded from the calculation of total cubic content up to 5% of allowable cubic content. Portions of unenclosed structures in excess of the 5% maximum, as well as those located above the first floor, shall be included in the calculation of total cubic content. Such appurtenances so erected may not in the future be enclosed or converted to permanent additions to the structure if such conversion would increase the cubic content of the structure beyond that allowed by the applicable cubic content ratio.
- b. For purposes of calculating the cubic content ratio, lot size shall be rounded to the nearest 100 square feet. For purposes of computing the resultant cubic content, the cubic content ratio shall be rounded to two decimal places. A table illustrating the cubic content ratio and associated cubic content for varying lots sizes resulting from the application of the above formulas is provided as attachment A to this chapter. This table also provides approximations of the likely floor areas achievable at varying average building heights.

- (c) *Existing building lots.* A single-family structure may be constructed on any existing nonconforming lot at the time of adoption of the ordinance from which this section derives in the R-B zoning district if the lot is less

than the minimum area and/or dimension required for building lots in this district; provided, however, that a special exception with site plan review would be required for an unplatted lot and site plan review would be required for a platted lot. A special exception and/or site plan review to develop or redevelop on a lot that is deficient in lot area or dimension cannot be considered by the town council until the architectural commission has completed review of the project.

In addition, all new construction must comply with all other provisions of the schedule of lot, yard and bulk requirements in subsection (a) of this section and provided, further, that the owner of such lot shall not own any adjacent vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.

(Ord. No. 2-74, schedule A, §§ 5.11, 5.15(c), 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. 1-93, § 3(a), 2-8-93; Ord. No. 9-93, § 2(b), 6-8-93; Ord. No. 1-94, § 2(a), 2-7-94; Ord. No. 10-95, § 1(a), 1-23-95; Ord. No. 1-96, §§ 8, 11, 2-5-96; Ord. No. 1-97, § 1, 2-17-97; Ord. No. 1-98, §§ 2—4, 6, 2-9-98; Ord. No. 2-98, §§ 1, 2, 2-27-98; Ord. No. 1-99, §§ 12—16, 4-5-99; Ord. No. 1-01, §§ 1, 3, 4, 2-19-01; Ord. No. 1-02, § 7, 3-12-02; Ord. No. 1-02, § 14, 3-12-02; Ord. No. 1-03, §§ 16, 20, 3-11-03; Ord. No. 1-05, § 4, 3-8-05; Ord. No. 5-09, § 37, 4-15-09; Ord. No. 12-09, §§ 1, 2, 6-10-09; Ord. No. 16-09, § 2, 11-12-09; Ord. No. 4-10, § 3, 2-10-10; Ord. No. 3-2012, § 2, 4-11-12; Ord. No. 4-2016, §§ 3, 4, 4-13-16; Ord. No. 16-2016, § 1, 12-14-16; Ord. No. 15-2017, § 4, 7-12-2017; Ord. No. 04-2018, § 17, 4-11-18)

Sec. 134-894. Same—Existing single-family dwelling development.

- (a) A single-family dwelling located in the R-B low 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:
 - (1) The addition complies with the current schedule of lot, yard and bulk regulations for this district; and
 - (2) The addition does not cause the dwelling to have more cubic content than allowed a new such dwelling under 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)

Sec. 134-895. Same—Exceptions to yard regulations.

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

- (1) Chimneys, cornices, eaves, bay windows and balconies may extend 24 inches from the main and/or accessory building into the yard area. Chimneys and bay windows shall not exceed ten feet in the horizontal, measured parallel to the building wall, and the total linear dimension for such projection shall not exceed 25 percent of the total dimension along the building wall from which such chimney and/or bay window may project.

- (2) A first floor unenclosed front entry 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 first floor 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
- (3) First floor main entrance covered ramps porches, open terraces, and/or steps may extend six feet into the required front yard setback. In addition, entry ramps, landings and associated steps not exceeding the minimum required for access may extend four feet into a required setback.
- (4) In this district 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. Said awnings and/or trellises so erected shall not count in the cubic content ratio calculations and shall 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.
- (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.

(Ord. No. 2-74, § 5.31, 3-26-74; Ord. No. 1-89, § 3(a), 2-6-89; Ord. No. 6-93, § 3(c), 2-9-93; Ord. No. 1-96, § 14, 2-5-96; Ord. No. 3-02, § 1, 7-9-02; Ord. No. 04-2018, § 18, 4-11-18; Ord. No. 19-2021, § 2, 9-13-21)

Sec. 134-896. Special exceptions to height limitations.

- (a) The permitted exceptions to height limitations in sections 134-1606 and 134-1607 in the R-B low density district are skylights not exceeding three feet above the roof, air conditioning equipment not exceeding four feet above the minimum building requirement for elevated stands on a roof, radio and television antennas for reception purposes only. Flagpoles and chimneys may be erected to a height not to exceed 40 percent above the building height limit for this district. Flagpoles in excess of this height may be permitted by special exception on properties of greater than five acres provided the flagpole is not in excess of 70 feet in height and is setback at least 120 feet from any lot line. However, such structures located upon the roof shall not cover in the aggregate a roof area greater than ten percent of the ground floor area of such building or structure. Radio and television antennas, air conditioning equipment, or similar equipment to operate and maintain a building which are permitted on the roof shall be sight screened insofar as possible. Solar [material] shall be permitted on the roof provided said material is approved by the Architectural Commission or Landmark Preservation Commission.
- (b) In the R-B zoning district, one architectural tower feature may be constructed as an integral part of a single-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. 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 in the R-B zoning district. It is also the intent that this subsection not apply to entry facades or parapets.

(Ord. No. 2-74, § 5.22(a), 3-26-74; Ord. No. 3-76, § 3, 3-23-76; Ord. No. 7-79, § 9, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 7-82, § 4(c), 3-31-82; Ord. No. 2-83, § 4(c), 2-23-83; Ord. No. 1-84, § 3(a), 3-1-84; Ord. No. 1-85, § 3(a), 2-11-85; Ord. No. 1-90, § 3(b)—(d), 2-5-90; Ord. No. 1-96, §§ 12, 13, 2-5-96; Ord. No. 1-98, § 7, 2-9-98; Ord. No. 1-99, § 17, 4-5-99; Ord. No. 7-09, §§ 3, 6, 5-13-09; Ord. No. 16-09, § 9, 11-12-09; Ord. No. 04-2018, § 20, 4-11-18)

Editor's note(s)—Section 6 of Ord. No. 7-09, adopted May 13, 2009, states the following: "Section 6. The newly adopted provisions contained herein relating to flag poles and flags shall not be applicable retrospectively to flags or flag poles permitted prior to the adoption of Ordinance No. 7-09 or, in the event not granted by permit, which have been in continuous existence for a period of three years or more prior to the adoption of this ordinance."

Sec. 134-897. Special exceptions to height regulations.

- (a) In the R-B low density residential district, in order to encourage meritorious architectural design, variety in the setback of structures, increased open space and landscaped open space, reduced lot coverage, and reduced cubic content ratio, 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 requirements in sections 134-1606 and 134-1607 in the R-B zoning district, provided the special exception meets the standards of sections 134-227 through 134-233 and the goals, standards, and guidelines set forth in this section. The town council shall find that:
 - (1) The proposed increase in height for a contemplated special exception structure is in the public interest.
 - (2) The structure is compatible with the site, adjacent properties and the neighborhood after consideration of:
 - a. The general form of the land before and after development or redevelopment;
 - b. The spatial relationships of the structures and open spaces to nearby land uses, including positioning of the building, transition in height and number of stories, garage placement, landscaping, and other site improvements;
 - c. The appearance, including building bulk, proportion, scale, massing, materials, colors, and architectural details, of buildings and open spaces as they contribute to the surrounding area; and
 - d. The protection of neighboring owners and uses by ensuring that reasonable provision has been made for such matters as surface water drainage, sound and sight buffers, the preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.
- (b) The maximum allowable overall height under this section shall be 35 feet for a two-story structure with a pitched roof and 30 feet for a two-story structure with a flat roof, provided the following standards are met:
 - (1) A maximum of 50 percent of the second story may be requested for a special exception to permitted overall height requirements. In addition, a minimum of 50 percent of the first floor shall be retained as one story, with the height not to exceed 20 feet overall for pitched roofs and 17 feet overall for flat roofs. (Note: It is not the intent of this section to discourage other portions of the second story to be built at 30 feet for pitched roofs and 27 for flat roofs or less, which would permit three or more roof levels.)
 - (2) The minimum rear yard setback for all parts of the second-story portion of construction shall be 15 feet. The minimum rear yard setback for first-story portions shall be ten feet.
 - (3) The minimum side yard setback for all parts of the second-story portion of construction shall be 17.5 feet. The minimum side yard setback for first-story portions shall be 12.5 feet.
 - (4) The minimum front yard, street side yard, and street rear yard setbacks shall be 35 feet for the second-story portion over 30 feet overall height for pitched roofs and over 27 feet overall height for flat roofs.

- (5) Lot coverage for lots in excess of 15,000 square feet in area shall be limited to a maximum 22.5 percent.
- (6) Garages shall be designed so that the opening will not face a street or shall be sight-screened by landscaping.
- (7) The maximum permitted cubic content ratio (CCR) shall be one percent less than the permitted FAR for the R-B zoning district.
- (8) All other R-B zoning district regulations shall apply.

(Ord. No. 2-74, § 5.48(II), 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. 1-97, § 4, 2-17-97; Ord. No. 1-99, § 2, 4-5-99)

Sec. 134-898. Lot grade topography and drainage.

In the R-B, low 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, § 35, 12-15-10; Ord. No. 19-2021, § 3, 9-13-21)

Sec. 134-899. Supplementary district regulations.

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

Sec. 134-900. Off-street parking and loading.

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

Sec. 134-901. Signs.

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

Sec. 134-902. 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. 134-903—134-940. Reserved.

EXHIBIT A

PART II - CODE OF ORDINANCES
Chapter 134 - ZONING
ARTICLE VI. - DISTRICT REGULATIONS
DIVISION 12. C-B COMMERCIAL DISTRICT

DIVISION 12. C-B COMMERCIAL DISTRICT¹

Sec. 134-1301. Purpose.

The purpose of the C-B commercial district is to create an environment especially suited to a group of professional and administrative offices compatible in appearance with single-family housing.

(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. 134-1302. Permitted uses.

- (a) Enumeration; maximum gross leasable area. The permitted uses in the C-B commercial district require a site plan and review as required in article III of this chapter.
- (b) The permitted uses in the C-B commercial district are as follows:
 - (1) Business and professional offices/services and executive office suites, excluding veterinarians.
 - (2) Banks and financial institutions.
 - (3) Churches, synagogues or other houses of worship.
 - (4) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 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. 1-04, § 26, 3-9-04; Ord. No. 2-2011, § 8, 7-13-11; Ord. No. 7-2014, § 9, 5-14-14; Ord. No. 8-2017, § 4, 4-12-17; Ord. No. 12-2021, § 9, 6-9-21)

¹Cross reference(s)—Businesses, ch. 22.

Sec. 134-1303. Accessory uses.

- (a) The accessory uses in the C-B commercial district require a site plan and review as provided in article III of this chapter.
- (b) The accessory uses in the C-B commercial district are as follows:
 - (1) Off-street parking and loading.
 - (2) Signs.
 - (3) Accessory uses customarily incident to the permitted or approved special exception 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. 5-09, § 14, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

Sec. 134-1304. Special exception uses.

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-B commercial district are as follows:
 - (1) Public or private parking lots or storage garages.
 - (2) Auto rental lot.
 - (3) Supplemental parking.
 - (4) Public or private academic schools.
 - (5) Hotels at a maximum of 26 units per acre.
 - (6) Timesharing uses at a maximum of nine units per acre.
 - (7) Roof-deck automobile parking.
 - (8) Permitted uses, or uses not specifically enumerated under permitted uses in section 134-1302 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein, which are greater than 3,000 square feet gross leasable area.
 - (9) Nonprofit cultural centers.
 - (10) Outdoor cafe seating for only hotels, condo-hotels, dining rooms, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
 - (11) Condo-hotels at a maximum of 17 units per acre, in accordance with section 134-2110.
 - (12) Essential services related to town-owned municipal buildings and structures.
 - (13) Dining rooms when not more than 15 percent of the gross floor area of a building; no exterior or external advertising to be permitted.
 - (14) Planned unit development, PUD (5) (see article V of this chapter for standards).

- (b) An owner or tenant of a property, located within the C-B district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(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. 1-03, § 6, 3-11-03; Ord. No. 5-09, §§ 15, 22, 4-15-09; Ord. No. 2-2011, § 9, 7-13-11; Ord. No. 3-2012, § 7, 4-11-12; Ord. No. 02-2019, § 13, 3-19-19; Ord. No. 17-2019, § 11, 6-12-19; Ord. No. 12-2021, § 10, 6-9-21; Ord. No. 16-2021, § 14, 8-11-21)

Sec. 134-1305. Reserved.

Ord. No. 16-2021, § 13, adopted August 11, 2021, repealed § 134-134-1305, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 5-09, § 16, 4-15-09.

Sec. 134-1306. Accessory structures.

- (a) *Generally.* Enclosed accessory structures in the C-B commercial district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *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. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of 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; shall 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 commercial 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.

(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. 1-99, § 10, 4-5-99; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1307. Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1302 which involve more than 2,000 square feet of building floor area of buildings in the C-B commercial district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1308. Lot, yard and area requirements—Generally.

In the C-B commercial district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 15,000 square feet.
- (2) *Lot width.* The minimum lot width is 100 feet.
- (3) *Lot depth.* The minimum lot depth is 150 feet.
- (4) *Density.*
 - a. The maximum density for hotels within C-B commercial district shall be 26 dwelling units per acre.
 - b. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
 - a. For one-story buildings, the minimum front yard setback is ten feet.
 - b. For two-story buildings, the minimum front yard setback is ten feet.
 - c. The minimum front yard setback is 25 feet when applied to hotel uses and timesharing uses permitted as a special exception in a C-B district.
 - d. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (6) *Side yard.*
 - a. For one-story buildings, the minimum side yard setback is ten feet.
 - b. For two-story buildings, the minimum side yard setback is ten feet.
 - c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (7) *Rear yard.*
 - a. For one-story buildings, the minimum rear yard setback is 15 feet.
 - b. For two-story buildings, the minimum rear yard setback is 15 feet.

- c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (8) *Height and overall height.*
- a. For one-story buildings, the maximum building height is 15 feet.
 - b. For two-story buildings, the maximum building height is 25 feet.
 - c. 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. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (9) *Lot coverage.*
- a. For one-story buildings, the maximum lot coverage is 60 percent.
 - b. For two-story buildings, the maximum lot coverage is 30 percent.
 - c. The maximum lot coverage for two-story buildings is 50 percent when applied to hotel uses and timesharing uses permitted as a special exception in a C-B district.
- (10) *Length.*
- a. For one-story buildings, the maximum building length is 150 feet.
 - b. For two-story buildings, the maximum building length is 150 feet.
 - c. Sub-basements are exempt from the maximum building length, requirement. Individual building elements extending above ground from a single sub-basement shall each, be considered as a separate building for the purpose of calculating building length.
- (11) *Landscaped open space.*
- a. For one-story buildings, the minimum landscaped open space is 20 percent.
 - b. For two-story buildings, the minimum landscaped open space is 30 percent.
 - c. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-B district.

(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. 5-09, § 16, 4-15-09; Ord. No. 16-2016, § 5, 12-14-16; Ord. No. 04-2018, § 21, 4-11-18)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1309. Same—Exceptions.

- (a) In the C-B commercial district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.

- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
 - (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
 - (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
 - (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.
 - (f) 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; and, does not block a sidewalk or walkway.
 - (g) 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, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02; Ord. No. 5-09, § 16, 4-15-09; Ord. No. 19-2021, § 4, 9-13-21)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1310. Commercial buildings.

In addition to the site plan review required by article III of this chapter, the town council shall consider the following guidelines and development requirements in connection with such review of commercial buildings in the C-B commercial zoning district:

- (1) *Maximum dimension.* The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.
- (2) *Distance between buildings.* The side of any building shall be no closer to the side, front, or rear of any other building than 20 feet.

(Ord. No. 2-74, § 6.55(a), 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1311. Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-B commercial district are contained in article VIII of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1312. Off-street parking and loading.

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

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1313. Signs.

The sign regulations which may be applicable in the C-B commercial district are contained in article XI of this chapter.

(Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1314. 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; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1315. Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00; Ord. No. 5-09, § 16, 4-15-09)

Editor's note(s)—See note at section 134-1305.

Sec. 134-1316. Lot grade topography and drainage.

In the C-B commercial 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. 19-2021 , § 5, 9-13-21)

Secs. 134-1317—134-1350. Reserved.

Exhibit A

PART II - CODE OF ORDINANCES
Chapter 134 - ZONING
ARTICLE VI. - DISTRICT REGULATIONS
DIVISION 8. C-TS TOWN-SERVING COMMERCIAL DISTRICT

DIVIDIVISION 8. C-TS TOWN-SERVING COMMERCIAL DISTRICT¹

Sec. 134-1106. Purpose and limitations.

The purposes of the C-TS town-serving commercial district are to:

- (1) Create, preserve and enhance areas of attractive, small-scale, retail, personal and professional/business services to be developed either as a unit or in individual parcels, providing for the frequently recurring needs of townpersons.
- (2) Enhance the general character of the district and its compatibility with its residential surroundings, and, therefore, signs are limited to those accessory to businesses conducted on the premises, including the number, area and types; retail drive-in facilities are not permitted, and, in order to maintain the town-serving nature of the district, limitations on gross leasable floor (GLA) area are imposed.

(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. 134-1107. Permitted uses.

- (a) *Enumeration; maximum gross leasable area.* The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:
 - (1) Retail and service establishments, such as hardware stores, food stores, clothing stores, drugstores, barbershops, beauty salons and jewelry stores.
 - (2) Offices, executive office suites, professional services, business services, excluding veterinarian offices, and securities and financial brokerage and trust companies above the first floor.
 - (3) Offices, professional services, business services and securities and financial brokerage and trust companies in the 200 block of Peruvian Avenue and Bradley Place.
 - (4) Nonprofit cultural centers.
 - (5) Professional and studio type schools.
 - (6) Storage facility related to a permitted or special exception use in the district provided said use meets all additional conditions in section 134-1760 of this chapter.

¹Cross reference(s)—Businesses, ch. 22.

- (7) Essential services.
 - (8) Public parks.
 - (9) Residence(s) above the first floor.
 - (10) Supplemental off-site shared parking as provided for in sections 134-2177 and 134-2182. This use will sunset on March 13, 2024, unless extended or modified by town council.
- (b) *Regulation of existing nonconforming commercial uses.* Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses. However, all future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 8,000 square feet exists in the C-TS district and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square-foot offices, the owner would need to apply for and obtain approval of a special exception from the town council. No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

(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, § 4, 2-5-96; Ord. No. 1-98, § 5, 2-9-98; Ord. No. 1-02, § 9, 3-12-02; Ord. No. 1-04, §§ 17, 22, 3-9-04; Ord. No. 1-05, § 2, 3-8-05; Ord. No. 4-08, § 8, 4-7-08; Ord. No. 5-2011, § 3, 3-9-11; Ord. No. 2-2011, § 3, 7-13-11; Ord. No. 7-2014, § 5, 5-14-14; Ord. No. 13-2015, § 1, 5-13-15; Ord. No. 8-2017, § 1, 4-12-17; Ord. No. 17-2019, § 5, 6-12-19; Ord. No. 01-2021, § 2, 2-10-21; Ord. No. 12-2021, § 1, 6-9-21; Ord. No. 20-2021, § 2, 9-13-21)

Editor's note(s)—Ord. No. 7-2014, § 5, adopted May 14, 2014, set out provisions amending subsection 134-1108(a)(2). To correct a scrivener's error, and at the editor's discretion, these provisions have been included as amending subsection 134-1107(a)(2).

Sec. 134-1108. Accessory uses.

The accessory uses in the C-TS town-serving commercial district are as follows:

- (1) Off-street parking and loading.
- (2) Signs.
- (3) Accessory uses customarily incident to the permitted or approved special exception 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. 5-09, § 5, 4-15-09; Ord. No. 16-2021, § 11, 8-11-21)

Sec. 134-1109. Special exception uses.

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:
- (1) Public or private parking lots or storage garages.
 - (2) Auto rental lots.
 - (3) Private social, swimming, golf, tennis and yacht clubs.
 - (4) Service stations.
 - (5) Public structures/uses.
 - (6) Essential services related to town-owned municipal buildings and structures.
 - (7) Supplemental parking per sections 134-2177 and 134-2182.
 - (8) Public or private academic schools.
 - (9) Drive-in business service facilities.
 - (10) Churches, synagogues or other houses of worship.
 - (11) Permitted uses, or uses not specifically enumerated under permitted uses in section 134-1107 but having traffic, patronage and intensity of use characteristics similar to those uses cited therein, which are greater than 3,000 square feet gross leasable area.
 - (12) Banks and financial institutions, excluding securities or financial brokerage and trust companies.
 - (13) Roof-deck automobile parking.
 - (14) Outdoor cafe seating is permitted only for restaurants, retail specialty food including the sale of prepared food for takeout only, and private, social, swimming, golf, tennis and yacht clubs, provided that all requirements and conditions in sections 134-2104 through 134-2108 are met.
 - (15) Veterinarian offices above the first floor.
 - (16) Museums occupying building of unique value as designated historical landmarks, as determined by the landmarks preservation commission and the town council.
 - (17) Nightclubs.
 - (18) Except as provided for in subsection 134-1107(3), offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there are at least 50 percent existing office uses on all floors of the building in which the office use is proposed and more than 50 percent existing office uses on the first floor within 300 feet of the proposed office use within the same zoning district.
 - (19) Private parks.

- (20) Medical marijuana treatment centers and medical marijuana dispensaries are prohibited, however, should state law preempt said prohibition, said uses shall be permitted subject to the requirements in sections 134-2113 through 134-2114 of this chapter.
- (21) Outdoor promotional events. See section 134-2115 for additional conditions and criteria.
- (22) Restaurants, excluding formula restaurants, as defined in section 134-2 and bars/lounges.
- (23) Planned unit development, PUD (5) (see article V of this chapter for standards).

- (b) An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt.

(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, § 3, 2-5-96; Ord. No. 1-98, § 5, 2-9-98; Ord. No. 1-02, § 8, 3-12-02; Ord. No. 1-03, § 2, 3-11-03; Ord. No. 1-04, § 28, 3-9-04; Ord. No. 1-07, § 3, 4-10-07; Ord. No. 5-09, § 6, 4-15-09; Ord. No. 5-2011, § 4, 3-9-11; Ord. No. 2-2011, § 4, 7-13-11; Ord. No. 3-2012, § 4, 4-11-12; Ord. No. 7-2014, § 5, 5-14-14; Ord. No. 13-2015, § 2, 5-13-15; Ord. No. 24-2016, § 2, 1-11-17; Ord. No. 30-2017, § 2, 1-10-18; Ord. No. 02-2019, § 9, 3-19-19; Ord. No. 17-2019, § 6, 6-12-19; Ord. No. 01-2021, § 3, 2-10-21; Ord. No. 12-2021, § 2, 6-9-21; Ord. No. 16-2021, § 12, 8-11-21)

Editor's note(s)—Ord. No. 13-2015, § 2, adopted May 13, 2015, set out provisions intended for use as subsection 134-1109(a)(15). To maintain the current subsection 134-1109(a)(15) as added by Ord. No. 7-2014, § 5, adopted May 14, 2014, and at the editor's discretion, these provisions have been included herein as subsection 134-1109(a)(19).

Sec. 134-1110. Accessory structures.

- (a) *Generally.* Enclosed accessory structures in the C-TS town-serving commercial district shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten feet.
- (b) *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. Each residential unit or commercial tenant space shall not be limited as to the number of dish antennas of 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; shall 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 commercial 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.

(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. 1-99, § 10, 4-5-99)

Sec. 134-1111. Reserved.

Ord. No. 16-2021, § 13, adopted August 11, 2021, repealed § 134-111, which pertained to stands, seated dining areas and open counters for eating and drinking and derived from Ord. No. 2-74, § 6.61, 3-26-74; Ord. No. 3-77, § 14, 3-29-77; Ord. No. 1-89, 4(f), 2-6-89; Ord. No. 1-04, § 15, 3-9-04; Ord. No. 5-09, § 7, 4-15-09.

Sec. 134-1112. Commercial uses; site plan approval for new buildings, new building additions or changes in permitted uses over certain floor area.

All applications for new buildings or for new building additions or for changes in a permitted use in section 134-1107 which involve more than 2,000 square feet of building floor area of buildings in the C-TS town-serving commercial district shall require a site plan approval in accordance with article III of this chapter. No certificate of occupancy shall be issued for any building, unless all facilities included in the site plan have been provided in accordance therewith. The maximum dimension of any structure or group of attached structures shall not exceed 150 feet.

(Ord. No. 2-74, § 6.55, 3-26-74; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 14, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 7-82, § 5(d), 3-31-82; Ord. No. 1-85, § 4(h), 2-11-85)

Sec. 134-1113. Lot, yard and area requirements—Generally.

In the C-TS town-serving commercial district, the schedule of lot, yard and area requirements is as given in this section:

- (1) *Lot area.* The minimum lot area is 4,000 square feet.
- (2) *Lot width.* The minimum lot width is 30 feet.
- (3) *Lot depth.* The minimum lot depth is 90 feet.
- (4) *Density.* A single dwelling unit, or multiple dwelling units not to exceed six dwelling units per gross acre. See article III of this chapter for site plan review requirements.
- (5) *Front yard.*
 - a. For one-story buildings, the minimum front yard setback is five feet.
 - b. For two-story buildings, the minimum front yard setback is five feet.
 - c. All buildings shall be set back so as to provide at least a ten-foot-wide pedestrian walkway between the street curbline and the building, exclusive of beautification strips, not more than five feet of which may be on the town street right-of-way, where appropriate, and addition-ally,

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to provide for the minimum building front yard setback, which shall be measured from the inside (lot side) of the required pedestrian walkway. Where no front yard building setback is approved or required, two feet of the required ten-foot-wide pedestrian walkway, adjacent to the inside (lot side) of the walkway, may be landscaped by placement of potted plants or removable planters. Such potted plants or planters shall include xeriscape landscaping whenever possible.

- d. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet.
- (6) *Side yard.*
- a. There is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided. When the side yard of a C-TS property adjoins property zoned in any R district, a ten-foot side yard is required on that side.
 - b. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (7) *Rear yard.*
- a. For one-story buildings, the minimum rear yard setback is ten feet.
 - b. For two-story buildings, the minimum rear yard setback is ten feet.
 - c. For buildings in excess of 15 feet in height, increase all minimum yard requirements one foot for each two feet of building height, or portion thereof, exceeding 15 feet. Side yards shall be as calculated or five feet, whichever is greater.
- (8) *Height and overall height.*
- a. For one-story buildings, the maximum building height is 15 feet.
 - b. For two-story buildings, the maximum building height is 25 feet.
 - c. In this district, the maximum building height allows one story, with provision for a special exception for two stories. See special exception provisions in sections 134-227 through 134-233 (special exception use), section 134-1115 relating to allowable height and lot coverage, and article III of this chapter (site plan review).
 - d. 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. When a parapet is used above the maximum building height, as defined in section 134-2, the building overall height will be calculated based on the flat roof style identified above. Parapet walls extending above the maximum allowable building height shall have appropriate architectural treatment.
- (9) *Lot coverage.*
- a. For one-story buildings, the maximum lot coverage is 70 percent.
 - b. For two-story buildings, the maximum lot coverage is 70 percent.
- (10) *Length.*
- a. For one-story buildings, the maximum building length is 150 feet.
 - b. For two-story buildings, the maximum building length is 150 feet.

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- c. Sub-basements are exempt from the maximum building length requirement. Individual building elements extending above ground from a single sub-basement shall each, be considered as a separate building for the purpose of calculating building length.

(11) *Landscaped open space.*

- a. For one-story buildings, the minimum landscaped open space is 15 percent.
- b. For two-story buildings, the minimum landscaped open space is 25 percent.
- c. Additionally, not less than 35 percent of the required front yard must be landscaped open space in the C-TS district.

(12) *Floor area.*

- a. For one-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
- b. For two-story buildings, the maximum gross floor area of buildings is 15,000 square feet.
- c. Sub-basements shall be exempt from the maximum floor area requirements. Individual building elements extending above ground from, a single sub-basement shall each be considered as a separate building for the purpose of calculating building floor area.

(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. 1-04, § 31, 3-9-04; Ord. No. 16-2016, § 2, 12-14-16)

Sec. 134-1114. Same—Exceptions.

- (a) In the C-TS town-serving commercial district, cornices, solid canopies, or architectural features may extend 48 inches over the sidewalk or required yard area, provided they shall have nine feet of vertical clearance between any solid construction and the sidewalk or yard.
- (b) Marquees or canvas-covered fireproof canopies, no wider than entranceways, may be constructed over main entrances to hotels, theaters and places of public assembly and may extend to the face of the curb, provided that no support shall be nearer than 18 inches to the face of the curb, and the installation shall have a minimum of nine feet of vertical clearance between any solid construction and the sidewalk.
- (c) No projections shall be allowed in the required rear yard except open-type fire escapes, and these must be provided with a counter-balanced bottom section to provide for nine feet of clearance when up.
- (d) Awnings may be suspended over sidewalks or ways, provided that they shall not project nearer than 18 inches to the face of the street curblin or more than eight feet from the exterior wall of the building, and the installation shall have at least seven feet six inches of vertical clearance between any solid construction and the sidewalk or way. Cloth front and side drops shall measure not less than six feet six inches from their lowest point to the sidewalk or way.
- (e) One open, one story pergola may extend five feet into a setback provided said structure does not exceed a height of nine feet; the supporting beams do not obstruct a sidewalk or walkway.
- (f) 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; and, does not block a sidewalk or walkway.

(Ord. No. 2-74, § 5.33(a)—(d), 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-91, § 3(c), 4-23-91; Ord. No. 3-02, § 3, 7-9-02)

Sec. 134-1115. Special exception to height regulations; special exception structures.

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 C-TS town-serving commercial 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:

Two-story guidelines. Lot coverage not more than 35 percent.

(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)

Sec. 134-1116. Supplementary district regulations.

The supplementary district regulations which may be applicable to the C-TS town-serving commercial district are contained in article VIII of this chapter.

Sec. 134-1117. Off-street parking and loading.

The off-street parking or loading requirements which may be applicable in the C-TS town-serving commercial district are contained in article IX of this chapter.

Sec. 134-1118. Signs.

The sign regulations which may be applicable in the C-TS town-serving commercial district are contained in article XI of this chapter.

Sec. 134-1119. 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)

Sec. 134-1120. Architectural tower features.

In the commercial zoning districts, a maximum of two towers as architectural features may be constructed as integral parts of the building provided that no tower(s) exceeds the allowable overall height by more than five feet; such tower(s) is set back an additional five feet on the front, rear, side, and street side and street rear yards; and, such tower(s) has no habitable floor area. The area of such tower(s) shall in combination not exceed two percent of the gross floor area of the building. This section does not apply to entry facades or parapets.

(Ord. No. 1-00, § 2, 2-22-00)

Sec. 134-1121. Lot grade topography and drainage.

In the C-TS, commercial town serving 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. 19-2021 , § 5, 9-13-21)

Secs. 134-1122—134-1155. Reserved.

EXHIBIT A
PART II - CODE OF ORDINANCES
Chapter 134 - ZONING
ARTICLE V. PLANNED UNIT DEVELOPMENT PROCEDURE

ARTICLE V. PLANNED UNIT DEVELOPMENT PROCEDURE

DIVISION 1. GENERALLY

Sec. 134-476. Purpose.

- (a) The purpose of planned unit development regulations is to:
 - (1) Encourage flexibility in the design and development of land in order to promote its most appropriate use;
 - (2) Facilitate the adequate and economical provision of streets, utilities and public spaces; and
 - (3) Preserve the natural and scenic qualities of open areas.
- (b) The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety and welfare and morals both in the use and occupancy of buildings and facilities in planned groups.
- (c) In addition to subsections (a) and (b) of this section, PUD-4 historical preservation-residential development is intended to preserve structures and premises of significant historical or architectural value to the town by allowing for low-density residential development at a density calculated on the area of the entire property, excluding the area of property required by the town to be assigned to the historical structure. Structures and/or premises listed in the national record or in any historical report recognized by the town council may be considered significant for the purposes of this article. In addition, the town council may declare any other structure and/or premises to be of historical or architectural significance.

(Ord. No. 2-74, § 7.10, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 1-92, § 5(a), 2-3-92)

Sec. 134-477. District regulations.

The requirements and regulations for a PUD district are contained in division 14 of article VI of this chapter.

Sec. 134-478. Town council approval for permitted use and special exception use; review by planning and zoning commission; hearing; site plan review of application.

- (a) A planned unit development, when a permitted use, shall be subject to the approval of the town council after a review and report by the planning and zoning commission and after a public hearing is held by the town council in accordance with law.
- (b) A planned unit development, when a special exception use, shall be subject to the approval of the town council after a review and report by the planning and zoning commission and after a public hearing is held by the town council in accordance with law. The review by the planning and zoning commission shall be to make findings pursuant to sections 134-227 through 134-233 and other applicable sections of this chapter and to make recommendations thereon.
- (c) Every application for approval of a planned unit development shall require concurrent site plan review in accordance with article III of this chapter.

(Ord. No. 2-74, § 7.20, 3-26-74; Ord. No. 7-79, § 15, 3-30-79; Ord. No. 1-04, § 42, 3-9-04)

Secs. 134-479—134-505. Reserved.

DIVISION 2. PROCEDURE

Subdivision I. In General

Secs. 134-506—134-530. Reserved.

Subdivision II. Tentative Approval

Sec. 134-531. Application.

In order to provide an expeditious method for processing a plan for a planned unit development, under the terms of this chapter, it is declared to be in the public interest that all procedures with respect to the approval or disapproval of a plan for a planned unit development, and the continuing administration thereof, shall be consistent with the following:

- (1) An application for tentative approval of the plan for a planned unit development shall be filed by or on behalf of the landowner with the building official.
- (2) The following information shall be submitted with the application:
 - a. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed.
 - b. The density of land use to be allocated to parts of the site to be developed.
 - c. The location and size of any common open space and the form or organization proposed to own and maintain any common open space.
 - d. The use and the approximate height, bulk and location of buildings and other structures.
 - e. The feasibility of proposals for the disposition of sanitary waste and stormwater.
 - f. The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.
 - g. The provisions for parking of vehicles and the location and width of proposed streets and public ways.
 - h. The required modifications in the town land use regulations otherwise applicable to the subject property.
 - i. For plans that call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
 - j. For PUD-4, a complete description of the historical and/or architecturally significant structures and/or premises and provisions for their preservation. The portion of the property to be devoted to the preservation shall be delineated.

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- (3) The application for tentative approval of a planned unit development shall include a written statement by the landowner or any other entity having a cognizable interest in the land, setting forth the reasons why, in his opinion, a planned unit development would be in the public interest and would be consistent with the town's statement of purposes on planned unit development.

(Ord. No. 2-74, § 7.31, 3-26-74; Ord. No. 5-78, § 13, 3-31-78)

Sec. 134-532. Public hearings.

- (a) Upon submission of a complete planned unit development application, the planning and zoning commission shall hear said application within 60 days of the application being deemed complete by the director of the planning, zoning and building department or designee. A public hearing on the planned unit development application shall then be held by the planning and zoning commission and town council after public notice is given in accordance with law. A copy of the PUD application shall be mailed to the owners of the property and the property immediately adjacent thereto and across the street therefrom and to all property owners within 300 feet from any part of the subject property at the address shown on the county property appraiser's tax records, together with a notice from the director or designee advising the date, time and location of the hearing on such application before the planning and zoning commission and town council. Such list of property owners, together with a notification map, shall be provided by the applicant and shall be certified by the applicant as being true and accurate. The applicant shall be required to mail the application to the property owners within notification area within five days of submittal of the application to the town. No application shall be heard less than ten days after the first publication notice as provided in this section and 15 days after the mailing to property owners directly affected, and all applications will be heard at regular meetings of the town council unless otherwise ordered by the town council.
- (b) A transcript of the hearing shall be caused to be made by the town council, copies of which shall be made available at cost to any party to the proceedings, and all exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. The planning and zoning commission shall report on the proposed planned unit development not less than 15 days before the public hearing, and the report shall be available for public inspection during reasonable hours.

(Ord. No. 2-74, § 7.32, 3-26-74; Ord. No. 2-83, § 6, 2-23-83; Ord. No. 1-04, §§ 38, 43, 3-9-04; Ord. No. 5-09, § 26, 4-15-09; Ord. No. 11-2018, § 5, 7-11-18)

Sec. 134-533. Grant or denial.

- (a) The town council shall, within 60 days following the conclusion of the public hearing for tentative approval of a planned unit development, by written resolution either (i) grant tentative approval of the plan as submitted, (ii) grant tentative approval subject to specified conditions not included in the plan as submitted, or (iii) deny tentative approval to the plan. Failure of the town council to so act within such period shall be deemed to be a grant of tentative approval of the plan as submitted.
- (b) If tentative approval is granted, other than by lapse of time, either of the plan as submitted or of the plan with conditions, the town council shall, as part of its resolution, specify the drawings, specifications and form of performance bond that shall accompany an application for final approval.
- (c) If tentative approval is granted subject to conditions, the landowner shall, if he finds such conditions to be unacceptable, within 45 days after receiving a copy of the written resolution of the town council, notify the town council of his refusal to accept the conditions.

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- (d) If the landowner refuses to accept all the conditions, the town council shall be deemed to have denied tentative approval of the plan.
- (e) If the landowner does not, within such period, notify the town council of his acceptance of or his refusal to accept all the conditions, tentative approval of the plan, with all the conditions, shall stand as granted.
- (f) Nothing contained in this section shall prevent the town council and the landowner from mutually agreeing to a change in such conditions, and the town council may, at the request of the landowner, extend the time during which the landowner shall notify the town council of his acceptance or refusal to accept the conditions.
- (g) The grant or denial of tentative approval by written resolution shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and the resolution shall set forth with particularity in which respects the plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:
 - (1) In what respects the plan is or is not consistent with the purpose of a planned unit development, as expressed in section 134-476.
 - (2) The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are not deemed to be in the public interests.
 - (3) The purpose, location and amount of the common open space in the planned unit development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of development.
 - (4) The physical design of the plan and the manner in which the design does or does not make adequate provision for public services, provide adequate control over vehicular traffic and further the amenities of light and air, recreation and visual enjoyment.
 - (5) The relationship, beneficial or adverse, of the proposed planned unit development to the neighborhood in which it is proposed to be established.
 - (6) For a plan that proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and of the residents and owners of the planned unit development in the integrity of the plan.
 - (7) The historical or architectural significance of any structure and/or premises and the adequacy of provisions for its preservation.
- (h) If a plan is granted tentative approval, with or without conditions, the town council shall set forth in the written resolution the time within which an application for final approval of the plan shall be filed or, for a plan that provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. The time so established between grant of tentative approval and application for final approval shall not be less than three months and, for developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than six months. Nothing contained in this subsection shall be construed to limit a landowner from the presentation of any application for final approval earlier than the time period set forth in this subsection.

(Ord. No. 2-74, § 7.33, 3-26-74; Ord. No. 5-78, § 13, 3-31-78)

Sec. 134-534. Status of plan after tentative approval.

- (a) Within five working days after the adoption of the written resolution provided for in section 134-533, it shall be certified by the town clerk and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the approval shall be noted on the zoning map maintained in the office of the town clerk.
- (b) Tentative approval of a plan shall not qualify a plat of the planned unit development for recording or authorize development or issuance of any building permits. A plan which has been given tentative approval as submitted or which has been given tentative approval with conditions that have been accepted by the landowner, and provided that the landowner has not defaulted or violated any of the conditions of the tentative approval, shall not be modified, revoked or otherwise impaired by action of the town pending an application for final approval, without the consent of the landowner, provided an application for final approval is filed or, for development over a period of years, provided applications are filed within the periods of time specified in the resolution granting tentative approval.
- (c) If a plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon part or all of the plan and shall so notify the town council in writing, or if the landowner shall fail to file application for final approval within the required period of time, as the case may be, tentative approval shall be deemed to be revoked, and all that portion of the area included in the plan for which final approval has not been given shall be subject to the sections of this chapter applicable thereto, as they may be amended from time to time, and such shall be noted on the zoning map in the office of the town clerk and in the records of the town clerk.

(Ord. No. 2-74, § 7.34, 3-26-74)

Secs. 134-535—134-560. Reserved.

Subdivision III. Final Approval

Sec. 134-561. Application.

- (a) An application for final approval of a planned unit development may be for all the land included in a plan or the extent set forth in the tentative approval for a section thereof. The application shall be made to the director of planning, zoning and building or designee. The application shall include such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth by written resolution of the town council at the time tentative approval. A public hearing on an application for final approval of the plan or part thereof shall not be required, provided the plan, or the part thereof submitted for final approval, is in substantial compliance with the plan theretofore given tentative approval. The town council shall find that any changes to the tentative plan shall not be in contravention to the public's best interests.
- (b) When the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof and as required by the resolution of tentative approval, the town council shall, within 45 days of such filing, grant such plan final approval.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84; Ord. No. 26-10, § 7, 12-15-10)

Sec. 134-562. Refusal to grant for variations in tentatively approved plan.

- (a) If the final plan for a planned unit development as submitted contains variations from the plan given tentative approval, the town council may, after a meeting with the landowner, refuse to grant final approval and shall, within 45 days from the filing of application for final approval, so advise the landowner in writing of the refusal, setting forth in the notice the reasons why one or more of the variations are not in the public interest.
- (b) If refusal occurs, the landowner may:
 - (1) File his application for final approval without the variations objected to by the town council on or before the last day of the time within which he was authorized by the resolution granting tentative approval to file for final approval, or within 30 days from the date he received notice, whichever date shall last occur;
 - (2) Treat the refusal as a denial of final approval; or
 - (3) File a written request with the town council that it hold a public hearing on his application for final approval. Any such public hearing shall follow the procedure for tentative approval and shall be held during the next annual public hearing period starting with October.
- (c) Within 45 days after the conclusion of the hearing, the town council shall by resolution either grant final approval to the plan or deny final approval to the plan. The grant or denial of final approval of the plan shall, in cases arising under this subsection, be in the form and contain the findings required for a resolution on an application for tentative approval set forth in section 134-532.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84; Ord. No. 1-04, § 39, 3-9-04)

Sec. 134-563. Certification; filing of record plat; modification before completion of development.

- (a) A plan for a planned unit development or any part thereof that has been given final approval by the town council shall be so certified without delay by the town clerk, and a record plat may be filed on record forthwith in the office of the county clerk in accordance with F.S. ch. 177 before any development shall take place in accordance therewith. Upon the filing on record of the plan, all other ordinances and subdivision regulations otherwise applicable to the land included in the plan shall cease to apply thereto.
- (b) Pending completion within five years of the planned unit development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of the plan or part thereof, as finally approved, shall be made nor shall it be impaired by act of the town, except with the consent of the landowner.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84)

Sec. 134-564. Abandonment; termination.

If a plan for a planned unit development or section thereof is given final approval and thereafter the landowner shall abandon the plan or the section thereof that has been finally approved and shall so notify the town council in writing or if the landowner shall fail to commence the planned unit development within 18 months, such final approval shall terminate and be deemed null and void unless such time period is extended by the town upon written request of the landowner.

(Ord. No. 2-74, § 7.35, 3-26-74; Ord. No. 1-84, § 5, 3-1-84)

Secs. 134-565—134-590. Reserved.

DIVISION 3. REGULATIONS

Subdivision I. In General

Secs. 134-591—134-615. Reserved.

Subdivision II. Permitted Uses

Sec. 134-616. Districts where permitted.

Planned unit developments are a permitted use within PUD-A, PUD-B, PUD-C, and PUD-D districts as indicated on the Amended Zoning Map of the Town of Palm Beach, Florida, adopted by reference and made a part of this chapter.

(Ord. No. 2-74, § 7.41, 3-26-74; Ord. No. 7-78, § 4, 5-9-78)

Sec. 134-617. Compliance.

When developed as a permitted use within PUD-A, PUD-B, PUD-C, or PUD-D district, planned unit developments shall conform to the regulations in this subdivision, other pertinent sections of this chapter and the principles set forth in the comprehensive plan of the town.

(Ord. No. 2-74, § 7.42, 3-26-74)

Sec. 134-618. Minimum area.

Minimum area requirements for permitted use planned unit developments are as follows:

- (1) PUD-A, mixed use district, 25 contiguous acres undivided by any public right-of-way or easement.
- (2) PUD-B, residential mix district, 15 contiguous acres undivided by any public right-of-way or easement.
- (3) PUD-C, residential mix district, four contiguous acres undivided by any public right-of-way or easement.
- (4) PUD-D, mixed use district, six (6) contiguous acres undivided by any public right-of-way or easement.

(Ord. No. 2-74, § 7.421, 3-26-74)

Sec. 134-619. Open space.

In permitted use planned unit developments in the PUD-A, PUD-B, PUD-C, and PUD-D districts, not less than 15 percent of the planned unit site areas shall be developed as common open space; vehicle access facilities and parking areas shall not be considered in calculating such common open space. In no event, however, shall the lot coverage of all structures located within a planned unit development site exceed 35 percent of the gross area included within such planned unit development site.

(Ord. No. 2-74, § 7.422, 3-26-74)

Sec. 134-620. Residential density.

Residential densities in permitted use planned unit developments shall be as follows:

- (1) PUD-A, ten units per acre; provided, however, that the planned unit development on the Breaker's Property shall be subject to the requirements of Resolution No. 6-71 and Resolution No. 9-72 of the town, as agreed to by the Flagler Systems, Inc.
- (2) PUD-B, ten units per acre.
- (3) PUD-C, six units per acre.
- (4) PUD-D, four units per acre for the portion of the property with a Single Family Future Land Use Designation and six units per acre for the portion of the property with a Commercial Future Land Use Designation.

(Ord. No. 2-74, § 7.423, 3-26-74)

Sec. 134-621. Densities bordering estate districts.

- (a) As used in this section, the term "adjoin" is defined as having a common property line or being separated by a public right-of-way on an easement of 150 feet or less.
- (b) Where a permitted use planned unit development adjoins an R-AA large estate residential district or an R-A estate residential district, residential densities within the planned unit development shall not exceed six units per acre within 500 feet of the R-AA or R-A district, and the height of structures within 500 feet of the R-AA or R-A district shall not exceed two stories or 25 feet. When such restrictions are imposed on permitted use planned unit developments, densities may be increased in the remainder of the development site in order that the gross density of the development may equal but not exceed the maximum density stipulated in section 134-620.

(Ord. No. 2-74, § 7.424, 3-26-74)

Sec. 134-622. Permitted land uses in PUD-A district.

The following uses shall be permitted in planned unit developments in the PUD-A district:

- (1) Any use permitted in the R-D(1) moderate density residential district and R-D(2) high density residential district; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (2) Any use permitted in the C-TS, C-WA, C-OPI or C-PC commercial district; provided, however, that commercial development within the planned unit development shall, in no case, occupy more than 20 percent of the gross area of the planned unit development. For the purpose of calculating gross density, as set forth in section 134-620, the land use measurements indicated in the table in section 134-656 shall be equivalent to a dwelling unit as defined.
- (3) Hotels.
- (4) Golf courses and other uses that are customarily accessory to a principal hotel use.

EXHIBIT A

- (5) Site plan review modifications for permitted and accessory uses that do not exceed 2,500 square feet may be approved administratively without Town Council review if the Director of Planning, Zoning and Building determines that such modifications will not create adverse impacts on surrounding properties or Town facilities.

(Ord. No. 2-74, § 7.425, 3-26-74; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-00, § 1, 2-22-00; Ord. No. 1-2020, § 1, 2-12-20)

Sec. 134-623. Permitted land uses in PUD-B district.

The uses permitted in planned unit developments in the PUD-B district shall be any use permitted in the R-C, medium density district; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620. Newsstands, dining rooms and personal service uses for the convenience of residents shall be permitted in such district; provided, however, that no exterior or external advertising of such facilities shall be permitted.

(Ord. No. 2-74, § 7.425, 3-26-74)

Sec. 134-624. Permitted land uses in PUD-C district.

The uses permitted in planned unit developments in the PUD-C district shall be any use permitted in the R-C, medium density district; provided, however, that the maximum density for the planned unit development shall not be governed by section 134-620.

((Ord. No. 2-74, § 7.425, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 7-78, § 4, 5-9-78)

Sec. 134-625. Permitted land uses in PUD-D district.

The following uses shall be permitted in planned unit developments in the PUD-D district:

- (1) Single-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (2) Two-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (3) Townhouses; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (4) Multi-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- (5) Banks and financial institutions.

Secs. ~~134-626~~—134-650. Reserved.

EXHIBIT A

Subdivision III. Special Exceptions

Sec. 134-651. Establishment of special exception planned unit developments.

The following special exception planned unit development districts are established and shall be subject to all applicable requirements of this article and of the district in which they are located:

PUD-1	Single-family development
PUD-2	Residential mix development
PUD-3	Mixed use development
PUD-4	Historical preservation residential development
PUD-5	<u>Mixed use development</u>

(Ord. No. 2-74, § 7.431, 3-26-74)

Sec. 134-652. Districts where permitted.

Planned unit developments as established by this article may be permitted as special exceptions only in specifically designated districts as follows:

- (1) *PUD-1, single-family development.* Permitted only in portions of R-B districts which are in close proximity to intensive developments in an R-C, R-D(1) or R-D(2) district.
- (2) *PUD-2, residential mix development.* Permitted only in R-C, R-D(1) and R-D(2) districts.
- (3) *PUD-3, mixed use development.* Permitted only in R-C, R-D(1) and R-D(2) districts.
- (4) *PUD-4, historical preservation residential development.* Permitted only in R-AA, R-A and R-B districts.
- (5) *PUD-5, mixed use development.* Permitted only in the six (6) Palm Beach acres in the C-TS, R-B, and C-B zoning districts between Royal Palm Way And South County Road And Seaview Avenue And South Ocean Boulevard.

(Ord. No. 2-74, § 7.432, 3-26-74)

Sec. 134-653. Minimum area requirements.

Minimum area requirements for special exception planned unit developments are as follows:

- (1) *PUD-1, single-family development.* One contiguous acre undivided by any public right-of-way or easement.
- (2) *PUD-2, residential mix development.* Ten contiguous acres undivided by any public right-of-way or easement.
- (3) *PUD-3, mixed use district.* Twenty contiguous acres undivided by any public right-of-way or easement.
- (4) *PUD-4, historical preservation residential development.* One or more contiguous acres undivided by any public right-of-way or easement.
- (5) *PUD-5, mixed use district.* Six contiguous acres undivided by any public right-of-way or easement.

EXHIBIT A

(Ord. No. 2-74, § 7.433, 3-26-7)

Sec. 134-654. Residential density.

Residential densities in special exception planned unit developments permitted under this article shall be as follows:

PUD District	Use District	Maximum Density Permitted under PUD* (units per acre)
PUD-1	R-B	4
PUD-2	R-C	6**
	R-D(1)	13**
PUD-3	R-C	6**
	R-D(1)	13**
	R-D(2)	13**
PUD-4	R-AA	$\frac{7}{8}$ **
	R-A	2**
	R-B	4**
<u>PUD-5</u>	<u>C-TS, C-B</u>	<u>6</u>
	<u>R-B</u>	<u>4</u>

* See section 134-656 for conversion of nonresidential uses to equivalent dwelling unit amounts for the purpose of calculating gross density.

** See section 134-655 for special provisions covering densities in those portions of the planned unit development site adjoining lower density residential districts.

(Ord. No. 2-74, § 7.434, 3-26-74; Ord. No. 6-81, § 6(a), 3-31-81; Ord. No. 1-03, § 7, 3-11-03; Ord. No. 1-04, § 34, 3-9-04)

Sec. 134-655. Areas of restricted density in PUD-2 or PUD-3 district.

- For the purpose of this section, the term "adjoin" is defined as having a common property line or being separated by a public right-of-way of 150 feet or less.
- Whenever a PUD-2 or PUD-3 planned unit development is permitted, the density restriction in subsection (c) of this section shall apply.
- Where the proposed planned unit development adjoins an R-AA, R-A or R-B district, residential densities within the planned unit development shall not exceed six units per acre within 500 feet of the R-AA, R-A or R-B district, and the height of structures within 500 feet of the R-AA, R-A or R-B district shall not exceed two stories or 25 feet. When such density restrictions are imposed on planned unit developments adjoining an R-AA, R-A or R-B district, the height limit on the portion of the development over 500 feet from the R-AA, R-A or R-B district may be increased but shall not exceed five stories or 62 feet in building height.

(Ord. No. 2-74, § 7.435, 3-26-74)

EXHIBIT A

Sec. 134-656. Permitted land use.

The uses permitted in planned unit developments shall be as follows:

(1) *PUD-1.*

- a. Any use permitted in the R-AA large estate residential district, R-A estate residential district or R-B low density residential district; provided, however, that such uses are grouped in cluster development in accordance with division 5 of this article.
- b. Townhouses, subject to applicable requirements in subdivision II of division 10 of article VIII of this chapter.

(2) *PUD-2.*

- a. Any use permitted in the R-C medium density residential district.
- b. Newsstands, dining rooms and personal service uses for the convenience of residents shall be permitted in such district; provided, however, that no exterior or external advertising of such facilities shall be permitted nor shall the gross floor area devoted to such uses exceed ten percent of the gross ground floor area of buildings included within the planned unit development.

(3) *PUD-3.*

- a. Any use permitted in the R-D(1) moderate density residential district.
- b. In PUD-3 developments containing 100 or more residential dwelling units, commercial uses permitted in the C-TS, C-WA, C-OPI or C-PC commercial district may be permitted; provided, however, that any commercial development in the planned unit development shall front on a major thoroughfare and further provided that such commercial development, including its required parking area, shall not occupy more than 20 percent of the gross floor area of the planned unit development. For the purpose of calculating gross density, as set forth in section 134-620, the following land use measurements shall be equivalent to a dwelling unit as defined:

Land Use Type	Unit of Measurement	Equivalence to One Dwelling Unit of Gross Density
Hotels, motels or similar places of transient occupation	Number of bedrooms	Two bedrooms
Principal commercial uses	Total floor area	750 square feet
Accessory commercial uses	Total floor area	1,500 square feet
All other nonresidential floor spaces	Total floor area	1,000 square feet

- (4) *PUD-4.* Any use permitted in the R-AA large estate residential or RD-A estate residential district, provided the uses are developed compatibly with an historical or architecturally significant structure or premises.

(5) *PUD-5.*

EXHIBIT A

- a. Single-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- b. Two-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- c. Townhouses; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- d. Multi-family dwellings; provided, however, that the maximum density for the planned unit development shall be governed by section 134-620.
- e. Banks and financial institutions.

(Ord. No. 2-74, § 7.436, 3-26-74; Ord. No. 6-81, § 6(b), 3-31-81; Ord. No. 1-92, § 5(b), 2-3-92)

Sec. 134-657. Open space.

A minimum of 15 percent of a planned unit site area shall be developed as common open space. Parking areas and vehicle access facilities shall not be considered in calculating such common open space. In no event, however, shall the lot coverage of all structures located within a planned unit development site exceed 35 percent of the gross area included within such planned unit development site.

(Ord. No. 2-74, § 7.437, 3-26-74; Ord. No. 5-78, § 13, 3-31-78; Ord. No. 7-79, § 16, 3-30-79; Ord. No. 4-80, § 4, 3-31-80; Ord. No. 1-92, § 5(b), 2-3-92)

Secs. 134-658—134-685. Reserved.

DIVISION 4. STANDARDS

Sec. 134-686. Compliance with division.

The town council shall approve the planned unit development only if it finds that the planned unit development satisfies all of the standards in this division.

(Ord. No. 2-74, § 7.50, 3-26-74)

Sec. 134-687. General standards.

- (a) The planned unit development shall be consistent with the regulations governing planned unit developments as set forth within division 3 of this article.
- (b) The planned unit development plan shall be consistent with the Palm Beach Comprehensive Plan.
- (c) The planned unit development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.
- (d) The planned unit development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.

(Ord. No. 2-74, § 7.51, 3-26-74)

Sec. 134-688. Design standards.

- (a) In a planned unit development, all buildings in the layout and design shall be an integral part of the development and shall have convenient access to and from adjacent uses and blocks.
- (b) Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development.
- (c) Treatment of the sides and rear of all buildings within the planned unit development group shall be comparable in amenity and appearance to the treatment given to street frontage of these same buildings.
- (d) The design of buildings and the parking facilities shall take advantage of the natural features, topography of the project site, where appropriate.
- (e) All building walls shall be so oriented as to ensure adequate light and air exposures to the room within.
- (f) All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- (g) All buildings shall be arranged so as to be accessible to emergency vehicles.

(Ord. No. 2-74, § 7.52, 3-26-74)

Sec. 134-689. Landscape design standards.

- (a) In a planned unit development, landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.
- (b) Primary landscape treatment shall consist of shrubs, ground cover, and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to local growing conditions.
- (c) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- (d) All streets bordering the project area shall be planted at appropriate intervals with street trees.

(Ord. No. 2-74, § 7.53, 3-26-74; Ord. No. 5-78, § 19, 3-31-78)

Sec. 134-690. Circulation system design standards.

- (a) In a planned unit development, there shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
- (b) Roads, pedestrian walks and open space shall be designed as integral parts of an overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped.
- (c) Buildings and vehicular circulation with open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (d) Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
- (e) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained and indicative of their function.

(Ord. No. 2-74, § 7.54, 3-26-74)

Sec. 134-691. Parking and loading design standards.

- (a) In a planned unit development, parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- (b) Pedestrian connections between areas and buildings shall be via special pedestrian walkways and/or elevators.
- (c) Parking facilities shall be designed with careful regard to orderly arrangement, landscaping, ease of access, and shall be developed as an integral part of an overall site design.
- (d) Any abovegrade loading facility should be screened from public view to the extent necessary to eliminate unsightliness.
- (e) Parking and loading facilities shall be provided in accordance with divisions 2 and 3 of article IX of this chapter.

(Ord. No. 2-74, § 7.55, 3-26-74)

Secs. 134-692—134-720. Reserved.

DIVISION 5. CLUSTER DEVELOPMENT

Sec. 134-721. Variance of net residential density.

In order to promote the health and general welfare of the community and to preserve and make available open space, the town council may grant a developer the right to vary the net residential density within a tract to be developed, leaving a substantial area free of building lots. The right to vary the net density shall be subject to the following conditions:

- (1) An overall plan of the entire tract showing lots, lot lines, lot areas, easements, encumbrances and other relevant data shall be submitted.
- (2) The average lot size may be reduced by 20 percent with no lot reduced by more than 25 percent. The uses in the proposed subdivision shall be grouped in clusters.
- (3) Minimum yard requirements in a cluster development shall be as follows:
 - a. Front yard, 25 feet.
 - b. Side yard, ten feet, except that garages or carports upon an adjacent lot may join at the property line or be grouped on land away from the individual lot.
 - c. Rear yard, 25 feet.
- (4) The balance of the land not contained in the lots or within the road rights-of-way shall be contiguous and of such condition, size and shape as to be usable for recreation. Such land shall be held in corporate ownership by the owners of lots within the development and shall incorporate into the deeds a clause giving to the owners an interest in such open land which shall be used for recreation purposes only. No structures except those incidental to the recreational use shall be permitted thereon.

(Ord. No. 2-74, § 7.44, 3-26-74 Secs. 134-722—134-750. Reserved.