



**TOWN
OF KINDER, LOUISIANA**

UNIFIED DEVELOPMENT ORDINANCE

Adopted June 4, 2007

TOWN OF KINDER, LOUISIANA

Unified Development Ordinance Adopted June 4, 2007

Town of Kinder Council

Mayor	Estes LeDoux, Jr.
Councilmember	Susan Doumite
Councilmember	Wayland Lafargue
Councilmember	Ferda Wykoff
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**Amendments to the Town of Kinder Unified
Development Ordinance**

Date of Ordinance Amendment

Sections Amended

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ARTICLE 1 GENERAL PROVISIONS

1.1 TITLE

These regulations shall be officially known as the “Kinder Unified Development Ordinance,” and may be referred to as the “Unified Development Ordinance,” the “UDO,” or “this Ordinance.”

1.2 AUTHORITY**1.2.1 General**

The Kinder Town Council has the authority to adopt this Ordinance pursuant to the enabling authority contained in the Lawrason Act.

1.2.2 Reference to Louisiana Revised Statutes

Whenever any provision of this Ordinance refers to or cites a section of the Louisiana Revised Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section

1.3 PURPOSE**1.3.1 General**

The purpose of this Ordinance is to promote and protect the public health, safety, peace, comfort, and general welfare of the citizens and residents of Kinder. It is a comprehensive, unified set of regulations that govern the subdivision of land, the development of land, and the use of land.

1.3.2 Specific

This Ordinance is adopted for the following particular purposes:

A) *Implement policies of Kinder 2020 Land Use Plan*

To implement the goals and policies of the Kinder 2020 Land Use Plan, as well as other goals and policies adopted by the Town Council related to growth and development.

B) *Protect small-town character*

To protect and improve the established small-town character of Kinder and the social and economic stability of the existing residential, commercial and other land uses within the Town.

C) *Promote good planning practice*

To promote good planning practice and to provide a regulatory mechanism which includes appropriate performance standards for development within the Town.

D) *Prevent adverse impacts on environment*

To prevent the adverse impacts of development on natural resources and features and the availability of water, water quality, gas, wastewater, fire protection, roads and transportation, flood plains of the Town.

- E) ***Efficient use of land and public services***
To encourage a more efficient use of land and public services and to reflect changes in technology of land development.
- F) ***Promote alternative land development practices***
To promote alternative land development practices which will otherwise promote the public health, safety, and general welfare.

1.4 APPLICABILITY AND JURISDICTION

1.4.1 General

The provisions of this Ordinance shall apply to all development and the use of all structures on all lands and waters within the corporate limits of the Town of Kinder.

1.4.2 Application to Town

Use of all structures and land owned by the Town or by Town agencies or departments shall comply with all requirements of this Ordinance, except that the Town or Town agencies or departments may be exempt from the provisions of this Ordinance when an emergency exists such that it is impossible to submit to the normal procedures and requirements of this Ordinance and quick and instant action is necessary to secure the public health, safety, or welfare. The Town Council shall ratify such exemption after-the-fact at its next regularly scheduled meeting, and shall base its ratification on specified findings of fact related to the emergency involved.

1.4.3 No Development Until Compliance with this Ordinance

No structure, land or water shall hereafter be used and not structure, or part thereof shall hereafter be located, erected, moved, reconstructed, extended, converted or structurally altered except for normal repairs of existing structures, without full compliance with the provisions of this Ordinance and all other applicable Town, State and Federal regulations. For the purposes of this section, development or use of land shall include land disturbance activities such as clearing and grading, or otherwise disturbing the existing vegetative cover.

1.5 OFFICIAL ZONING MAP

1.5.1 Official Zoning Map

The Official Zoning Map designates the location and boundaries of the various zoning districts established in this Ordinance within the Town. The Official Zoning Map shall be kept on file in the office of the Town Clerk and is available for public inspection during normal business hours.

1.5.2 Incorporated by Reference

The Official Zoning Map and all the notations thereon are hereby incorporated by referenced and made part of this Ordinance.

1.5.3 Zoning District Boundaries

Unless otherwise specified, zoning boundaries are lot lines or the centerline of streets, alleys, railroad rights-of-way, or such lines extended. Where a zone district boundary divides a land parcel under a single ownership into two districts, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided that the boundary adjustment is a distance of less than 100 feet.

1.5.4 Changes to Official Zoning Map

Changes made in zone district boundaries or other matters portrayed on the Official Zoning Map shall be made in accordance with the provisions of this Ordinance. Changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Town Council with any entry on the Official Zoning Map. No amendment to this Ordinance which involves matters portrayed on the Official Zoning Map shall become effective until after such change entries are made on the Official Zoning Map by the Town Engineer.

1.5.5 Mapping Disputes

The Town Engineer shall have the authority to interpret the Official Zoning Map and determine where the boundaries of the different zone districts fall, if in dispute.

1.6 INTERPRETATION AND CONFLICT

1.6.1 Meaning and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to this Ordinance's stated purpose and intent.

1.6.2 Text Controls

In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, or figure, the text shall control.

1.6.3 Authority for Interpretation

The Town Engineer is responsible for interpreting the text of this Ordinance in accordance with the standards set forth in this section and applicable Ordinance standards and requirements. Interpretations of the Town Engineer may be appealed to the Town Council.

1.6.4 Statutory References

All references to state law in this Ordinance refer to the Louisiana Referenced Statutes as amended.

1.6.5 Computation of Time

Periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

1.6.6 Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the Town to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

1.6.7 Technical and Non-Technical Words

Words and phrases not otherwise defined in this Ordinance shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Ordinance that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

1.6.8 Mandatory and Discretionary Terms

The word “shall” is always mandatory, and the words “may” or “should” are always permissive.

1.6.9 Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

A) **“And”**

And indicates that all connected items, conditions, provisions, or events shall apply; and

B) **“Or”**

Or indicates that one or more of the connected items, conditions, provisions, or events shall apply.

1.6.10 Tense and Usage

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

1.6.11 Gender

The masculine shall include the feminine.

1.7 RELATIONSHIP TO OTHER REGULATIONS AND PRIVATE AGREEMENTS

1.7.1 Conflicts with Other Regulations

When the provisions of this Ordinance are inconsistent with one another or when the provisions of this Ordinance conflict with provisions found in other adopted ordinances or regulations, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

1.7.2 Relationship with Private-Party Servitudes, Covenants, or Agreements

In developing land, private parties are free to exceed the mandatory standards provided in this Ordinance through servitudes, covenants, agreements or otherwise. However, the Town shall not be obligated to enforce private agreements.

1.7.3 Repeal of Inconsistent or Conflicting Provisions

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed or modified.

1.8 LIABILITY FOR DAMAGES

This Ordinance shall not be construed to hold the Town or its authorized representative responsible for any damage to persons or property by reason of the inspection or reinspection authorized in this Ordinance, or for any actions taken by landowners or developers to comply with the procedures or standards of this Ordinance.

1.9 SEVERABILITY

It is the legislative intent of the Town Council in adopting this Ordinance that all provisions shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the Town. If any Section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and any Section, subsection, sentence, clause and phrase, thereof, irrespective of the fact that any one or more Sections, subsections, sentences, clauses or phrases be declared invalid.

1.10 EFFECTIVE DATE / TRANSITIONAL PROVISIONS

1.10.1 Effective Date

This Ordinance shall be effective upon enactment and signature of the Mayor.

1.10.2 Final Approval / Permits

Any building, structure, or development for which development approval was issued and had not expired prior to the effective date of this Ordinance may, at the applicant's option, be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this Ordinance. If a building permit is not obtained according to the requirements of the prior ordinance or the applicable permit terms, the Town Council may, for good cause shown, grant an extension for the development approval for up to one year for the purpose of obtaining a building permit under the terms of the previously applicable ordinance(s). If a building permit is not obtained within the time allowed under the original ordinance or permit or any extension granted, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this Ordinance.

1.10.3 Violations Continued

Any violation under previous ordinances repealed by this Ordinance shall continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Ordinance, unless the use, development, construction, or other activity complies with the provisions of this Ordinance.

1.10.4 Legal Nonconformities Under Previous Ordinances

Any legal nonconformity under any previous ordinances repealed by this Ordinance is also a legal nonconformity under this Ordinance, as long as the situation that resulted in the nonconforming status under the previous ordinances continues to exist.

ARTICLE 2 ADMINISTRATION

2.1 REVIEW AND DECISION-MAKING BODIES

The following review and decision-making bodies shall have the following duties and responsibilities in the administration of this Ordinance, and shall be governed by the following rules.

2.1.1 Town Council

A) *Powers and Duties*

In addition to any authority granted the Town Council by general or special law, the Town Council shall have the following powers and duties:

- 1) *Review and approve or disapprove.* To review, hear, consider and approve or disapprove:
 - a) The adoption of an ordinance to amend the Official Zoning Map (Rezoning).
 - b) The adoption of an ordinance to amend the text of this Ordinance (Text amendment).
- 2) *Review and approval, approve with conditions or disapprove.* To review, hear, consider and approve, approve with conditions or disapprove
 - a) The adoption of an ordinance to amend the Official Zoning Map, with conditions (Conditional rezoning).
 - b) Applications for special use permits.
 - c) Applications for site plans.
 - d) Applications for master plans for subdivision
- 3) *Other.* To take any other action not delegated to the Zoning Commission; or heads of Town departments, as the Town Council may deem desirable and necessary to implement the provisions of this Ordinance.

2.1.2 Zoning Commission

A) *Powers and Duties*

The Zoning Commission shall have the following powers and duties:

- 1) *Review and make recommendations to approve or disapprove.*
To review, hear, consider and make recommendations to the Town Council to approve or disapprove:
 - a) The adoption of an ordinance to amend the Official Zoning Map (Rezoning).
 - b) The adoption of an ordinance to amend the text of this Ordinance (Text amendment)
- 2) *Review and make recommendations to approve, approve with conditions, or disapprove.* To hear, review, consider and make recommendations to the Town Council to approve, approve with conditions, or disapprove:
 - a) The adoption of an ordinance to amend the Official Zoning Map, with conditions.
 - b) Applications for special use permits.
 - c) Applications for site plans.
 - d) Applications for master plans for subdivision.
 - e) Applications for variance permits.
 - f) Requests for modifications of orders, decisions, interpretations, requirements, or determinations of the Town Engineer (appeals).
 - g) Requests for appeals on construction plans, final plats, or minor subdivisions.
 - h) Requests for beneficial use determinations.
- 3) *Amendments to Official Zoning Map and text.* To consider and make recommendations to the Town Council to adopt an ordinance amending the Official Zoning Map.
- 4) *Make special knowledge and expertise available.* To make its special knowledge and expertise available upon request and authorization of the Town Council to any official, department, board, commission or agency of the Town.
- 5) *Studies.* To make studies of the resources, possibilities and needs of the Town upon the authorization of the Town Council, and report its findings and recommendations, with reference thereto, to the Town Council.

B) ***Membership***

- 1) *Number.* The Zoning Commission shall consist of five (5) members.
- 2) *Composition.* Composition of membership shall be as follows:
 - a) The composition of the members shall reside within the corporate limits of the Town.
 - b) No member of the Town Council or other elected official, or a Town employee shall serve on the Commission.
 - c) To the greatest extent possible, the membership on the Zoning Commission should consist of persons with special training or experience in planning, real estate and development, architecture, landscape architecture and the law.
- 3) *Appointment.* Each Town Councilmember shall have one (1) appointment to the Zoning Commission based upon a recommendation to the Town Council for approval or disapproval.
- 4) *Removal.* Any member of the Zoning Commission shall be removed for cause (neglect of duty, malfeasance, misconduct or failure to faithfully attend meetings) by the Town Council upon written charge and after a public hearing.
- 5) *Filling on vacancy.* Vacancies shall be filled by the same method as the original appointment.

C) ***Officers***

- 1) *Chair and vice-chair.* The chair and vice-chair of the Zoning Commission shall be elected by the members of the Zoning Commission. The chair shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the Zoning Commission. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both the chair and vice-chair, an acting chair shall be selected for that meeting by a simple majority of those members present. The acting chair shall have the authority and responsibilities of the chair for that meeting.

- 2) *Secretary.* The Town Clerk shall serve as Secretary of the Zoning Commission and shall keep minutes of all proceedings. These minutes shall be a summary of all proceedings before the Zoning Commission, which shall include the vote of all members upon every consideration, and be attested to by the Secretary. The minutes shall be approved by a majority of the Zoning Commission members voting. In addition, the Secretary shall maintain all records of the Zoning Commission meetings, hearings, proceedings, and correspondence, as public records in the offices of the Town Clerk.
- D) *Quorum*
No meeting of the Zoning Commission shall be called to order, nor may any business be transacted by the Zoning Commission, without at least three (3) members of the Zoning Commission being present.
- E) *Interest*
Any member who has an interest in a matter under consideration by the Zoning Commission shall declare such interest prior to the vote of the Board and abstain from voting on the question. The member declaring the interest is not exempted from participation in the discussions of the Zoning Commission on the matter prior to its vote.
- F) *Staff*
The Town Clerk, Town Engineer and Town Attorney shall be the professional staff to the Zoning Commission.
- G) *Rules of Procedure*
The Zoning Commission shall, by a majority vote of the members present, adopt rules and regulations governing its procedure as it may consider necessary or advisable.
- H) *Meetings*
Meetings of the Zoning Commission shall be held on an as needed basis, or at least one meeting per calendar year, to consider matters properly before the Commission. Meetings may be called by the Chair or in writing by three (3) members of the Board. All meetings and public hearings shall be held in the Town in a place accessible and open to the public.
- I) *Compensation*
The members of the Zoning Commission shall serve without compensation.

2.1.3 Town Engineer

A) ***Powers and Duties***

In addition to the jurisdiction, authority, and duties that may be conferred upon the Town Engineer by general or special law, the Town Engineer shall have the following jurisdiction, powers, and duties:

- 1) *Consider and approve, approve with conditions or disapprove.* To consider and approve, approve with conditions, or disapprove:
 - a) Applications for construction plans for subdivisions, site plans, and other related construction plans.
 - b) Applications for final plats for subdivisions.
 - c) Applications for minor subdivision.
 - d) Applications for administrative adjustments.
 - e) Applications for temporary use permits.
 - f) Applications for certificates of zoning compliance.
- 2) *Text amendments.* To consider and make recommendations of the Town Council to adopt ordinances to amend the text of this Ordinance and the Official Zoning Map.
- 3) *Interpretations.* To render interpretations of all provisions of this Ordinance, including interpretations of the text of this Ordinance; interpretation of the zoning boundaries; and determinations of whether an unspecified use falls within a use classification or use group allowed in a zone district.
- 4) *Administer Ordinance.* To establish application requirements and schedules for review of applications and appeals, to review and make recommendations to the Zoning Commission and/or Town Council on all applications for development considered by those bodies, and take any other actions necessary to administer the provisions of this Ordinance.
- 5) *Provide expertise and technical assistance.* To provide expertise and technical assistance to the Town Council and Zoning Commission upon request.

2.2 COMMON REVIEW PROCEDURES

The general provisions of this section apply to all development applications and procedures under this Ordinance.

2.2.1 Authority to File Applications

Applications under this article shall be submitted to the Town Engineer by the owner, or any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.

A) *Applicant is Not the Owner*

If the application is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted.

B) *Applicant is Not the Sole Owner*

If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application for development approval shall be submitted.

2.2.2 Town Engineer Authorized to Establish Application Submission Schedule

The schedule for the submission of applications shall be established by the Town Engineer and made available to the public.

2.2.3 Simultaneous Processing

Whenever two or more forms of review and approval are required under this Ordinance (e.g., a rezoning and a special use permit), the applications for those development approvals may, at the option of the Town Engineer, be processed simultaneously, so long as all applicable state and local requirements are satisfied for both applications. However, whenever this Ordinance requires two types of review for the same approval (e.g., a master plan for subdivision and a final plat for subdivision), those two review and approval procedures must be completed as separate steps in the order specified.

2.2.4 Form of Application

Applications required under this article shall be submitted in a form established by the Town Engineer and made available to the public.

2.2.5 Fees

A) *Determination of Fees*

The Town Council shall determine the fees to accompany all applications submitted under this Ordinance. The fees shall be set by resolution of the Town Council. The Council may adjust fee amounts from time to time. The fee amount shall defray the actual cost of processing the applications.

- B) ***Fees to be Paid***
No applications shall be processed until the established fee has been paid.
- C) ***Refund of Fees***
Application fees are not refundable except where the Town Engineer determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

2.2.6 Pre-Application Conference

- A) ***General Overview***
A pre-application conference is optional prior to submission of any application under this Ordinance. The purpose of a pre-application conference is to familiarize the applicant and the Town staff with the applicable provisions of this Ordinance required to permit the propose development.
- B) ***Initiation of Pre-Application Conference***
Any potential applicant may request a pre-application conference, in writing, with the Town Engineer. Along with the request for the pre-application conference, the applicant shall provide to the Town Engineer a description of the character, location, and magnitude of the proposed development and any other supporting documents such as maps, drawings, models, and the type of development permit sought.
- C) ***Pre-Application Conference***
The Town Engineer shall schedule a pre-application conference after receipt of the written request for pre-application conference. At the pre-application conference, the applicant, the Town Engineer, and any other Town staff and/or State and/or federal representatives the Town Engineer deems is appropriate to attend the pre-application conference, shall discuss the proposed development, and based upon the information provided by the applicant and the provisions of this Ordinance, discuss in general what provisions of this Ordinance apply to the proposed development.

2.2.7 Neighborhood Meeting

Neighborhood meetings are encourage as opportunities for informal communication between landowners, applicants, and residents who may be affected by development to resolve conflicts about development proposals. Neighborhood meetings are not required for any development applications under this Ordinance, but may be used at the option of the applicant. If a neighborhood meeting is held by the applicant, it should generally comply with the following procedures.

A) ***General***

The purpose of the neighborhood meeting is to educate neighbors about the proposed development and application, to receive neighborhood comments, and to address concerns about the development proposal.

B) ***Time and Place***

The neighborhood meeting should be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application.

C) ***Notification***

The applicant should provide notification of the neighborhood meeting a minimum of 10 calendar days in advance of the meeting by mail, to all landowners within 300 feet of the land subject to the application, and to any neighborhood association that represents citizens within that area.

D) ***Conduct of Meetings***

At the neighborhood meeting, the applicant should explain the development proposal and application, answer any questions, and respond to concerns neighbors have about the application and proposed resolutions.

2.2.8 Application Submission

An application shall be submitted to the Town Engineer pursuant to the application submittal schedule established by the Town Engineer and made available to the public, along with a fee established pursuant to Sec. 2.2.5, Fees. Applications for master plans, site plans, and construction plans shall be reviewed and commented on by the Town Engineer.

A) ***Determination of Sufficiency***

The Town Engineer shall determine if the application is sufficiently complete and includes data in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive requirements of this Ordinance. This process shall occur within the time frame of the application submittal schedule as established by the Town Engineer. If the Town Engineer determines the application is not sufficient a written notice shall be transmitted to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.

B) ***Determination of Compliance***

When an application is determined sufficient, it shall be reviewed pursuant to the procedures and standards of this article. If the application is found not to comply with one or more aspects of this ordinance or other regulations, then the Town Engineer shall compile a list of comments and outstanding issues and transmit it to

the applicant. The applicant shall make the requested changes and resubmit revised plans to address the comments of the Town Engineer. The process shall repeat until the application is found to be complete and in full compliance with this ordinance and all other applicable regulations. This process shall follow the steps and the time frame of the application submittal schedule as established by the Town Engineer.

2.2.9 Town Engineer Report

Upon the Town Engineer's finding that the application is complete and in full compliance with this ordinance and all other regulations, the Town Engineer shall prepare a report. This report shall include a recommendation from the Town Engineer for approval, approval with conditions, or denial. The Town Engineer may recommend conditions for approval to eliminate any areas of noncompliance or to mitigate any adverse effects of the development proposal.

2.2.10 Scheduling Public Hearing(s)

When an application is subject to a public hearing (see Sec. 2.2.11.(E), *Timing of Notice* for when a public hearing is required), the Town Clerk shall ensure that the public hearing or public hearings on the application are timely scheduled. The public hearing shall be scheduled so that there is sufficient time for a Engineer Report to be prepared, and for the public notification requirements to be satisfied.

2.2.11 Public Notification

All applications for development approval requiring public hearings shall comply with the table in Sec. 2.2.11(E), *Timing of Notice*, and the other provisions of this Section with regard to public notification.

A) Content

All notices for public hearings, whether done by mail (written notice), publication or posting shall:

- 1) *Time and place.* Indicate the time and place of the public hearing or action;
- 2) *Location.* Describe the land involved by street address or by legal description and nearest cross street;
- 3) *Describe nature and scope of application.* Describe the nature, scope and purpose of the application or proposal being advertised;
- 4) *Additional Information.* Indicate where additional information can be obtained; and
- 5) *Notify interested parties they will be heard.* Include a statement that interested parties may appear at the public hearing and be heard with respect to the application.

B) ***Written (Mailed) Notice***

When the provisions of this Ordinance require that written or mailed notice be provided, the Town Clerk shall be responsible for preparing the written notice and mailing the written notice. Notice shall be mailed to all owners of the land subject to the application, and all owners of land located within 300 feet of the land subject to application, unless otherwise specified in this Ordinance. Written notice shall be provided at the last addresses listed for such owners on the Parish tax abstracts. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The applicant shall be responsible for providing the Town Clerk with first class stamped envelopes (postage metering is not acceptable) addressed to all owners of the land subject to the application and all owners of land located within 300 feet of the land subject to application. The applicant shall also sign and provide to the Town Clerk an affidavit with a certified list of all owners of the land subject to the application and all owners of land located within 300 feet of the land subject to application.

C) ***Published Notice***

When the provisions of this Ordinance require that notice be published, the Town Clerk shall be responsible for preparing the content of the notice and publishing the notice in the Official Journal of the Town once a week for two successive weeks prior to the public hearing. The notice shall be published the first time not less than 10 days nor more than 25 days before the date established for the public hearing.

D) ***Posted Notice***

When the provisions of this Ordinance require that notice be posted on the land subject to the application, the Applicant shall (1) post notice on weatherproof signs and (2) place the signs on the property that is the subject of the application, and along each public street which is adjacent to or runs through the subject property in a manner that makes them clearly visible to neighboring residents and passers-by. The wording of the sign shall be approved by the Town Clerk prior to posting. The sign(s) shall be set back no more than 25 feet from the public street(s) so that the lettering is visible from the street. Where the land does not have frontage on a public street, signs shall be erected on the nearest public street with an attached notation indicating generally the direction and distance to the land subject to the application.

E) ***Timing of Notice***

Notice shall be provided as follows:

Application for Development Permit or Other Action	Notice Required (days before hearing/action)		
	Written (Sec. 2.2.11.B)	Published (Sec. 2.2.11.C)	Posted (Sec. 2.2.11.D)
Rezoning, Conditional Rezoning	Not more than 25 days nor less than 14 days prior to public hearing	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing	Not more than 25 days nor less than 14 days prior to public hearing
All other applications for development requiring public hearing (Special Use and Major Site Plan)	Not more than 25 days nor less than 14 days prior to public hearing	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing	Not more than 25 days nor less than 14 days prior to public hearing
Variance Permit	Not more than 25 days nor less than 14 days prior to public hearing	Not more than 25 days nor less than 14 days prior to public hearing	Not more than 25 days nor less than 14 days prior to public hearing
Appeals (Interpretations and decisions of Town Engineer)	Not more than 25 days nor less than 14 days prior to public hearing	Not more than 25 days nor less than 14 days prior to public hearing	Not more than 25 days nor less than 14 days prior to public hearing

2.2.12 Withdrawal of Application

- A) ***Submission of Application***
Any request for withdrawal of an application shall be submitted in writing to the Town Clerk, with a copy to the Town Engineer.
- B) ***Prior to Notice of Public Hearing***
The Town Clerk shall approve a request for withdrawal of an application if it has been submitted prior to notification of a public hearing on the application pursuant to Sec. 2.2.11, *Public Notification*.
- C) ***Subsequent to Notice of Public Hearing***
Once notice of a public hearing has occurred pursuant to Sec. 2.2.11, *Public Notification*, the request for withdrawal of the application shall be placed on the public hearing agenda and acted upon by the appropriate decision-making body.

2.2.13 Protest Petition

Protest petitions may be presented to the Zoning Commission.

2.2.14 Review and Recommendation of Zoning Commission

After submission of an application (Sec. 2.2.8) and preparation of the Engineer Report (Sec. 2.2.9), scheduling of a public hearing (Sec. 2.2.10) and public notification (Sec. 2.2.11), the Zoning Commission shall conduct a public hearing on the application pursuant to Sec. 2.2.18, *Public Hearing Procedures*. At the public hearing, the Zoning Commission shall consider the application, the relevant support materials, the Engineer Report, and the public testimony given at the public hearing. After the close of the public hearing, the Zoning Commission shall recommend to the Town Council either to approve, approve with conditions (if appropriate) or disapprove the application based on the relevant review standards, and forward the application to the Town Council.

2.2.15 Action by the Town Council

After receipt of the recommendation from the Zoning Commission, the Town Council shall conduct a public hearing on an application pursuant to Sec. 2.2.18), *Public Hearing Procedures*. At the public hearing, the Town Council shall consider the application, the relevant support materials, the Engineer Report, the Zoning Commission recommendation, and the public testimony given at the public hearing. After the close of the public hearing, the Town Council by a majority vote of the quorum present, shall approve, approve with conditions (if appropriate), or disapprove the application based on the relevant review standards.

2.2.16 Decisions

All decisions shall be made part of the tape recorded or transcribed record of the public hearing and the written minutes. The decision shall include:

A) ***Information Presented***

The information presented before the decision-making body.

B) ***Documentary Evidence***

The documentary evidence submitted into the record; and

C) ***Statement of Approval, Approval with Conditions, or Disapproval***

A clear statement of approval, approval with conditions, or disapproval, whichever is appropriate.

2.2.17 Notification of Decision

Notification of a decision on a development approval or permit shall be provided by the Town Clerk to the applicant by mail or within 14 calendar days after the decision. A copy of the decision shall also be made available to the public at the offices of the Town Clerk, during normal business hours, within a reasonable period of time after the decision.

2.2.18 Public Hearing Procedures

A public hearing held pursuant to this Ordinance shall comply with the following procedures:

A) *Examination and Copying of Application and Other Documents*

At any time upon reasonable request, and during normal business hours, any person may examine an application and materials submitted to support of or in opposition to an application in the Town Clerk's offices. Copies of such materials shall be made available at a reasonable cost.

B) *Conduct of Public Hearing*

- 1) *Burden of proof or persuasion.* The burden of demonstrating that an application complies with applicable review and approval standards is on the applicant. The burden is not on the Town or other parties to show that the standards have not been met by the applicant.
- 2) *Rights of all persons.* Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
- 3) *Exclusion of testimony.* The body conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
- 4) *Offers of testimony.* In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity to offer such testimony or evidence for the record by submission of a written report. Such offer shall be made at the public hearing.
- 5) *Continuance of public hearing*
 - a) The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.

- b) A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Section, provided that the continuance is set for a date within 60 days, and the date and time of the continued hearing is announced at the time of the continuance.
- 6) *Order of proceedings at public hearing.* The order of the proceedings at the public hearing shall be as follows:
- a) The Town Engineer shall present a narrative and/or graphic description of the application.
 - b) The Town Engineer shall present a Engineer Report that includes a written recommendation. This recommendation shall address each standard required to be considered by this Ordinance prior to approval of the application.
 - c) The applicant shall present any information the applicant deems appropriate.
 - d) Public testimony shall be heard.
 - e) The applicant may respond to any testimony or evidence presented by the public.
 - f) The Town Engineer, the Town Attorney, and any other Town staff may respond to any statement made by the applicant or the public.
- 7) *General procedures and findings at public hearing*
- a) All decision-making bodies and persons shall act in accord with any time limits established in this Ordinance. Action shall be taken as promptly as possible in consideration of the interests of the citizens of the Town and the applicant, and shall include a clear statement of approval, approval with conditions, or disapproval, where appropriate.
 - b) In approving development applications, the decision-making body shall be authorized to impose such conditions upon the approval and land benefitted by the approval as is necessary to ensure compliance with the relevant review standards, so long as the condition relates to a situation created or aggravated by the proposed use or development for which approval is granted and is roughly proportional to its impact.

- c) The form of all decisions shall comply with Sec. 2.2.16, *Decisions*.
- C) ***Notification of Decision***
Notification of a decision-making body's decision shall comply with Sec. 2.2.17, *Notification of Decision*.
- D) ***Record***
 - 1) *Recording of public hearing.* The body conducting the public hearing shall record the public hearing by any appropriate means. A copy of the public hearing record may be acquired by any person upon application to the Town Clerk, and payment of a fee to cover the cost of transcription or duplication of the record.
 - 2) *The record.* The record of oral proceedings, including testimony and statements of personal opinions, the minutes of the Town Clerk, all applications, exhibits and papers submitted in any proceeding before the decision-making body, the Engineer Report and the decision of the decision-making body shall constitute the total record.
- E) ***Successive Applications***
Whenever any application is disapproved, an application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless either the subsequent application involves an application that is materially different from the prior application or a simple majority of the membership of the decision-making body that made the final decision on the application determines that the prior disapproval was based on a material mistake of fact. The decision-making body charged with conducting the public hearing under such successive application shall resolve any issue concerning the similarity of a successive application or other issues that may develop under this Section.

2.3 DEVELOPMENT APPROVALS

2.3.1 General Overview

Table 2.3.1 summarizes the development review procedures for all types of applications for development approvals and other permits outlined in this article.

TABLE 2.3.1: DEVELOPMENT REVIEW PROCEDURES				
D = Final Decisionmaker R = Recommendation A = Appellate Body				
Development Permit	Town Engineer	Zoning Commission	Town Council	Mayor
Rezoning (Sec. 2.3.2)		R	D	
Code Text Amendment (Sec. 2.3.2)		R	D	
Conditional use (Conditional rezonings) (Sec. 2.3.3)		R	D	
Special Use (Sec. 2.3.5)		R	D	
Site Plans (Major) (Sec. 2.3.6)	R	R	D	
Site Plan (Minor) (Sec. 2.3.6)	D		A	
Master Subdivision Plan (Sec. 2.3.7 D.)	R	R	D	
Construction Plans (Sec. 2.3.7 E.)	D		A	
Final Plat for Subdivision (Sec. 2.3.7 F.)	D		A	
Minor Subdivision (Sec. 2.3.7 G.)	D		A	
Variance Permit (Sec. 2.3.8)	R		D	
Administrative Adjustment (Sec. 2.3.9)	R		A	D
Certificate of Zoning Compliance (Sec. 2.3.10)	R		A	D
Temporary Use (Sec. 2.3.11)			A	D
Appeals (Sec. 2.3. 12)			A	
Beneficial use Determination (Sec. 2.3. 13)			D	

2.3.2 Amendments to the Text of this Ordinance or Official Zoning District Map (Rezoning)

A) *Purpose*

The purpose of this Section is to provide a means for amending the text of this Ordinance or changing the Official Zoning Map of this Ordinance.

B) *Authority*

The Town Council may adopt an ordinance amending the text of this Ordinance or amending the Official Zoning Map of this Ordinance upon compliance with the provisions of this Section.

C) *Initiation*

1) *Amendment to the text of this Ordinance.* An amendment to the text of this Ordinance may be proposed by the Town Council, the Zoning Commission, the Town Engineer, or pursuant to Sec. 2.2.1, *Authority to File Applications*.

2) *Amendment to the Official Zoning Map.* An amendment to the Official Zoning Map of this Ordinance may be proposed by the Town Council, the Zoning Commission, the Town Engineer, or pursuant to Sec. 2.2.1, *Authority to File Applications*.

D) *Procedures*

The procedures for the application contents, fees, submission and review by Town staff, public notification, review by the Zoning Commission and then approval or disapproval by the Town Council at a public hearing shall comply with the requirements of Sec. 2.2, *Common Review Procedures*, except that a public hearing shall not be required at the Zoning Commission Meeting for Amendments to the Text of this Ordinance.

E) *Standards*

The advisability of amending the text of this Ordinance or the Official Zoning Map is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment to the text of this Ordinance or the Official Zoning Map, the Town Council shall consider the following factors:

1) *Compatible with surrounding areas.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land.

2) *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.

- 3) *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
- 4) *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
- 5) *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.
- 6) *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
- 7) *Consistency with 2020 Land Use Plan.* Consistency with the 2020 Land Use Plan.

2.3.3 Conditional Use (for conditional use rezonings)

- A) ***Conditional Use Districts***
Conditional use zone districts are established (Sec. 3.2, *Zone Districts Established*, bearing the designation CU-) in Article 3: *Zone Districts*, to correspond with each of the general use zone districts.
- B) ***Uses***
The uses permitted as of right and as special uses in a conditional use district are identical to the uses permitted in Table 4.2, *Use Table*, for the corresponding general use district.
- C) ***Approval of a Conditional Use District***
Approval of a conditional use district requires the concurrent approval of a conditional use permit pursuant to the procedures and standards of this Section and the approval of an amendment to the Official Zoning Map pursuant to Sec. 2.3.2, *Amendments to the Text of this Ordinance or Zoning Map (Rezonings)*.
- D) ***Relationship to Special Use***
The approval of a conditional use permit for a conditional use district pursuant to this Section for a use within the corresponding general zone district that is allowed as a special use shall preclude the landowner from being required to receive a special use permit pursuant to Sec. 2.3.5, *Special Use*.

E) ***Procedures***

1) ***General***

The procedures for initiation of the application, the application contents, fees, submission and review by Town staff, public notification, review by the Zoning Commission and then approval, approval with conditions or disapproval by the Town Council at a public hearing(s) shall comply with the requirements of Sec. 2.2, *Common Review Procedures*, except that the application shall be signed by all owners of the land subject to the application, and specify the proposed uses of the land proposed for approval as a conditional use district and any conditions the applicant may propose for such uses.

2) ***Quasi-judicial Hearing Procedures***

In addition, to ensure review of the application complies with quasi-judicial requirements, review of the application for the conditional use permit shall comply with the following.

a) ***Zoning Commission***

- (i) The burden shall be on the applicant to demonstrate by competent testimony and/or evidence the validity of the facts and opinions stated in the application, that the application complies with the relevant review standards, and the proposed use in the public interest.
- (ii) Any person who is a resident of the Town, any person owning land adjoining the land that is subject to the application, Town Council, or any other person the Zoning Commission determines appropriate may also introduce competent testimony or evidence in support or in opposition to the application.
- (iii) At the public hearing, the Zoning Commission shall consider the application, the relevant support materials, the Town Council Report, the testimony and/or evidence submitted by the applicant, any testimony and/or evidence submitted by other persons.
- (iv) After the close of the public hearing, the Zoning Commission shall recommend to the Town Council to approve, approve with conditions or disapprove the application based on the review standards in Sec. 2.3.2 F), *Standards*, and Sec. 2.3.2 E) (c), *Additional Review Standards*.

- (v) The recommendation of the Zoning Commission on the application shall be forwarded from the chairperson of the Zoning Commission to the Town Council as part of the testimony before the Town Council at the Council's public hearing on the application.
- b) *Town Council*
 - (i) The burden shall be on the applicant to demonstrate by competent testimony and/or evidence the validity of the facts and opinions stated in the application, that the application complies with the relevant review standards, and that the proposed use is in the public interest.
 - (ii) Any person who is a resident on the Town, any person owning land adjoining the land that is subject to the application, Town Council, or any other person the Zoning Commission determines appropriate may also introduce competent testimony or evidence in support of or in opposition to the application.
 - (iii) At the public hearing, the Town Council shall consider the application, the relevant support material, the Engineer Report, the recommendation of the Zoning Commission, the testimony and/or evidence submitted by the applicant, and any testimony and/or evidence submitted by other persons.
 - (iv) After the close of the public hearing, the Town Council shall approve, approve with conditions or disapprove the application based on the review standards in Sec. 2.3.2 F), *Standards*, and Sec. 2.3.2 E) 2) (c), *Additional Review Standards*. Thereafter, the Town Council shall enter its findings of fact, conclusions of law and decision into its minutes.
 - (v) The Town Clerk shall retain possession of all exhibits submitted and recordings of all testimony on the matter heard before the Town Council, which shall constitute the record, until any judicial court of competent jurisdiction time limit for appeal has expired.
- (c) *Additional Review Standards*

If the Town Council finds there is substantial competent evidence to conclude the following, the application shall be disapproved:

- (i) The application will adversely affect the health, safety or welfare of the residents of the Town;
- (ii) The application will be a substantial detriment to the development of adjacent lands; or
- (iii) The application will constitute a nuisance or hazard due to traffic congestion, noise, or pollution.

F) ***Standards***

To approve an application for a conditional use permit and rezoning, the Town Council shall find that:

- 1) *Consistent with 2020 and Use Plan.* The proposed conditional use shall be appropriate for its proposed location and be consistent with purposes, goals, objectives, and policies of the 2020 Land Use Plan.
- 2) *Compatibility.* The proposed conditional use shall be appropriate for its proposed location and compatible with the character of surrounding land uses.
- 3) *Zone district supplemental standards.* The proposed conditional use shall comply with Sec. 4.4, *Supplemental Standards*.
- 4) *Design minimizes adverse impact.* The design of the proposed conditional use shall minimize adverse effects, including visual impact of the proposed use on adjacent lands; furthermore, the proposed conditional use shall avoid significant adverse impact on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration, and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed conditional use shall minimize environmental impacts and shall not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed conditional use shall not have a significant adverse impact on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire, and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed conditional use shall not adversely affect the health, safety, or welfare of the residents of the Town.
- 8) *Detrimental to adjacent properties.* The proposed conditional use shall not be substantially detrimental to adjacent properties.

- 9) *Not constitute nuisance or hazard.* The proposed conditional use shall not be substantially detrimental to adjacent properties.
- 10) *Other relevant standards of this Ordinance.* The proposed conditional use shall comply with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.
- G) ***Conditions and Restrictions***
The Town Council may impose, in approving the conditional use permit/rezoning, such restrictions and conditions on such approval, the proposed use, and the premises to be developed or used pursuant to such approval, as it determines are required by the general purposes and goals of this Ordinance and the standards of this Section to prevent or minimize adverse effects from the proposed use and development on surrounding land uses and on the general health, safety, and welfare of the Town, and that are consented to by all landowners subject to the application. All conditions shall be expressly set forth in the conditional use permit/rezoning.
- H) ***Effect and Expiration***
A conditional use permit/rezoning and the conditions imposed upon its approval shall be perpetually binding on the land subject to the conditional use permit/rezoning, unless it is subsequently amended pursuant to Sec. 2.3.2, *Amendments*.
- I) ***Amendments***
A conditional use permit/rezoning may be amended, extended or modified only in accordance with the procedures and standards established for its original approval, except that no proposal to amend a conditional use permit/rezoning shall be considered within 12 months of the original approval of the conditional use permit/rezoning, or within 12 months of the hearing of any previous proposal.
- J) ***Reversion to Prior Zone District Designation***
If for any reason any condition imposed pursuant to this Section is found to be invalid by a court of competent jurisdiction, the conditional use permit rezoning shall automatically become null and void and revert back to its prior zone district designation.

2.3.4 Reserved

2.3.5 Special Use

A) ***Purpose***

Special uses are those uses that are potentially incompatible with the other uses permitted in a zone district and, therefore, require, special, individual review of their location, design, configuration, intensity, and density of use or structures. To ensure land use compatibility, conditions of approval may be imposed that are pertinent to the particular use at a particular location.

B) ***Authorization***

Only those uses authorized as special uses in Sec. 4.2.2, *Use Table*, may be approved as special uses. The designation of a use as a special use in Sec. 4.2.2, *Use Table*, does not constitute an authorization that such use shall be approved as a special use pursuant to this Section. Rather, each proposed special use shall be evaluated by the Zoning Commission and Town Council for compliance with the standards set forth in this Section and the applicable supplementary standards for the use in Sec. 4.4, *Supplemental Standards*.

C) ***Procedures***

1) ***General***

The procedures for initiation of the application, the application contents, its submission, the fees, the review by Zoning Commission and then approval, approval with conditions or disapproval by the Town Council at a public hearing(s) shall comply with the requirements of Sec. 2.2, *Common Review Procedures*.

2) ***Quasi-judicial Hearing Procedures***

In addition, to ensure review of the application complies with quasi-judicial requirements, it shall comply with the following.

a) ***Zoning Commission***

- (i) The burden shall be on the applicant to demonstrate by competent testimony and/or evidence the validity of the facts and opinions stated in the application, that the application complies with the relevant review standards, and that the proposed use is in the public interest.

- (ii) Any person who is a resident of the Town, any person owning land adjoining the land that is subject to the application, Town Council, or any other person the Zoning Commission determines appropriate may also introduce competent testimony or evidence in support of or in opposition to the application.
- (iii) At the public hearing, the Zoning Commission shall consider the application, the relevant support materials, the Engineer Report, the testimony and/or evidence submitted by the applicant, and any testimony and/or evidence submitted by other persons.
- (iv) After the close of the public hearing, the Zoning Commission shall recommend to the Town Council to approve, approve with conditions, or disapprove the application based on the review standards in Sec. 2.3.5D), *Standards*, and Sec. 2.3.3 C) 2) (c), *Additional Review Standards*.
- (vi) The recommendation of the Zoning Commission on the application shall be forwarded from the chairperson of the Zoning Commission to the Town Council as part of the sworn testimony before the Town Council at the Council's public hearing on the application.

b) *Town Council*

- (i) The burden shall be on the applicant to demonstrate by competent testimony and/or evidence the validity of the facts and options stated in the application, that the application complies with the relevant review standards, and that the proposed use is in the public interest.

(ii) Any person who is a resident of the Town, any person owning land adjoining the land that is subject to the application, Town staff, or any other person the Town Council determines appropriate may also introduce competent testimony or evidence in support of or in opposition to the application.

(iii) At the public hearing the Town Council shall consider the application, the relevant support materials, the Engineer Report, the recommendation of the Zoning Commission, the testimony and/or evidence submitted by the applicant, and any evidence submitted by other persons.

(iv) After the close of the public hearing, the Town Council shall approve, approve with conditions or disapprove the application based on the review standards in Sec. 2.3.F), *Standards*, and Sec. 2.3.2 E) 2) c), *Additional Review Standards*. Thereafter, the Town Council shall enter as findings of fact, conclusions of law and decision into its minutes.

c) *Additional Review Standards*

If the Town Council finds there is substantial competent evidence to conclude the following, the application shall be disapproved.

(i) The application will be a substantial detriment to the development of adjacent lands; or

(ii) The application will constitute a nuisance or hazard due to traffic congestion, noise, or pollution.

D) *Standards*

To approve an application for a special use, the Town Council shall find that:

1) *Consistent with 2020 Land Use Plan*. The proposed special use shall be consistent with the purposes, goals, objectives and policies of the 2020 Land Use Plan.

- 2) *Compatibility.* The proposed special use shall be appropriate for its proposed location and compatible with the character of surrounding land uses.
 - 3) *Zone district supplemental standards.* The proposed special use shall comply with Sec. 4.4, *Supplemental Standards*.
 - 4) *Design minimizes adverse impact.* The design of the proposed special use shall minimize adverse effects, including visual impact of the proposed use on adjacent lands; furthermore, the proposed special use shall avoid significant adverse impact on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration, and not create a nuisance.
 - 5) *Design minimizes environmental impact.* The proposed special use shall minimize environmental impacts and shall not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
 - 6) *Impact on public facilities.* The proposed special use shall not have a significant adverse impact on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire, and EMS facilities.
 - 7) *Site development standards.* The proposed special use shall comply with the appropriate standards in Article 8: *General Development Standards*.
 - 8) *Other relevant standards of this Ordinance.* The proposed special use shall comply with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.
- E) ***Conditions and Restrictions***
The Town Council may impose, in approving the special use, such restrictions and conditions on such approval, the proposed use, and the premises to be developed or used pursuant to such approval, it determines are required by the standards of this Section to prevent or minimize adverse effects from the proposed use and development on surrounding land uses. All conditions imposed on any special use shall be expressly set forth in the special use permit.

F) ***Effect and Expiration***

Unless otherwise specified in the special use permit, an application for a Certificate of Zoning Compliance (Sec. 2.3.10) shall be applied for and approved within 24 months of the date of the approval of the special use permit or the special use permit shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, the Town Council for good cause shown may grant one extension of 12 months.

G) ***Amendments***

A special use permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

2.3.6 Site Plan

A) ***Purpose***

Site plan review is required by this Ordinance to ensure that the proposed layout and general design of proposed development complies with Article 8: *General Development Standards*, all other appropriate portions of this Ordinance, and the proposed development is compatible with surrounding land uses.

B) ***Applicability***

All development shall be required to have an approved site plan pursuant to the procedures and standards of this Section prior to development and/or the issuance of a building permit, except for development exempted pursuant to Sec. 2.3.6(C), Exemptions.

C) ***Exemptions***

1) The following development or activities shall be exempted from the requirements of this section:

- a) *Single family.* Single family detached homes. However, zero lot line development (see Sec. 5.3), homes on slopes of greater than 10 percent (see Sec. 8.1.4), and homes on Small Lots (see Sec. 5.3) shall be required to comply with the requirements of this section;
- b) *Multi-family.* Apartment buildings, duplexes, townhouses, and residential condominiums, each located on its own lot containing four or less units;
- c) *Temporary uses.* Temporary uses that do not exceed six months in duration and meet all applicable provisions of Section 2.3.11 *Temporary Use*;
- d) *Utilities and public works projects.* Utilities and public works projects, including, but not limited to road improvements, utility improvements, above ground utility boxes, and bus shelters;

- e) *Preliminary testing.* Preliminary site testing, including, but not limited to soil testing, soil borings, land surveying, and tree surveying.
 - f) *Minor site elements and features.* Addition of minor site elements and features, including, but not limited to playground fencing, play equipment, mechanical equipment, sidewalks, expansion of seating for outdoor or indoor events, and dumpsters; and
 - g) *Expansion, repair or re-use.* The expansion, repair, or re-use of existing buildings, structures, or land, *that does not involve any of the following:*
 - (i) Enlargement of the building or structure by more than 25%;
 - (ii) Expansion of the number of parking spaces by more than 10;
 - (iii) Enlargement of the land area used by more than 25%;
 - (iv) A change of use; or
 - (v) The addition of new buildings or structures.
- 2) Any development or activity that is exempt from site plan pursuant to Subsection 2.3.6(C)(1)(d), (e), (f), or (g) above shall not be undertaken without an administrative approval by the Town Engineer. Any proposed expansion exempt under 2.3.6(C)(1)(g) must meet all applicable provisions of this Ordinance to the extent of the expansion and not increase any nonconformity. The application for administrative approval shall be in a form approved by the Town Engineer.

D) ***Procedures***

- 1) *Site plans: minor (No public hearing required).* Procedures for the review of site plans that have less than 40,000 square feet of nonresidential floor area or 10 or less multi-family units (minor site plans) shall be as follows.
 - a) The procedures for initiation of an application for a minor site plan, the application contents, fees, application submission and staff review shall comply with the relevant provisions of Sec. 2.2, *Common Review Procedures*, except that:

- (i) A traffic impact study, prepared by a qualified professional engineer registered to practice in Louisiana, shall be submitted with the initial application for any development that would generate 1,000 or more vehicular trips per day. An executive summary of the study shall be included. The calculation of “vehicular trips per day” as used in this section shall be as determined according to the current ITE (Institute of Traffic Engineering) Trip Generation Manual or an alternate trip generation rate approved by the Town. The traffic impact study shall indicate the average daily and peak hourly vehicular trips generated by the proposed development, and shall indicate the trip distribution allocation on all roads and intersections within a study area approved by the Town. The traffic impact study shall also indicate any proposed road improvements which will be required to prevent the traffic generated by the proposed development from causing any intersection or road segment to fall below Level-of-Service D and help ensure safe movement of vehicles within the study area. The Town Council reserves the right to challenge the assumptions, methodology or conclusions of the study and to retain a qualified engineer to review the applicants assessment; and
- (ii) The Town Engineer shall review site plans and prepare a Engineer’s Report.
- (iii) Within five calendar days of the recommendation of the Town Engineer on the application, he shall determine if the application complies with Sec. 2.3.6(E), *Standards*.
- (iv) If the Town Engineer determines the application complies with Sec. 2.3.6 (E), *Standards*, it shall be forwarded to the Town Clerk with a recommendation of approval. If the Town Engineer determines the application does not comply with Sec. 2.3.5 (E), *Standards*, a written notice shall be transmitted to the applicant specifying the application’s deficiencies from the appropriate review standards of this Ordinance. No further action shall be taken on the application until the Town Engineer has received a corrected application from the applicant. The Town Engineer may consider maintaining the same review schedule for an application that requires only a minor correction, and is modified by the applicant in a timely manner as specified by the Town Engineer.

- 2) *Major site plans (Public hearing required).* For the purpose of this Section and this Ordinance, major site plans shall be considered site plans that propose 40,000 square feet or greater of nonresidential floor area or 11 multi-family units or more. The procedures for initiation of an application for major site plan, the application contents, fees, its submission and review by Town staff, public notification, review by the Zoning Commission and then approval, approval with conditions or disapproval by the Town Council at a public hearing shall comply with the requirements of Sec. 2.2, *Common Review Procedures* except that a traffic impact study shall be required pursuant to Sec. 2.3.6(D)(1)(a)(i).

E) ***Standards***

In order to approve an application for a site plan, the Town Council shall find the applicant has demonstrated that:

- 1) *Compatibility.* The development proposed in the site plan and its general location is compatible with the character of surrounding land uses.
- 2) *Zone district supplemental standards.* The development and uses in the site plan comply with Sec. 4.4, *Supplemental Standards*.
- 3) *Site development standards.* The development proposed in the site plan and its general layout and design comply with all appropriate standards in Article 8: *General Development Standards*.
- 4) *Mitigation of development on steep slopes.* If appropriate, the site plan complies with the requirements of Sec. 8.1.3, *Slope Protection Standards*.
- 5) Reserved
- 6) *Required improvements.* The development proposed in the site plan conforms to the requirements of Sec. 7.5, *Required Improvements*.
- 7) *Other relevant standards of this Ordinance.* The development proposed in the site plan and its general layout and design comply with all other relevant standards of this Ordinance, except that a site plan is not required to comply with a setback standard if there is a permanent improvement on the site that existed prior to the effective date of this Ordinance that makes compliance impossible and the exception to the setback standard is the minimum necessary to accommodate the pre-existing permanent improvement.
- 8) *Consistent with 2020 Land Use Plan.* The development proposed in the site plan is consistent with and furthers the purposes, goals, objectives, and policies of the 2020 Land Use Plan.

- 9) *Applicable Standards of Article 7, Subdivision.* The development proposed in the site plan shall comply with the applicable standards of Article 7, Subdivision, including, but not limited to , street and utility improvements and park, recreation, and open space dedication or fee-in-lieu.
- F) ***Conditions and Restrictions.***
The Town Council shall have the authority to impose such conditions on a site plan that are necessary to accomplish the purposes of this Section, this Article, this Ordinance and the goals and policies of the 2020 Land Use Plan. All conditions imposed on a site plan shall be expressly set forth in the permit approving the site plan.
- G) ***Phasing Plan***
Provisions of required public improvements, recreation areas, etc. may be installed in phases as approved by the Town Engineer, Zoning Commission and Town Council such that the improvements reasonably relate to the use intended for the site and as required by the Town of Kinder Standard Specifications and construction details. A Phasing Plan clearly showing the phases and any other pertinent information required by the applicant, Town Engineer, Zoning Commission, or Town Council.
- H) ***Site Construction Plans***
After the Site Plan has been approved by the Town Council, the applicant shall submit the Site Construction Plans to the Town Engineer. The submission shall be in a form approved by the Town Engineer. The applicant shall ensure that the Construction Plans conform to the approved Site Plan design and that all conditions imposed by the Town Council in the Site Plan are met in the Construction Plans. The Construction Plans shall be reviewed by the Town Engineer to ensure compliance with the approved Site Plan and all applicable Town, parish, state, and federal regulations and requirements, including all relevant construction standard specifications and details. Any modifications to or deviations from the approved Site Plans must be requested in writing to the Town Engineer and may require additional review by the relevant permit issuing authority if deemed appropriate by the Town Engineer. All Construction Plans shall bear the seal and signature of a professional engineer, landscape architect, surveyor, or architect, who is authorized to perform such work and licensed in the State of Louisiana. Once the Construction Plan is approved, it is signed by the Town Engineer and forwarded to the applicant. The applicant is responsible for returning the requisite number of copies, as determined by the Town Engineer.
- I) **Reserved**

J) ***Expiration***

- 1) A development approval for Site Plan shall automatically expire at the end of 12 months after the date of Town Council's approval if:
 - a) The use authorized by the development approval for Site Plan has not commenced; or
 - b) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any approved development has been completed on the site. With respect to phased development, this requirement shall only apply to the first phase.
- 2) Upon written request, the Town Engineer may extend for a period of one year to date when a development approval for Site Plan would otherwise expire pursuant to subsections a) and b) above if he concludes that:
 - a) The development approval for Site Plan has not yet expired;
 - b) the recipient of the development approval for Site Plan has proceeded with documented due diligence; and
 - c) Ordinance requirements and conditions have not changed so substantially as to warrant a new application.
- 3) The request for the extension must be made to the Town Engineer in writing at least thirty (30) days prior to the date of Site Plan expiration.

K) ***Minor Deviations***

Minor deviations from a Site Plan may be approved by the Town Engineer. Minor deviations that are authorized are those that appear necessary in light of technical or engineering considerations as long as they comply with the standards of this Ordinance (variations from the standards of this Ordinance require administrative adjustments (Sec. 2.3.9) or variance permits (Sec. 2.3.8). Minor deviations shall consist of:

- 1) *Floor area.* Expansion of building floor area by not more than 10 percent.
- 2) *Height.* An increase of building height by not more than 10 percent.
- 3) *Parking spaces.* An increase or decrease of parking spaces by not more than 10 percent or 10 spaces, whichever is less.
- 4) *Relocation of building.* Minor relocation of buildings or other site elements if they maintain the same general building relationships, topography, landscaping and utility design.

- 5) *Minor changes.* Minor changes in building elevations and landscaping provided that the change retains the same general architectural relationships and uses equivalent building and/or landscaping materials.
- L) *Amendments*
A Site Plan may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- M) *Nonconformities*
Any expansion, repair, or re-use of existing legal nonconforming buildings, structures, or land that is required to have an approved Site Plan pursuant to the procedures and standards of this Section shall meet all applicable standards of this Ordinance to the extent reasonable and practicable.

2.3.7 Subdivision

- A) *Purpose*
This Section and Article 7: *Subdivision*, are designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the Town by: (1) providing for the orderly growth and development of the Town; (2) coordinating streets and highways within proposed subdivisions with existing planned street and highways and with other public facilities; (3) providing for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision; (4) providing right-of-way for street and servitudes for utilities; (5) avoiding congestion and overcrowding, and encouraging the proper arrangement of streets in relation to existing or planned streets, and (6) regulating such other matters as the Town Council may deem necessary in order to protect the general health, safety and welfare of the Town, not denied by law.
- B) *Overview*
Prior to the subdivision of a tract or parcel of land that does not constitute a minor subdivision pursuant to Sec. 2.3.7(G), *Minor Subdivision*, the landowner/subdivider shall receive comments on a sketch design plan for subdivision pursuant to Sec. 2.3.7(C), *Sketch Design Plan*, approval of a master subdivision plan pursuant to Sec. 2.3.7(D), *Master Subdivision Plan*, approval of construction plans pursuant to Sec. 2.3.7(E), *Construction Plans for Subdivision* and approval of a final plat for subdivision pursuant to Sec. 2.3.7(F), *Final Plat for Subdivision*.
- C) *Sketch Design Plan*
 - 1) *General.* A minimum of 14 days prior to submitting an application for master subdivision plan, the subdivider shall prepare and submit to the Town Engineer a sketch design plan of the proposed subdivision in a form determined to be suitable by the Town Engineer.

- 2) *Town Engineer comments to subdivider.* The Town Engineer shall review the sketch design plan for general compliance with this Ordinance and other Town regulations. After review of the sketch design plan the Town Engineer shall advise the subdivider of the relevant regulations from this Ordinance and other Town regulations pertaining to the subdivision review process for master plan for subdivision construction plans and final plat for subdivision, construction plans and final plat for subdivision.
- 3) *No official act.* This review and comment by the Town Engineer pursuant to this sketch design plan process shall in no way be construed as constituting an official act of approval for recording of the subdivision.
- 4) *Copies of the sketch design plan.* The Town Engineer shall maintain one copy of the sketch design plan along with the comments in the Town Hall. A second copy, along with the comments shall be forwarded to the subdivider.

D) ***Master Subdivision Plan***

- 1) *Procedures*
 - a) The procedures for initiation of an application (Sec. 2.2.1) for a master subdivision plan, the application contents (Sec. 2.2.4), fees (Sec. 2.2.5), application submissions (Sec. 2.2.8) and Town Engineer review (Sec. 2.2.9) shall comply with the relevant provisions of Sec. 2.2, *Common Review Procedures*, except that a traffic impact study shall be prepared pursuant to Sec. 2.3.6(D)(1)(a)(i), the Town Clerk shall forward applications for the master subdivision plan to the Town Engineer for review and comment pursuant to Sec. 2.3.7(D)(1)(b), and the Town Engineer shall review and make a decision on the application pursuant to Sec. 2.3.7(D)(1)(c-d). After completion of the Town Engineer Report pursuant to Sec. 2.2.9, *Town Engineer Report*, the application shall be reviewed by the Zoning Commission pursuant to Sec. 2.2.14, *Review and Recommendation of Commission* and approved, approved with conditions or disapproved by the Council Commission pursuant to Sec. 2.2.15, *Action by Town Council*. The application shall be subject to a public hearing with notice to all property owners within 300 feet of the property. In addition, the Zoning Commission shall review the master subdivision plan for no more than two successive meetings. Failure to make a recommendation after the second meeting shall cause the master subdivision plan to be forwarded to the Town Council without a recommendation. If the Zoning Commission recommends that the master subdivision plan should be disapproved, the subdivider may recommend changes and submit a revised master subdivision plan.

- b) As part of the review, the Town Clerk shall forward applications for master subdivision plans to the Town Engineer for review and comment.
 - c) Within five calendar days of the recommendation of the Town Engineer on the application, the Town Clerk shall review the Town Engineer's recommendation and determine if the application complies with Sec. 2.3.7(D)(2), *Standards*.
 - d) If the Town Clerk determines the application complies with Sec. 2.3.7(D)(2), *Standards*, it shall be presented to the Zoning Commission for consideration and thereafter to the Town Council with recommendations. If the Town Clerk determines the application does not comply with Sec. 2.3.7(D)(2), *Standards*, a written notice shall be transmitted to the applicant specifying the applications's deficiencies from the appropriate review standards of this Ordinance. No further action shall be taken on the application until the Town Engineer has received a corrected application from the applicant. The Town Clerk may consider maintaining the same review schedule for an application that requires only a minor correction, and is modified by the applicant in a timely manner as specified by the Town Clerk.
- 2) *Standards*. To approve a master subdivision plan, the Town Council shall find that the master subdivision plan complies with all standards of this Ordinance, all other relevant Town ordinances and regulations and the goals and policies of the 2020 Land Use Plan.
 - 3) *Conditions and restrictions*. The Town Council shall have the authority to impose such conditions on a master subdivision plan that are necessary to accomplish the purposes of this Section, this Article, this Ordinance and the goals and policies of the 2020 Land Use Plan. All conditions imposed on a master subdivision plan shall be expressly set forth in the development approval.
 - 4) *Expiration*. A development approval for a master subdivision plan shall automatically expire at the end of 24 months after the date of its issuance if a building permit for at lease one building in the development proposed in the master subdivision plan is not approved. Permitted time frames do not change with successive owners. Upon written request, the Town Clerk for good cause shown may grant one extension of six months.

- 5) *Minor deviations.* The Town Engineer with the consent of the Mayor may approve a minor deviation to a master subdivision plan. A minor deviation shall be limited to technical or engineering considerations first discovered during actual development which could not reasonably be anticipated during the approval process or any other change which has no material effect on the character of the approved master subdivision plan. Minor deviations shall be limited to slight relocation of lot lines and streets.
- 6) *Amendments.* A master plan for subdivision may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

E) ***Construction Plans for Subdivision***

- 1) *General.* After approval of a master subdivision plan, the subdivider may proceed with the preparation of construction plans.
- 2) *Procedures.* The procedures for initiation of an application (Sec. 2.2.1) for construction plans for subdivision, the application contents (Sec. 2.2.4), fees (Sec.2.2.5), and application submission (Sec. 2.2.8) shall comply with those relevant provisions in Sec. 2.2, *Common Review Procedures*. Within 60 days after the application is determined sufficient, the Town Clerk (acting as the subdivision administrator) shall review the application, refer to the Town Engineer for review and comment, and approve, approve with conditions or disapprove the construction plans based on the standards in Sec. 2.3.7(E)(3), *Standards*.
- 3) *Appeal.* The subdivider may appeal the decision of the Town Engineer to the Town Council. In reviewing the appeal, the Town Council shall consider the record of the decision..
- 4) *Standards.* Construction plans shall conform to the approved master plan, conform to specifications and construction details, and comply with all the standards of this Ordinance and all other relevant Town ordinances and regulations.
- 5) *Compliance/non-compliance*
 - a) If the construction plans are found to comply with the standards in Sec. 2.3.7(E)(4), *Standards*, the evidence of such compliance shall be noted by the Town Engineer on four copies of the construction plans. One copy shall be transmitted to the subdivider, one copy shall be retained by the Town Clerk, one copy shall be retained to the Town Engineer, and one copy shall be forwarded to the Mayor.

- b) If the construction plans are found in non-compliance with the standards in Sec.2.3.7(E)(4), *Standards*, the subdivider shall be given an opportunity to submit revised construction plans. If revised construction plans are not submitted and the Town Engineer disapproves the same, the Town Engineer shall specify in writing the reasons for non-compliance. One copy of this statement shall be transmitted to the subdivider within 15 days of disapproval.
 - 6) *Expiration.* A final plat for subdivision shall be applied for within one year of the date of the approval of the construction plans; otherwise, the construction plans shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, one extension of six months may be granted by the Town Clerk for good cause shown.
 - 7) *Amendments.* A construction plan for subdivision may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.
- F) ***Final Plat for Subdivision***
- 1) *General*
 - a) Within one year after approval of construction plans, the subdivider shall prepare the final plat for subdivision and the installation or arrangement for required improvements in accordance with the approved construction plans and the procedures and standards of this Section.
 - b) The final plat for subdivision shall constitute only that portion of the master subdivision plan that the subdivider proposes to record and develop at the time.
 - 2) *Procedures.* The procedures for initiation of an application for a final plat for subdivision, the application contents, fees, and application submission and review by Town Engineer, shall comply with those relevant provisions in Sec. 2.2, *Common Review Procedures*. In addition, the applicant shall submit signed certifications for final plat for subdivision in a form established by the Town Clerk. Within 60 days after the application is determined sufficient, the Town Engineer shall review the application and approve, approve with conditions or disapprove the final plat for subdivision based on the standards in Sec. 2.3.7(F)(3), *Standards*.

- 3) *Standards.* To approve a final plat for subdivision, the Town Engineer shall find that the final plat for subdivision conforms with the approved master subdivision plan and the relevant construction plans, and complies with all the standards of this Ordinance and all other relevant Town ordinances and regulations. In addition, no final plat for subdivision shall be approved unless the Subdivider shall have installed in the area represented on the final plat for subdivision all improvements required by Article 7: *Subdivision*, and this Ordinance, or shall have guaranteed their installation.
- 4) *Compliance/non-compliance*
 - a) If the final plat for subdivision is found to comply with the standards in Sec. 2.3.7(F)(3), *Standards*, all relevant and appropriate fees are paid pursuant to this Ordinance, then approval shall be noted on each copy of the final plat for subdivision by the signed "certificate of approval for recording". The Town Engineer shall record the original mylar plat and return three certified copies to the Subdivider.
 - b) If the final plat for subdivision is found in non-compliance with the standards in Sec. 2.3.7(F)(3), *Standards*, the Subdivider shall be given an opportunity to submit a revised final plat for subdivision is not submitted and the Town Engineer disapproves the same, the Town Engineer shall specify in writing the reasons for non-compliance. One copy of this statement shall be transmitted to the Subdivider within 15 days of disapproval, one copy shall be transmitted to the Town Clerk, and one copy shall be retained by the Town Engineer.
- 5) *Recordation.* The Town Engineer shall file the approved final plat for subdivision with the register of deeds of Allen Parish for recording within 60 days after the date of approval of the final plat for subdivision, with the cost of recordation paid by the Subdivider.
- 6) *Effect of final plat for subdivision on dedications.* The approval of a final plat for subdivision shall not be deemed to constitute or effect the acceptance by the Town of the dedication of any street or other ground, public utility line or other public facility shown on the plat. The Town will by special resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes when the lands or facilities are located within its subdivision regulation jurisdiction.
- 7) *Appeal.* The Subdivider may appeal the decision of the Town Engineer to the Town Council.

- 8) *Minor deviation.* Minor deviations in the final plat may be approved by the Town Engineer. Minor deviations that are authorized are those that appear necessary in light of technical or engineering consideration first discovered during actual development and that are not reasonably anticipated during the initial approval process, as long as they comply with the standards of this Ordinance.
 - 9) *Amendments.* A final plat for subdivision may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- G) ***Minor Subdivision***
- 1) *General.* Final plats for subdivision for a minor subdivision (See Sec. 12 - Definitions) shall be reviewed and approved pursuant to the procedures and standards of this Section.
 - 2) *Limitations.* No Subdivider (or successors in title) may, during any calendar, year, obtain approval under this Section for more than four lots in a contiguous tract or parcel of land owned by the Subdivider.
 - 3) *Procedures.* The procedures for initiation of an application for a minor subdivision, the application contents, fees, and application submission shall comply with those relevant provision in Sec. 2.2, *Common Review Procedures*. Certifications required on the final plat shall be as directed by the Town Engineer. Within seven days after the application is determined sufficient, the Town Engineer (acting as the Subdivision Administrator) shall review the application and approve, approve with conditions or disapprove the minor subdivision based on the standards in Sec. 2.3.7(G)(4), *Standards*. During the review of the minor subdivision, the Town Engineer may appoint a surveyor to confirm the accuracy of the final plat for minor subdivision. If substantial errors are found the costs shall be charged to the Subdivider, and the final plat for minor subdivision shall not be approved until such errors have been corrected.
 - 4) *Standards.* In approving a minor subdivision the Town Engineer shall find that the minor subdivision conforms with all the standards of this Ordinance and all other relevant Town ordinances and regulations. In addition, no final plat for minor subdivision shall be approved unless the Subdivider shall have installed in the area represented on the final plat for minor subdivision all improvements required by Article 7. *Subdivision* and this Ordinance, or shall have guaranteed their installation.

- 5) *Compliance/non-compliance*
- a) If the final plat for minor subdivision is found to comply with the standards in Sec. 2.3.7(G)(4), *Standards*, all relevant and appropriate fees are paid pursuant to this Ordinance, then approval shall be noted on each copy of the final plat for minor subdivision by the signed “certificate of approval for recording”. The Town Engineer shall record the original mylar plat and return three certified copies to the Subdivider.
 - b) If the final plat for minor subdivision is found in non-compliance with the standards in Sec. 2.3.7(G)(4), *Standards*, the Town Engineer shall state in writing the specific reasons for disapproval. One copy of this statement shall be provided to the Subdivider within 15 days of disapproval. One copy of the written statement shall also be transmitted to the Town Clerk, and one copy shall be retained by the Town Engineer. The Subdivider shall be given an opportunity to submit a revised final plat for minor subdivision.
- 6) *Recordation.* The Town Engineer shall file the approved final plat for minor subdivision with the register of deeds of Allen Parish for recording within 60 days after the date of approval of the final plat for minor subdivision, with the cost of recordation paid by the Subdivider.
- 7) *Effect of final plat for minor subdivision on dedications.* The approval of a final plat for minor subdivision shall not be deemed to constitute or effect the acceptance by the Town of the dedication of any street or other ground, public utility line or other public facility shown on the plat. However, the Town will by special resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other subdivision regulation jurisdiction.
- 8) *Appeal.* The Subdivider may appeal the decision of the Town Engineer to the Town Council.
- 9) *Amendments.* A final plat for minor subdivision may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

2.3.8 Variance Permit

A) ***Purpose***

Variances are deviations from the dimensional standards in the applicable zone district when owing to special circumstances or conditions (like exceptional topographical conditions, narrowness, shallowness, or the shape of a specific piece of property), the literal enforcement of the provisions of this Ordinance would result in peculiar and practical difficulties to , or exceptional and undue hardships on the owners of the property, and the deviation would not be contrary to the public

interest. No variances from the schedule of permitted uses or special uses applicable in a zone district shall be allowed pursuant to the terms of this Section.

B) *Authority*

The Town Council, in accordance with the procedures, standards and limitations of this Section, is authorized to review and approve, approve with conditions, or disapprove an application for a variance permit.

C) *Procedures*

- 1) *Initiation, submission, and review of application.* The procedures for initiation of the application for a variance permit, the application contents, fees, submission and review by Town Engineer, public notification, and scheduling of a public hearing shall comply with those relevant provisions in Sec. 2.2, *Common Review Procedures*.
- 2) *Action by Town Council.* After completion of the Town Engineer Report on the application (Sec. 2.2.9) and public notification (Sec. 2.2.11) and scheduling of a public hearing (Sec. 2.2.10), the Town Council shall conduct a public hearing on an application for a variance permit pursuant to Sec. 2.2.18, *Public Hearing Procedures*. At the public hearing, the Town Council shall consider the application, the Town Engineer Report, the relevant support materials, and the public testimony given at the public hearing, the Town Council shall approve, approve with conditions, or disapprove the application for a variance permit pursuant to the standards in Sec. 2.3.8(D), *Standards*.

D) *Standards*

In order to approve an application for a variance permit, the Town Council shall find the following:

- 1) *Special circumstances exist.* There are special circumstances or conditions (like exceptional topographic conditions, narrowness, shallowness, or the shape of property) that are peculiar to the land or structure for which the variance is sought, that is not applicable to other land or structures in the same zone district.
- 2) *Not result in action by applicant.* The special circumstances are not the result of the actions of the applicant.
- 3) *Strict application deprives use.* The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zone district, and would cause an unnecessary and undue hardship;
- 4) *Minimum variance.* The granting of the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and which would carry out the spirit of this Ordinance;

E) ***Conditions of Approval***

The Town Council may, in approving the variance permit, impose such restrictions and conditions on such approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the general goals, objectives, and policies of this Ordinance to prevent or minimize adverse effects from the proposed variance on the general health, safety and welfare of the Town, landowners in the Town and its residents.

F) ***Effect of Variance Permit***

Issuance of a variance permit shall authorize only the particular variation that is approved in the variance permit. A variance permit shall run with the land and not be affected by a change in ownership.

G) ***Time Limitation***

Unless otherwise specified in the variance permit, an application for a Certificate of Zoning Compliance must be applied for and approved within 12 months of the date of the approval of the variance permit; otherwise the variance permit shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, one extension of 12 months may be granted by the Mayor for good cause shown.

H) ***Subsequent Development***

Development authorized by the variance permit shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the Town. A variance permit shall not ensure that the development approved as a variance shall receive subsequent approval for other applications for development unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

I) ***Amendment***

A variance permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval. A request for a change in a condition of approval of a variance permit shall be considered an amendment.

J) ***Lapse of Permit***

If development occurs pursuant to a variance permit and the development is discontinued for any reason for a period of 12 months, the variance permit shall automatically become null and void and the development may not be resumed. Upon written application during the 12 month period by the landowner and upon a showing of good cause, the Mayor may grant an extension not to exceed six months.

2.3.9 Administrative Adjustment

A) ***General***

This Section sets out the procedures and standards for administrative adjustments, which are minor modifications of setbacks, minimum lot dimensions, floor areas, etc. as set out in Sec. 5.1, *Table of Intensity and Dimensional Standards*, parking spaces, signage, and landscaping.

B) ***Procedures***

The procedures for initiation of an application for an administrative adjustment, the application contents, fees, and application submission shall comply with those relevant provisions in Sec. 2.2, *Common Review Procedures*. Within 30 days after the application is determined sufficient, the Town Engineer shall review the application and make a recommendation to the Mayor, the Mayor shall approve, approve with conditions or disapprove the administrative adjustment based on the standards in Sec. 2.3.9(C), *Standards*.

C) ***Standards***

Administrative adjustments shall be approved by the Mayor only upon a finding that the applicant has demonstrated that all of the following conditions are met:

- 1) *Existing encroachment.* The request relates to an existing encroachment into a setback.
- 2) *One encroachment.* The encroachment involves one encroachment into one required setback.
- 3) *Construction error.* The encroachment is a result of a construction error by the property owner, a predecessor in title, or someone acting on behalf of one or both of them.
- 4) *Substantial hardship.* The encroachment cannot be corrected without substantial hardship to the property owner.
- 5) *Error made in good faith.* The error is not the result of negligence, recklessness or intentional conduct.
- 6) *Not substantially interfere with the convenient and enjoyable use of adjacent properties.* The adjustment will not substantially interfere with the convenient and enjoyable use of adjacent properties, and will not impose a danger to the public health or safety.
- 7) *Consistent with intent of this Ordinance.* The adjustment is consistent with the general intent and purposes of this Ordinance.

D) ***Conditions of Approval***

The Mayor may, in approving the administrative adjustment, may impose such restrictions and conditions on such approval and the premises to be developed or used pursuant to such approval as are determined are required to ensure compliance with the general goals, objectives, and policies of this Ordinance to prevent or

minimize adverse effects from the proposed administrative adjustment on the general health, safety and welfare of the Town, landowners in the Town and its residents.

E) ***Effect of Administrative Adjustment***

Issuance of an administrative adjustment shall authorize only the particular modification that is approved in the administrative adjustment. An administrative adjustment shall run with the land and not be affected by a change in ownership.

F) ***Expiration***

Unless otherwise specified in the administrative adjustment,, an application for a Certificate of Zoning Compliance must be applied for and approved within 12 months of the date of the approval of the administrative adjustment; otherwise the administrative adjustment shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, one extension of 12 months may be granted by the Mayor for good cause shown.

G) ***Subsequent Development***

Development authorized by the administrative adjustment shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the Town. An administrative adjustment shall not ensure that the development approved as an administrative adjustment shall receive subsequent approval for other applications for development unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

H) ***Amendments***

An administrative adjustment may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

I) ***Appeals***

The applicant may appeal the decision of the Mayor to the Town Council.

2.3.10 Certification of Zoning Compliance

A) ***Purpose***

A Certificate of Zoning Compliance shall be required in accordance with the provisions of this Section in order to ensure that proposed development complies with the standards in this Ordinance, and to otherwise protect the public health, safety and welfare of the citizens of the Town.

B) ***Applicability***

Where no other type of development permit is required by this Ordinance, a Certificate of Zoning Compliance shall be required for the following types of development, including, but not limited to:

- 1) Shopping centers, office parks, industrial parks, and other similar type uses.
- 2) Change of use.
- 3) Variance Permits (Sec. 2.3.8.9)
- 4) Administrative Adjustments (Sec. 2.3.9.F)

C) ***Procedures***

The procedures for initiation of an application for a Certificate of Zoning Compliance, the application contents, fees, and application submission shall comply with those relevant provisions in Sec. 2.2, *Common Review Procedures*. Within 15 days after the application is determined sufficient, the Town Engineer shall review the application and provide written documentation stating whether the application complies with the standards in Sec. 2.3.10(D), *Standards*. A copy of this documentation shall be provided to the applicant and the Mayor. If the Mayor finds that the application complies with the standards in Sec. 2.3.10(D), *Standards*, the Certificate of Zoning Compliance shall be approved. If the Mayor recommends disapproval of the application, the applicant shall have 30 calendar days from the date of disapproval to submit a corrected application. If a corrected application is received, the Mayor shall approve, approve with conditions, or disapprove the application, based on the standards in Sec. 2.3.10(D), *Standards*. If the application is not resubmitted within 30 calendar days, the application shall be considered withdrawn.

D) ***Standards***

Prior to approval of a Certificate of Zoning Compliance, the Mayor shall find that the application complies with all standards of this Ordinance.

E) ***Effect of Certificate of Zoning Compliance***

Issuance of a Certificate of Zoning Compliance shall mean that the proposed development is in compliance with the procedures and standards of this Ordinance.

F) ***Expiration***

Receipt of a Certificate of Zoning Compliance shall expire at the end of one year after the date of its initial approval if an application for a building permit has not been approved, or if the use does not require a building permit, the use is established, ongoing, and in operation. Upon written request, one 12 month extension of the Certificate of Zoning Compliance may be granted by the Mayor for good cause shown.

G) ***Amendment***

A Certificate of Zoning Compliance may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

2.3.11 Temporary Use

A) ***Applicability***

The provisions of this Section shall apply to all proposed temporary uses as set forth in Sec. 4.6, *Temporary Uses and Structures*, unless otherwise specifically exempted.

B) ***Procedure***

The procedures for initiation of an application for a temporary use permit, the application contents, fees, and application submission shall comply with those relevant provisions in Sec. 2.2, *Common Review Procedures*. Within 30 days after the application is determined sufficient, the Mayor shall review the application and approve, approve with conditions or disapprove the temporary use permit based on the standards in Sec. 2.2.11(C), *Standards*.

C) ***Standards***

The Mayor shall issue a temporary use permit upon a finding that the temporary use, as proposed, will comply with the relevant standards set forth in Sec. 4.6, *Temporary Uses and Structures*.

D) ***Permit Issued***

All approved applications shall be issued a temporary use permit by the Mayor authorizing the establishment of the approved temporary use on the subject property. This temporary use permit shall be subject to the time limits and expiration provisions set forth in Sec. 4.6, *Temporary Uses and Structures*.

E) ***Compliance***

Following the issuance of the temporary use permit, the Mayor shall ensure that establishment and discontinuance of the temporary use are undertaken in compliance with the permit.

F) ***Effective Date of the Permit***

Temporary use permits shall be effective beginning on the date of approval, and shall remain effective for the period indicated on the permit.

G) ***Expiration***

All temporary use permits shall expire within six months. Upon written request, one 12 month extension may be granted by the Mayor for good cause shown.

H) ***Amendment***

A temporary use permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

2.3.12 Appeals

A) ***Purpose***

Any person aggrieved by any decision or interpretation made by the Town Engineer or the Mayor or any other officials administering this Ordinance may appeal such decision to the Town Council, which shall review the decision or interpretation pursuant to the requirements of this Section.

B) ***Authorization***

On the action appealed from, Town Council by the final authority.

C) ***Procedures***

- 1) *Initiation of appeals.* Notices of Appeal shall be filed within 30 calendar days of the written decision of interpretation of the Mayor or other official.
- 2) *Contents of appeal.* The Notice of Appeal shall include a statement of the error or improper decision or interpretation made by the Mayor or other officer, the date of that decision, and all support materials related to the decision. The specific form of the Notice of Appeal shall be established by the Town Clerk.
- 3) *Forwarding record to the Town Council.* Upon receiving the Notice of Appeal, the Mayor shall forward the Notice of Appeal and the record of the Mayor's decision on which the appeal is based to the Town Council at the next regularly scheduled Town Council meeting.
- 4) *Notice procedures.* Notice of the time and place of the meeting on the appeal shall be mailed to the Appellant by the Town Clerk at least 14 days prior to the date of the meeting.
- 5) *Action by Town Council.* At the hearing on the appeal, the Appellant or the Appellant's agent shall state the grounds for the appeal and include any materials or evidence to support the appeal. The Mayor, or a designated representative, shall be provided the opportunity to respond, as well as any other persons the Town Council deems necessary. After the conclusion of the hearing, the Town Council shall either affirm, affirm with modifications, or reverse the contested decision or interpretation, based on the standards in Sec. 2.3.12(E), *Standards*.

D) ***Stay***

An appeal shall stay all proceedings in furtherance of the action appealed, unless the Town Attorney certifies that by reason of facts stated in the appeal, a stay would cause imminent peril to the life or property.

E) ***Standards***

A decision/interpretation of the Mayor or other official under this Ordinance shall not be reversed or modified unless there is demonstrated evidence that the interpretation/decision is inconsistent with the intent and standards of this Ordinance.

F) ***Hearing on Record***

All appeals, will be held solely on the record.

2.3.13 Beneficial Use Determination

If, after the submission and decision on the appropriate applications for development permits for a plan for the development of land, a landowner in the Town is of the opinion that an economically beneficial use of that landowner's land has been denied by the application of this Ordinance, then the procedures of this Section shall be used prior to seeking relief from the courts in order that any denial of economically beneficial use of land may be remedied through a non-judicial forum.

A) *Purpose*

The purpose and intent of the Unified Development Ordinance is that every landowner in the Town enjoy an economically beneficial use of land. It is also the purpose and intent of this Section to provide for relief to the landowner, where appropriate, from the application of this Ordinance. The procedures set forth in this Section are intended to permit landowners who believe they have been deprived of economically beneficial use of their land to apply to the Town Council for relief sufficient to provide an economically beneficial use of the land.

B) *Procedures*

- 1) *Application for an appeal for beneficial use determination.* An Appeal for a Beneficial Use Determination may be filed by a landowner at any time to the Mayor, along with an application fee established pursuant to Sec. 2.2.5, *Fees*.
- 2) *Contents of applications.* The application shall be submitted in a form established by the Town Clerk and made available to the public, and shall include the following:
 - a) The landowner's name and address.
 - b) A legal description and the street address (when a street address is available) of the land.
 - c) Documentation of the date of purchase and the purchase price of the land, and any offers to purchase the land made by any person, corporation, or association, within the last three years.
 - d) A description of the physical features present on the land, the land's total acreage, the present use of the land, and the use of the land at the time of the adoption of this Ordinance.
 - e) Existence of any investments made by the landowner to improve the land, the date the improvements were made, and the costs of the improvements.
 - f) A description of what uses of land were available when the land was purchased by the landowner.

- g) A description of the regulations and uses permits which are alleged to result in an elimination of economically beneficial use of the land.
 - h) All appraisals, studies, and any other supporting evidence, and any actions taken by Town related to the land.
 - i) A description of the use which the landowner believes represents the minimum legally required economically beneficial use of the land and all documentation, studies, and other supporting evidence thereof.
- 3) *Determination of sufficiency.* The Mayor shall determine if the application is sufficient and includes data in sufficient detail to evaluate the application to determine if it complies with the appropriate substantive requirements of this Section.
 - a) If the Mayor determines the application is not sufficient, a written notice shall be mailed to the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within 30 calendar days, the application shall be considered withdrawn, and the application fee shall be refunded.
 - b) When the application is determined sufficient, the Mayor shall notify the applicant, in writing, of the application's sufficiency, and forward the application to the Town Clerk the scheduling of a hearing.
- 4) *Establishment of date for hearing and notice.* Within 30 calendar days of the date that the application has been determined sufficient by the Mayor, the Town Clerk shall schedule a hearing at the next regularly scheduled Town Council meeting. The Town Clerk shall provide the applicant and all landowners within 300 feet of the land subject to the Appeal for Beneficial Use Determination at least 10 calendar days notice of the hearing by mail.
- 5) *Hearing.* At the hearing, the applicant shall present the applicant's case and the Town Attorney shall represent the Town. All evidence presented shall be under oath, and the parties involved shall be permitted to cross examine witnesses. The sworn testimony and evidence shall pertain to the standards set forth in Sec. 2.3.13(C), *Beneficial Use Standards*, as to whether the applicant has been deprived of an economically beneficial use of the land.

- 6) *Findings of the Town Council.* The findings of the Town Council as to whether the land is provided economically beneficial use shall be based on the evidence submitted and the standards in Sec. 2.3.13(C), *Beneficial Use Standards*. If the Town Council finds that the applicant has been denied economically beneficial use of the subject land, then the Town Council shall recommend a use that permits an economically beneficial use and results in a minimum change from the regulations of this Ordinance as they apply to the subject land, pursuant to the standards set forth in Sec. 2.3.13(C), *Beneficial Use Standards*. The Town Council's decision shall be in writing and shall detail the basis of the conclusions from the record of the hearing.
- C) *Beneficial Use Standards*
In determining if a landowner has been deprived of an economically beneficial use of land, the Town Council shall take into account the following factors:
- 1) *Economically viable use.* In making the determination of whether the land is provided an economically viable use, the Town Council shall first evaluate the uses of land in relation to the uses provided by this Ordinance, and the uses of land in relation to the uses provided similarly situated lands. For the purposes of this Section, economically viable use means the opportunity to make a return equivalent to that which would have been received from a conservative financial investment. Transitory economic issues shall not be relevant to the this determination.
- 2) *Diminution in value.* The market value of the land, as established by the comparable sales approach, prior to adoption of this Ordinance, which cause the landowner to apply for relief shall be compared to the market value of the land, as established by the comparable sales approach, with the regulations as applied. Market value of the land prior to the adoption of this Ordinance shall constitute its highest and best use on (one day prior to the effective of this Ordinance) or the date of purchase of the land, whichever is later, and any other land value/appraisal information that the applicant would like to be considered. All appraisals shall be proposed by qualified licensed appraisers, and shall follow the best professional practices as established by the profession. A mere diminution in market value is not sufficient to support a determination of denial of economically beneficial use.

2.3.14 Reserved

2.3.15 Non-Structural Development Plan

A) ***Purpose***

Non-Structural Development Plan review is required by this Ordinance to ensure that non-structural development activities are done in a manner that protects and ensures that appropriate measures are taken for stormwater management and sedimentation and erosion control.

B) ***Applicability***

No person shall engage in non-structural development activities unless he or she has applied for and has been issued a Non-Structural Development Permit, along with payment of the applicable permit fee; and all other applicable federal, state, and local permits, such as grading permits or sedimentation and erosion control permit, have been issued. The Non-Structural Development Permit is issued by the Town Clerk and authorizes non-structural development activities consistent with this Ordinance. All non-structural development activities shall be conducted in conformity with the approved Non-Structural Development Plan and Permit. Non-structural development activities include, but are not limited to, grading, filling, grubbing, excavation, land disturbance, wetlands disturbance, and drainage of water bodies.

The Non-Structural Development Plan cannot be reviewed concurrently with any other development application (e.g. subdivision plan, site plan, etc) and must be approved or withdrawn prior to the submission of any other development application.

C) ***Procedures***

- 1) *Application for Non-Structural Development Permit.* Applicants shall submit a form and fee specified by the Town Clerk along with a Non-Structural Development Plan. The Non-Structural Development Plan shall indicate the extent of clearing and other earthwork operations and include erosion control and silt containment procedures.
- 2) *Contents of application.* The Non-Structural Development Plan shall include the following information:
 - a) The boundaries of the site upon which non-structural development activities are proposed.
 - b) The areas where the applicant proposes to conduct non-structural development activities.
 - c) Those areas of the site that correspond with areas that would be buffers, stream corridors, wetlands, stands of large trees, etc.

- d) Proposed grading plan, including appropriate measures for stormwater management and sedimentation and erosion control (if applicable).

E) ***Expiration***

A Non-Structural Development Permit shall expire at the end of the year after the date of its initial approval if the use has not been established, ongoing, and in operation. Upon written request, one 6 month extension of the Non-Structural Development Permit may be granted by the Mayor for good cause shown.

F) ***Amendment***

A Non-Structural Development Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

ARTICLE 3 ZONE DISTRICTS

3.1 PURPOSE AND INTENT

In order to ensure that development in the Town occurs in an orderly and consistent manner, maintains Kinder's small town character and historic and cultural heritage, protects natural and scenic resources and does not result in inadequate public facilities, it is necessary and proper to establish a series of zone districts. Each zone district has its own purpose and has permitted uses and special uses and other regulations that control the use of land in each district. All development within each zone district shall be consistent with the purposes slated in this article.

3.2 ZONE DISTRICTS ESTABLISHED

In order to carry out and implement the purpose and intent of this Ordinance, the following— zones districts are hereby established:

3.2.1 Residential Districts

- A) *RA - Residential Agricultural District;*
- B) *RR - Rural Residential District;*
- C) *LD - Low Density Single-Family Residential District;*
- D) *MD - Medium Density Single-Family Residential District;*
- E) *Reserved*
- F) *HDMF - High Density Multi-Family Residential District;*
- G) *MH - Manufactured Housing Residential District;*
- H) *MHP - Mobile Home Park District; and*
- I) *Reserved*

3.2.2 Business Districts

- A) *GB - General Business District*
- B) *LI - Light Industrial District*

3.2.3 Planned Development Districts

- A) *Reserved*
- B) *Reserved*
- C) *Reserved*

3.2.4 Other Districts

- A) *Reserved*

3.2.5 Conditional Use Residential Districts

- A) *CU-RA Residential Agricultural Conditional Use District;*
- B) *CU-RR Rural Residential Conditional Use District;*

- C) *CU-LD Low Density Residential Conditional Use District;*
- D) *CU-MD Medium Density Residential Conditional Use District;*
- E) *Reserved*
- F) *CU-HDMF High Density Multi-Family Residential Conditional Use District;*
- G) *CU-MH Manufactured Housing Residential Conditional Use District;*
- H) *CU-MHP Mobile Home Park Conditional Use District; and*
- I) *Reserved*

3.2.6 Conditional Use Business Districts

- A) *CU-GB General Business Conditional Use District;*
- B) *CU-LI Light Industrial Conditional Use District;*

3.2.7 Conditional Use Planned Development Districts

- A) *Reserved*

3.2.8 Conditional Use Other Districts

- A) *Reserved*

3.2.9 Overlay Districts

- A) *Water and Protection Overlay District;*
- B) *Flood Damage Prevention Overlay District;*

3.3 DISTRICT PURPOSES

The districts established have the following purposes and intent:

3.3.1 Residential Districts

The purpose and intent of the residential districts is to provide a comfortable, healthy, safe and pleasant environment for persons to live, to protect the Town's existing neighborhoods, to maintain the Town's small-town character, to maintain natural areas and open spaces within neighborhoods, to encourage the development and protection of pedestrian ways within and between neighborhoods, to encourage interconnectivity, and to ensure residential areas are served by adequate public facilities and services and sheltered from incompatible land uses.

A) *(RA) Residential Agricultural District*

The purpose and intent of the RA Residential Agricultural District is to protect and enhance an agricultural and rural lifestyle by providing lands that allow for agricultural uses, and very low density rural and residential development.

- B) ***(RR) Rural Residential District***
The purpose and intent of the RR Rural Residential District is to provide for lower density rural and residential development while accommodating smaller lot sizes than the RA Residential Agricultural District. (Re: Table 5.1)
- C) ***(LD) Low Density Single-Family Residential District***
The purpose and intent of the LD Low Density Single-Family Residential District is to provide lands for low density, single-family residential uses, at densities up to two (2) units an acre. (Re: Table 5.1)
- D) ***(MD) Medium Density Single-Family Residential District***
The purpose and intent of the MD Medium Density Single-Family Residential District is to provide lands for medium density single-family residential uses at densities up to four (4) units an acre. (Re: Table 5.1)
- E) ***(HDSF) High Density Single-Family Residential District***
Reserved.
- F) ***(HDMF) High Density Multi-Family Residential District***
The purpose and intent of the HDMF High Density Multi-Family Residential District is to provide lands for high-density multi-family residential uses, (townhouses, condominiums, apartments, duplexes, triplexes, and quadplexes) at densities up to fourteen (14) units an acre. (Re: Table 5.1)
- G) ***(MH) Manufactured Housing Residential District***
The purpose and intent of the MH Manufactured Housing Residential District is to provide lands for manufactured housing along with other multi-family (townhouse, condominium, duplex, and multi-family dwellings) and single-family housing at densities of four (4) units an acre. (Re: Table 5.1)
- H) ***(MHP) Mobile Home Park District***
The purpose and intent of the MH Mobile Home District is to provide lands for mobile home development in a planned environment at densities of eight (8) units an acre. (Re: 5.1)
- I) ***Reserved***

3.3.2 Business Districts

The purpose and intent of the business districts is to provide lands that allow for a wide range of businesses, services and goods to the residents of Kinder in ways that are consistent with the Town's small-town character, encourage interconnectivity between business uses and residential areas, encourage the development and protection ways between business and residential districts, and ensure businesses are served by adequate public facilities.

A) ***(GB) General Business District***

The purpose and intent of the GB General Business District is to encourage development of office and institutional uses at moderate intensities, and the integration of complementary retail uses to service the office and institutional development, primarily at major and minor thoroughfares.

B) ***(LI) Light Industrial District***

The purpose and intent of the LI Light Industrial District is to provide sufficient lands in appropriate locations for certain types of businesses, light manufacturing, or processing uses that might cause undesirable effects upon residential or commercial lands.

3.3.3 ***Reserved***

3.3.4 ***Reserved***

3.3.5 ***Reserved***

3.3.6 ***Reserved***

3.3.7 ***Reserved***

3.3.8 ***Reserved***

3.3.9 **Overlay Districts**

A) ***Flood Damage Prevention Overlay District***

The purpose and intent of the Flood Damage Prevention Overlay District is to minimize public and private losses due to flood conditions in specific areas of the Town by provisions designed to:

- 1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Control the alteration of natural floodplans, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.
- 4) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- B) ***Watershed Protection Overlay District***
The purpose and intent of the Watershed Protection Overlay District is to minimize sedimentation, erosion and water quality degradation in and adjacent to natural drains and streams. These are protected by riparian buffers, stormwater detention, land use controls, Best Management Practices (BMPs) and preservation measures to ensure water quality, wildlife, fisheries and land conservation within watershed areas.
- C) ***Reserved***

3.4 OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES

3.4.1 Establishment of Official Zoning Map

The location and boundaries of the zone districts established in this article shall be set forth on the Official Zoning Map, which is incorporated herein by reference into this article as it fully described and set forth herein. A copy of the Official Zoning Map shall be located at all times for inspection by the general public during regular business hours in the office of the Town Clerk.

3.4.2 Amendment to the Official Zoning Map

When pursuant to Sec. 2.3.2, *Amendments to the Text of this Ordinance or the Official Zoning Map (Rezoning)*, amendments are made to the boundaries of the Official Zoning Map, such amendments shall be entered on the Official Zoning Map by the Town Engineer promptly following its adoption. A note shall be entered on the maps, indicating the number of the amending resolution and the date of its adoption.

3.4.3 Replacement of Official Zoning Map

A) ***Official Map Lost, Damage or Illegible***

In the event the Official Zoning Map become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Council shall adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map.

B) ***New Official Zoning Map***

The new Official Zoning Map may correct drafting and clerical errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or subsequent amendments thereto without a duly noticed public hearing pursuant to the procedures and standards of this Ordinance.

ARTICLE 4 USE REGULATIONS

4.1 GENERAL OVERVIEW

4.1.1 General

Uses permitted by right or as a special use pursuant to Sec. 2.3.5, *Special Use*, in each zone district shall be determined from the Use Table (Table 4.2.4). The use regulations within overlay districts shall be determined by the uses allowed in the underlying base districts, as may be modified by Article 6: *Overlay District Regulations*.

4.1.2 Outside Storage and Sales

- A) The purpose and intent of this section is to allow outside storage, display, and sales/rentals in the RA, GB, and L1 districts provided that such outside storage, display, and sales/rentals are within designated areas that are adequately screened and meet the standards listed within this section. However, this section does not apply to "Vehicle sales and rental, light".
- B) Unless specifically permitted for a particular use and on a site specific development plan, no outdoor storage, display, or sales/rentals are permitted in any district.
- C) For those uses that are permitted to have outdoor storage, display, or sales/rentals, the area to be used for outdoor storage, display, or sales/rentals:
 - 1) Must only be those areas designated as outdoor storage, display, or sales/rentals on a site specific development approval.
 - 2) Must meet building setbacks (see Sec. 5.1 *Table of Intensity and Dimensional Standards*).
 - 3) For industrial uses, must be located within the back 50% of the side yard and/or in the rear yard; no outdoor storage, display, or sales/rentals are permitted in the front 50% of the side yard or in the front yard. For commercial uses, must be located within the side and/or rear yard and/or in the front yard if located entirely under the permanent primary building canopy.

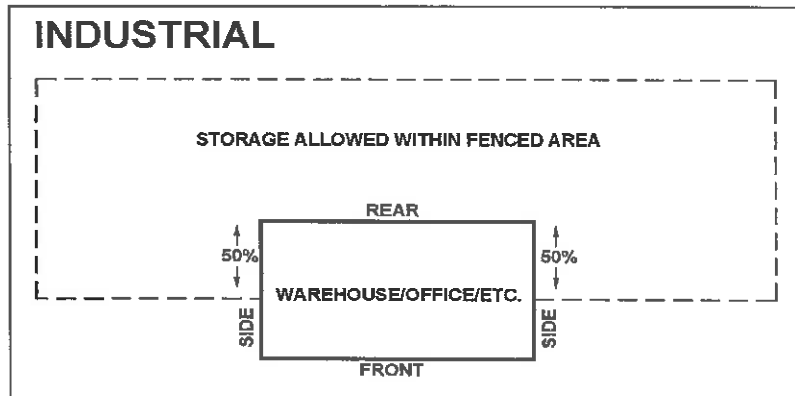


Figure 4.1.2 (C) (3) - Industrial

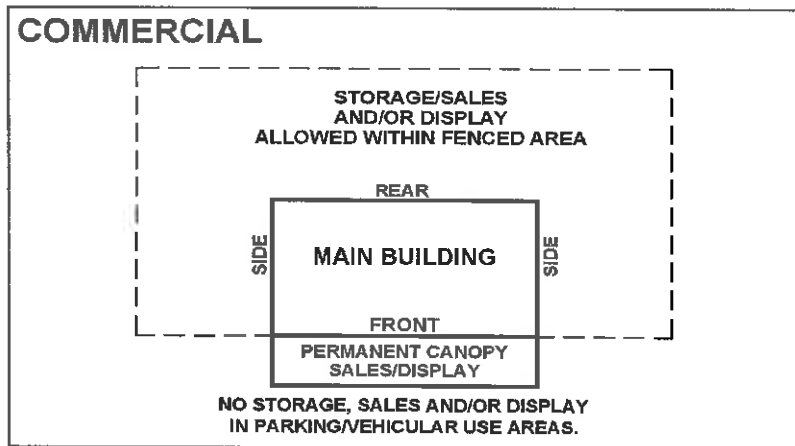


Figure 4.1.2 (C) (3) - Commercial

- 4) Is limited to areas that are surfaced with asphalt, concrete, gravel or other materials that are equal in quality (if approved by the Town Engineer).
- 5) In the case of storage of materials posing an environmental hazard, such as soil, fertilizer, lumber or other loose, unprotected material, shall be fully contained to prevent leaching or run-off.
- 6) Must be enclosed with a fence if they are secondary to the primary use or structure. In addition, the area and all goods stored, displayed, or for sale/rental must be screened from off-site view, except under the permanent primary building canopy, where goods simply cannot extend past the canopy. Screening shall be achieved through the use of opaque fencing or evergreen plants. Chain-link fencing with vinyl slats is not considered opaque fencing and is not allowed for screening purposes. Plants must be 6 feet tall or the height of goods stored, displayed, or for sale/rental (whichever is less) at the time of planting and must reach the height of the

goods stored, displayed, or for sale/rental within 3 years of planting. Tractor trailers and similar enclosures must be located within the fenced storage, display, and sale/rental area. See also Sec. 8.2.8(A) *Screening*.

- 7) Must meet all parking requirements of Sec. 8.3.2 *Off-Street Parking Requirements*. In no case shall any parking space designated on a site specific development plan be used for outdoor storage, display, or sales/rentals.

4.2 USE TABLE

4.2.1 General

Table 4.2.2 summarizes the principal use regulations of the base zone districts.

A) ***Use Categories***

All the use categories listed in the Use Table are defined in Sec. 4.3, *Use Classifications*. If a use type is listed in Table 4.2.2, Use Table, that use type is allowed only within the districts indicated. The specific subsection in Sec. 4.3, *Use Classifications*, where the use category is defined is identified in the column marked "Definitions."

B) ***P Uses Permitted By-Right***

A "P" indicates that a use is allowed as a matter-of-right in the respective zoning district, subject to compliance with all applicable regulations in this Ordinance.

C) ***S Special Uses***

A "S" indicates that a use category or specific use type is allowed only if reviewed and approved in accordance with the procedures and standards of Sec. 2.3.5, *Special Use*.

D) ***% Allowed as Percentage of Gross Square Footage***

A "%" indicates that a use category or specific use type is allowed in the corresponding zoning district only as a percentage of the total gross square footage of a permitted use ("P" or "S"). Refer to Sec. 4.4, *Supplemental Standards*, for specific standards.

E) ***Uses Not Allowed***

A blank cell indicates that a use type is not allowed in the respective zoning district, unless it is expressly allowed by other regulations of this Ordinance.

F) ***Uses Subject to General and Specific Regulations***

Numbers in the final column of the Use Table indicate that the listed use is subject to use-specific regulations in one or more districts in which the use is allowed. The numbers in the parentheses provide a cross-reference to the use specific regulations, which can be found in Sec. 4.4, *Supplemental Standards*.

G) ***New or Unlisted Uses***

If an application is submitted for a use type that is not listed as a permitted or special use in one or more of the zoning districts, the Town Engineer shall be authorized to make a similar use interpretation based on the use category descriptions in Sec. 4.3, *Use Classifications*. If the Town Engineer determines that the proposed use does not fit any of the use category descriptions of Sec. 4.3, *Use Classifications*, no similar use interpretation shall be made.

H) ***Prohibited Uses***

No hazardous or noxious uses are allowed within any zoning district established by the Unified Development Ordinance, such as, but not limited to:

- 1) *Abattoirs on slaughter house.*
- 2) *Acetylene gas manufacture.*
- 3) *Acid manufacture.*
- 4) *Ammonia, bleaching powder or chlorine manufacture.*
- 5) *Asphalt manufacture or refining.*
- 6) *Brick, tile or terra cotta manufacture.*
- 7) *Cellophane manufacture.*
- 8) *Cement, lime or plaster manufacture.*
- 9) *Creosote manufacture or treatment plants.*
- 10) *Distillation of bones, coal, petroleum, refuse, grain, tar and wood.*
- 11) *Explosives, ammunition fireworks or gunpowder manufacture.*
- 12) *Fat rendering, production of fats and oils from animal or vegetable products by boiling or distillation.*
- 13) *Fertilizer or any other product involving the use of industry or granular products.*
- 14) *Garbage, offal and animal reduction and processing.*
- 15) *Glue and size manufacture.*
- 16) *Linseed oil, shellac, turpentine manufacture or refining.*
- 17) *Nitrogenous tankage, fish meal or manufacture of any fertilizer materials.*
- 18) *Oilcloth or linoleum manufacture.*
- 19) *Ore reduction.*
- 20) *Junkyards.*
- 21) *Pulp mills.*

4.2.2 Use Table

Use Type	Definition Section	Zoning Districts												Other	Standards Section(s)	
		Residential						Business								
		R A	R R	LD	MD	H D	MH	M H	G B	L I						
Residential Uses																
Accessory apartment	4.3.1.A	P	P	P	P							P				4.5.6
Condominium	4.3.1.B					P										5.4
Congregate living facility	4.3.1.C					P										4.4.1.A
Duplex	4.3.1.D				P	P										5.4
Family care home	4.3.1.E	P	P			P	P	P	P							4.4.1.B
Farm resident	4.3.1.F	P	P													
Historic site, adaptive use	4.3.1.G	S	S	S	S	S	S	S	S	P						4.4.1.C
Manufactured home	4.3.1.H							P								4.4.1.D
Mobile home	4.3.1.I									P						
Modular home	4.3.1.J	P	P	P	P					P						4.4.1.E
Multi-family or apartment	4.3.1.K					P										
Nursing or convalescent family	4.3.1.L					P				P						4.4.1.F
Security or caretaker	4.3.1.M	P	P													4.4.1.G
Single-Family	4.3.1.N	P	P	P	P											5.4
Townhouse	4.3.1.O					P										5.4
Triplex or quadplex								P								
Public and Civic Uses																
Airplane landing strip	4.3.2.A	S	S													
Airport	4.2.3.B	S	S													
Assembly hall, nonprofit	4.3.2.C											P				
Cemetery	4.3.2.D	P	P											P		4.4.2.A
Church or place of worship	4.3.2.E	P	P	P	P	P	P	P	P	P						4.4.2.B
Day care facility	4.3.2.F	S	S	S	S	S	S	S	S	P	P	P				4.4.2.C

Key = P = Permitted By Right S = Special Uses % = Allowed as % of G.S.F.

Use Type	Definition Section	Zoning Districts												Other	Standards Section(s)
		Residential						Business							
		R A	R R	LD	MD	H D M F	MH	M H P	G B	L I					
Government Service	4.3.2.G	P	P						P	P					
Heliport or helipad	4.3.2.H									P					
Hospital	4.3.2.I								P					4.4.2.D	
School, public or private	4.3.2.J	P	P	P	P	P	P		P						
Transportation facility	4.3.2.K									P					
Veterinary clinic or hospital	4.3.2.L								P	P				4.4.2.E	
Vocational school	4.3.2.M								P	P					
Utilities															
Chipping and mulching	4.3.3.A									P				4.4.3.A	
Communication tower, commercial	4.3.3.B									P				4.4.3.B	
Communication tower, stealth	4.3.3.C	S	S				S	S	S	P				4.4.3.B	
Electrical power facility	4.3.3.D	S	S							P				4.4.3.C	
Incinerator	4.3.3.E									P					
Recycling center	4.3.3.F													4.4.3.D	
Recycling collection station	4.3.3.G	P	P		P	P	P			P				4.4.3.E	
Recycling plant	4.3.3.H													4.4.3.F	
Sanitary landfill	4.3.3.I														
Utility, minor	4.3.3.J	P	P	P	P		P	P	P	P				4.4.3.G	
Water reservoir	4.3.3.K	P	P	P											
Water or wastewater plant	4.3.3.L	P	P	P						P	P				
Recreational Uses															
Arena, auditorium or stadium	4.3.4.A													4.4.4.A	
Reserved	4.3.4.B														
Botanical garden	4.3.4.C	P	P	P	P	P	P	P	P	P					
Campground	4.3.4.D	S												4.4.4.B	

Key = P = Permitted By Right S = Special Uses % = Allowed as % of G.S.F.

Use Type	Definition Section	Zoning Districts											Other	Standards Section(s)	
		Residential						Business			Other	Standards Section(s)			
		R A	R R	LD	MD	H D M F	MH	M H P	G B	L I					
Entertainment, indoor	4.3.4.E								P						
Entertainment, outdoor	4.3.4.F	S							P					4.4.4.C	
Fish hatchery and fish pond	4.3.4.G	P	P												
Game rooms and device	4.3.4.H								P					4.4.4.D	
Golf course	4.3.4.I	P	P	P	P	P			P						
Greenway	4.3.4.J	P	P	P	P	P	P	P	P	P					
Horse boarding and riding stable	4.3.4.K	P	P												
Park, active	4.3.4.L	P	P	P	P	P	P	P	P	P					
Park, passive	4.3.4.M	P	P	P	P	P	P	P	P	P					
Zoological garden	4.3.4.N	P	S						P						
Commercial Uses/Adult Use															
Adult establishment	4.3.5.A.1									S				4.4.3.A.1	
Bar or nightclub	4.3.5.A.2								P					4.4.3.A.2	
Communication															
Broadcasting station (radio and television)	4.3.5.B.1								P	P					
Radio and television recording studio	4.3.5.B.2								P	P					
Food and Beverage Service															
Restaurant, drive-through	4.3.5.C.1														
Restaurant, general	4.3.5.C.2								%	P				4.4.5.C.1	
Office and Research															
Dispatching office	4.3.5.D.1								P	P					
Historic site, adaptive use	4.3.1.G	P	P		P	P								4.4.1.B	

Key = P = Permitted By Right S = Special Uses % = Allowed as % of G.S.F.

Use Type	Definition Section	Zoning Districts													Other	Standards Section(s)
		Residential							Business							
		R A	R R	LD	MD	H D	MH M	M H	G B	L J						
Medical or dental office or clinic	4.3.5.D.2											P				
Medical or dental laboratory	4.3.5.D.3											P	P			
Office, business or professional	4.3.5.D.4											P	P			
Pilot plant	4.3.5.D.5											P	P			4.4.5.D.1
Publishing office	4.3.5.D.6											P				
Research facility	4.3.5.D.7												P			
Parking, commercial	4.3.5.E															
Parking garage, commercial	4.3.5.E.1											P				4.4.5.E.1
Parking lot, commercial	4.3.5.E.2											P				4.4.5.E.1
Public accommodation	4.3.5.F															
Bed and Breakfast	4.3.5.F.1	S	S	S	S	S						P				4.4.5.F.1
Historic site, adaptive use	4.3.1.F											P				4.4.1.B
Hotel or motel	4.3.5.F.2											P				4.4.5.F.2
Retail sales and service	4.3.5.G															
Barber and beauty shop	4.3.5.G.1											P				
Bookstore	4.3.5.G.2											P				
Building supplies, retail	4.3.5.G.3											P				
Convenience store	4.3.5.G.4											P				4.4.5.G.1
Convenience store and gas sales	4.3.5.G.5											P				4.4.5.G.1
Dry cleaners and laundry service	4.3.5.G.6											P				
Farmer's market	4.3.5.G.7											P				4.4.5.G.2
Financial institution	4.3.5.G.8											P				4.4.5.G.3
Floral shop	4.3.5.G.9											P				

Key = P = Permitted By Right S = Special Uses % = Allowed as % of G.S.F.

Use Type	Definition Section	Zoning Districts													Other	Standards		
		Residential							Business									
		R A	R R	LD	MD	H D M F	MH	M H P	G B I	L I								
	Funeral home											P	P					
	Gas and fuel, retail											P						4.4.5 G.1
	Glass sales											P	P					
	Greenhouse or nursery, retail	P										P						
	Grocery, general											P						
	Grocery, specialty											P						
	Health/fitness center or spa											P	P					
	Kennel, indoor	P										P	P					4.4.5 G.4
	Kennel, outdoor	P											P					4.4.5 G.5
	Landscape maintenance service	P											P					4.4.5 G.6
	Laundromat												P					4.4.5 G.7
	Monument sales, retail											P	P					
	Newsstand or gift shop											P						
	Personal service											P						
	Pharmacy											P						4.4.5 G.11
	Printing and copying service											P						
	Real estate sales											P						
	Retail sales, bulky goods											P	P					
	Retail sales, general											P						
	Self-service storage											P	P					4.4.5 G.12
	Studio for art											P						
	Tailor shop											P						
	Theater											P						

Key = P = Permitted By Right S = Special Uses % = Allowed as % of G.S.F.

Use Type	Definition Section	Zoning Districts												Other	Standards Section(s)
		Residential						Business							
		R A	R R	LD	MD	H D M F	MH	M H P	G B	L J					
Funeral home	4.3.5.G.10								P	P					
Automotive paint or body shop	4.3.5.H.1									P				4.4.5.H.1	
Automotive parts	4.3.5.H.2								P	P				4.4.5.H.2	
Automotive service station	4.3.5.H.3								P					4.4.5.H.3	
Car wash or auto detailing	4.3.5.H.4								P	P				4.4.5.H.4	
Repair and maintenance, general	4.3.5.H.5								P	P					
Repair services, limited	4.3.5.H.6								P	P				4.4.5.H.5	
Towing service	4.3.5.H.7								P	P					
Towing service storage	4.3.5.H.8									P					
Truck terminal	4.3.5.H.9									P					
Vehicle inspection center	4.3.5.H.10								P						
Vehicle sales and rental, heavy	4.3.5.H.11								P	P					
Vehicle sales and rental, light	4.3.5.H.12								P	P					
Industrial Uses: Industrial service 4.3.6.A															
Building supplies, wholesale	4.3.6.A.1								P	P					
Contractor's office and storage yard	4.3.6.A.2									P					
Gas and fuel, wholesale	4.3.6.A.3									P					
Greenhouse or nursery, wholesale	4.3.6.A.4	P							P	P				4.4.6.A.2	
Laboratory, industrial research	4.3.6.A.5									P	P				

Key = P = Permitted By Right S = Special Uses % = Allowed as % of G.S.F.

Use Type	Definition Section	Zoning Districts											Other	Standards
		Residential						Business						
		R A	R R	LD	MD	H D M F	M H	M H P	G B I	L I				
Machine or welding shop	4.3.6.A.6										P			
Railroad facility	4.3.6.A.7										P			
Warehousing	4.3.6.A.8										P			
Woodworking or	4.3.6.A.8										P			
Wholesaling, general	4.3.6.A.9										P			
Production	4.3.6.B													
Asphalt or concrete plant	4.3.6.B.1										S			4.4.3.A
Dry cleaning and dyeing	4.3.6.B.2										P			4.4.3.B
Forestry	4.3.6.B.3	P	P											4.4.3.B
Manufacturing and	4.3.6.B.5										P	P		4.4.3.C
Wood or lumber processing	4.3.6.B.6										P			
Agriculture Uses	4.3.7.A													
Active farm	4.3.7.A	P	P											4.4.3.E
Produce stand	4.3.7.B	P	P								P			4.4.3.F

Key = P = Permitted By Right S = Special Uses % = Allowed as % of G.S.F.

4.3 Use Classifications

The list of use classifications included in the Use Table (Table 4.2.2) and defined in this subsection is intended to classify uses on the basis of common functional characteristics and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Town Engineer pursuant to the procedures and standards of Sec.1.6, *Interpretation and Conflict*.

4.3.1 Residential Uses

- A) **Accessory Apartment**
A secondary dwelling unit either (1) inside of or added to an existing single-family dwelling, (2) in an accessory structure on the same lot as the principal single-family dwelling or (2) on any floor except for the ground floor of a commercial use in the GB General Business District. An accessory apartment is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping. An accessory structure may include a loft.
- B) **Condominium**
A residential development of two or more units in one or more buildings designed and constructed for unit ownership as permitted by the Louisiana Condominium Act.
- C) **Congregate Living Facility**
A residential land use consisting of any building or section thereof, residence, private home, boarding home, or home for the aged, whether or not operated by profit, which undertakes, for a period exceeding 24 hours, housing, food service, and other related personal services for persons not related to the owner or administrator by blood or marriage. The term shall not mean “nursing home,” “intermediate care facility,” or similar facility that provides medical care and support services to persons not capable of independent living.
- D) **Duplex**
A structure on a single lot containing two dwelling units. No more than one structure on a single lot is permitted.
- E) **Family Care Home**
A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons.
- F) **Farm Residence**
A dwelling units, excluding a mobile home, a manufactured home, or a modular home, located on a parcel of land used for a bona fide agriculture use and occupied by the owner or operator of the farm operation.
 - 1) It is listed on the National Register of Historic Places;
 - 2) It is 50 years old or older.

G) ***Historic Site, Adaptive Use***

The adaptive reuse of an historic site pursuant to the requirements of this Ordinance. For the purposes of this Ordinance, historic site shall be a property that complies with one of the following:

H) ***Manufactured Home***

- 1) A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with a permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein (requires a permanent foundation). Manufactured home includes any structure that meets all the requirements of this subsection except the size requirements and with respect to which the manufacture voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufacturing Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et. seq.
- 2) No manufactured home shall be transported for setup unless it is less than 5 years old from the date of manufacturer.

I) ***Mobile Home***

- 1) A structure, transportable in one or more sections, which is built on a permanent chassis and its designed for use with or without a permanent foundation (can be developed without a permanent foundation). A mobile home shall be over 32 feet in length and over 8 feet in width, and shall be for year round occupancy. Mobile home also includes a double-wide mobile home.
- 2) No mobile home shall be transported for setup unless it is less than five (5) years old from the date of manufacturer.

J) ***Modular Home***

The use of a single lot for one detached modular home with open yards on all sides. No more than one structure on a single lot is permitted and it shall only be occupied as a single-family dwelling unit.

K) ***Multi-Family or Apartment***

A structure containing more than four dwelling units, excluding a mobile home, a manufactured home, or a modular home. More than one structure on a single lot is permitted.

- L) ***Nursing or Convalescent Facility***
An establishment where, for compensation, care is offered or provided for three or more persons suffering from illness, other than a contagious disease, or sociopathic or psychopathic behavior, which is not sufficient severity to require hospital attention, or for three or more persons requiring further institutional care after being discharged from a hospital, other than a mental hospital. Patients usually require domiciliary care in addition to nursing care.
- M) ***Security or Caretaker Quarters***
A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard.
- N) ***Single-Family***
The use of a single lot for one detached dwelling unit with open yards on all sides, excluding a mobile home, a manufactured home, or a modular home.
- O) ***Townhouse***
A structure located on a single lot with two or more dwelling units that are two stories and attached by a party wall to one or more other dwelling units, each on its own lot.
- P) ***Triplexes or Quadplexes***
A structure on a single lot containing three or four dwelling units, excluding a mobile home, a manufactured home, or a modular home. No more than one structure on a single lot is permitted.

4.3.2 Public and Civic Uses

- A) ***Airplane Landing Strip***
A private ground facility designed to accommodate landing and take-off operations of aircraft used by individual property owners.
- B) ***Airport***
Any public or privately owned or operated ground facility designed to accommodate landing and take-off operations of aircraft.
- C) ***Assembly Hall, Nonprofit***
The principal use of a site or facility owned or operated for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business. Typical uses include fraternal organizations and union halls.
- D) ***Cemetery***
Land used or intended to be used for commercial or public burial, whether human or animal, including a mausoleum, or columbarium.

- E) ***Church or Place of Worship***
A site and its buildings used primarily for religious worship and related religious services by a tax-exempt religious group. Churches may include cemeteries belonging to and operated by the church. Churches shall not include day care facilities, pre-schools or homeless shelters, unless they are approved as a special use pursuant to Sec. 2.3.5, *Special use*.
- F) ***Day Care Facility***
An establishment, licensed by an agency of the state of Louisiana, which provides non-medical daytime care or services for three or more persons on a daily or regular basis less than 24 hours a day, but not overnight. Day care facility includes licensed child care facilities and day care facilities for adults.
- G) ***Government Service***
Buildings or facilities owned or operated by a government entity that provide services for the public, excluding utility and recreational services. Typical uses include administrative offices of government agencies, post offices, public libraries, and police and fire stations.
- H) ***Helipoint or Helipad***
An area used for landing or take-off of helicopters, including all of the area of buildings which are appropriate to accomplish these functions, including refueling.
- I) ***Hospital***
A facility licensed by the State of Louisiana that maintains and operates organized facilities for medical or surgical diagnosis and procedures, care, including overnight and outpatient care, and treatment of human illness. A helipad shall be considered an accessory use for a hospital.
- J) ***School, Public or Private***
A premises or site upon which there is an institution of learning, whether public or private, that conducts regular classes and courses of study required for accreditation as an elementary, secondary, or post-secondary school by State of Louisiana.
- K) ***Transportation Facility***
A facility for loading, unloading, and the interchange of passengers, baggage, and freight or package express between modes of transportation. Typical uses include bus terminals, railroad stations and yards, and major mail-processing centers.
- L) ***Veterinary Clinic or Hospital***
An establishment primarily engaged in providing medical care and treatment for animals, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels are maintained in a completely enclosed soundproof building and that the veterinary clinic or hospital is operated in such a way as to produce no objectionable odors outside its walls.

M) ***Vocational School***

An establishment, for profit or not, offering regularly scheduled instruction in technical, commercial, or trade skills such as, but not limited to business, real estate, building and construction trades, electronics, computer programming and technology, automotive and aircraft mechanics and technology, or other types of vocational instruction.

4.3.3 Utilities

A) ***Chipping and Mulching***

A permanent facility designated to cut tree limbs and brush into small pieces for use as mulch.

B) ***Communication Tower, Commercial***

Commercial AM/FM radio, television, microwave, digital and cellular telephone transmission and reception towers and accessory equipment and buildings, which are not designed to be stealth communication towers.

C) ***Communication Tower, Stealth***

Commercial AM/FM radio, television, microwave, digital and cellular telephone transmission and reception towers and accessory equipment and buildings, which are designed to be an integral part of another permitted structure (e.g., existing building, water tower, communications tower), or are designed to appear like trees, flag poles, or similar uses, so that they can be located and configured to be generally consistent with the character of higher density residential land uses and/or retail land uses.

D) ***Electrical Power Facility***

The principal use of land for an electrical generation, distribution, or switching station.

E) ***Incinerator***

A permanent facility operated alone or in conjunction with a landfill for the purpose of burning solid waste or trash to ash.

F) ***Recycling Center***

A permanent facility designed and used for collecting, purchasing, storing, dropping-off and redistributing pre-sorted, recyclable materials that are not intended for disposal. A recycling center shall be used for limited processing of recyclable materials, such as can and glass crushing and sorting.

G) ***Recycling Collection Station***

A mobile container or bin designed and used for deposit of recyclable materials.

H) ***Recycling Plant***

A permanent facility designed and used for receiving, separating, storing, converting, baling or processing non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

- I) ***Sanitary Landfill***
A disposal facility employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards and complying with all requirements of the Louisiana Department of Environmental Quality.
- J) ***Utility, Minor***
Elements of utility distribution, collection, or transmission networks, other than electrical power facilities, required by their nature to be relatively dispersed throughout the service area. Typical uses include gas and water substations, water towers, sewage lift stations, electrical substations and telephone exchange buildings and substations.
- K) ***Water Reservoir***
Either a natural or man-made body of water, like a lake, where water is stored for drinking.
- L) ***Water or Wastewater Plant***
A central water system or a wastewater treatment facility.

4.3.4 Recreational Uses

- A) ***Arena, Auditorium, or Stadium***
An open, partially enclosed or fully enclosed facility primarily used or intended for commercial spectator sports or entertainment. Typical uses include convention and exhibition halls, sports arenas and amphitheaters.
- B) ***Pen Corrals for Livestock***
An open space bounded by a perimeter fence for the private use or captivity of livestock, generally horses and cattle.
- C) ***Botanical Gardens***
A large garden for the exhibition and scientific study of collected, growing plants, usually in association with greenhouses, and/or herbariums.
- D) ***Campground***
Land established as a commercial campsite for recreational use and not as living quarters.
- E) ***Entertainment, Indoor***
An establishment offering entertainment or games of skill to the general public for a fee or charge where the activity takes place indoors. Typical uses include bowling alleys, indoor tennis facilities, indoor swimming pools and racquet clubs.
- F) ***Entertainment, Outdoor***
An establishment offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, excluding golf courses and public parks. Typical uses include archery ranges, athletic fields, batting cages, golf driving ranges and miniature golf courses, swimming pools and tennis courts.

- G) ***Fish Hatchery and Fish Pond***
A place within a lake or river, established either for commercial or non-commercial purposes, where fish lay eggs and their young are nurtured and raised.
- H) ***Game Rooms and Device***
1) Any place of business primarily established or functioning to operate one or more video or mechanical games or pay devices or tables for which charge in money or some other valuable is made either directly or indirectly, (2) any place of business which contains a room enclosure or area in which is operated one or more video or mechanical games or pay devices or tables for which charge in money or some other valuable is made either directly or indirectly, or (3) any other place of business which has on its premises in any given area or part one or more video or mechanical games or pay devices or tables for which charge is made in money or some other valuable either directly or indirectly. Examples of game rooms by way of illustration and not limitation include such facilities as poolrooms, bowling alleys, billiard halls, amusement centers and other businesses that operate one or more video or mechanical devices or games for profit or make a charge in money or some other valuable is made either directly or indirectly.
- I) ***Golf Course***
A facility providing a private or public golf recreation area designed for executive or regulation play along with golf support facility. Golf course does not include a miniature golf facility.
- J) ***Greenway***
Public or private lands relying on a natural or man-made resource base that provides opportunities for active recreational activities, passive recreational opportunities or open space lands.
- K) ***Horse Boarding and Riding Stable***
A facility for the care and feeding of four or more horses for a fee.
- L) ***Park, Active***
A park that provides opportunities for active recreational activities to the general public like ballfields, jogging trails, exercise areas, and playgrounds.
- M) ***Park, Passive***
A public or private outdoor recreational use relying on a natural or man-made resource base that is developed with a low intensity of impact on the land. Typical uses include trail systems, wildlife management and demonstration areas for historical, cultural, scientific, educational or other purposes that relates to the natural qualities of the area, and support facilities for such activities. Support facilities may include caretakers quarters.
- N) ***Zoological Garden***
A public park or large enclosure where live animals are kept for display to the public.

4.3.5 Commercial Uses

A) *Adult Use*

- 1) *Adult establishment.* Any place defined as an adult establishment by State law , except the definition of massage business shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or similar health related business. Adult establishment specifically includes any massage business where massages are rendered by any person exhibiting sexual anatomical area and/or where massages are performed on any client's sexual anatomical areas.
- 2) *Bar or nightclub.* An establishment primarily engaged in the sale of the alcoholic beverages in a ready-to-consume state. Bars and nightclubs may include live bands, other music, and dancing as well as games of skill such as pool or darts for use by the patrons of the establishment.

B) *Communications*

- 1) *Broadcasting station (radio and television).* An establishment primarily engaged in the provision of commercial broadcasting services accomplished through the use of electric mechanisms. Typical uses include radio and television broadcasting studios.
- 2) *Radio and television recording studio.* An establishment primarily engaged in the development and recording of programs for radio and television (but not broadcasting).

C) *Food and Beverage Service*

- 1) *Restaurant, drive-through.* An establishment where the principal business is the sale of food and beverages to the customer in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-through restaurant offering quick food service, where orders are generally not taken at the customer's table but at a counter, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in a motor vehicle at a drive-through window.
- 2) *Restaurant, general.* An establishment where the principal business is the sale of food and beverages in a ready-to-consume state and where the design or principal method of operation consists of one or more of the following:
 - a) A sit-down restaurant or café where customers normally sit at a table, are provided with an individual menu, and are generally served food and beverages in non-disposable containers by a restaurant employee. Customers may also be served food and beverages by a restaurant employee at a counter; or

- b) A cafeteria or cafeteria-type operation where foods and beverages generally are served in non-disposable containers and consumed within the restaurant; or
- c) A restaurant, which may have characteristics of a fast food restaurant, having floor area exclusively within a shopping or office, center, sharing common parking facilities with other businesses within the center, and having access to a common interior pedestrian accessway.
- d) An establishment primarily engaged in the retail sale of a limited variety of baked goods, candy, coffee, ice cream or other specialty food items, which may be prepared for on-premises sale and which may be consumed on the site, but excluding any service to a customer in an automobile. Typical uses include delicatessens, retail bakeries, coffee shops, donut shops, and ice cream parlors.
- e) This use may include the on-premise sale, service and consumption of alcoholic beverages as an accessory and secondary use, but excludes any service to a customer in a motor vehicle.

D) Office and Research

- 1) *Dispatching office.* An establishment principally involved in providing services off-site to households and businesses. Typical use include janitorial services, pest control services, and taxi, limousine, and ambulance services.
- 2) *Medical or dental clinic or office.* An establishment where patients, who are not lodged overnight except for emergency treatment, are admitted for examination and treatment by one (1) person or group of persons practicing any form of healing or health-building services to individuals, whether such persons be medical doctors, chiropractors, osteopaths, chiropractists, optometrists, dentists, or any such profession, the practice of which is lawful in the Town of Kinder.
- 3) *Medical or dental laboratory.* A facility for the construction or repair of prosthetic devices or medical testing exclusively on the written work order of a licensed member of the dental or medical profession and not for the public.
- 4) *Office, business or professional.* An establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include property and financial management firms, insurance agencies, employment agencies, secretarial and telephone services; professional or consulting services in the fields of law, architecture, offices of private companies, non-profit organizations, utility companies, public agencies, and trade associations.

- 5) *Pilot plant.* A facility in which processes planned for use in production elsewhere are tested.
 - 6) *Publishing office.* An establishment engaged in the preparation and editing of books, magazines, newsletters, and other related material for publication, and the production of that material.
 - 7) *Research facility.* An establishment providing offices and other related facilities for high tech and drug research.
- E) ***Parking, Commercial***
- 1) *Parking garage, commercial.* A building or other structure that provides temporary parking for motor vehicles, for profit, where some or all of the parking spaces are not necessary to another principal use.
 - 2) *Parking lot, commercial.* A paved area intended or used for the off-street parking of motor vehicles on a temporary basis, other than accessory to a principal use, for profit.
- F) ***Public Accommodation***
- 1) *Bed and breakfast.* An owner-occupied structure that is residential in character that offers lodging for paying guests and which serves breakfast to these guests.
 - 2) *Hotel or motel.* An establishment providing guest rooms for lodging, typically on a less than weekly basis, with no or minimal kitchen facilities in the guest units. Guest units may be reached either from a common entrance or directly from the outside of the building. The hotel or motel may have a restaurant as an accessory use, and recreational facilities such as swimming pools and fitness centers.
- G) ***Retail Sales and Service***
- 1) *Barber and beauty shop.* An establishment primarily engaged in the cutting and styling of hair.
 - 2) *Book store.* An establishment primarily engaged in the retail sale of books and periodicals.
 - 3) *Building supplies, retail.* An establishment primarily engaged in the retail sale of building supplies and home improvement products.
 - 4) *Convenience store.* An establishment, not exceeding 3,500 square feet of gross floor area, engaged in the retail sale of food, beverages, and other frequently or recurrently needed items for household use.

- 5) *Convenience store with gas sales.* An establishment, not exceeding 3,500 square feet of gross floor area, engaged in the retail sale of food, beverages, and other frequently or recurrently needed items for household use, including accessory gasoline sales.
- 6) *Dry cleaners and laundry service.* An establishment that provides washing, drying, dry cleaning, or ironing services for customers, who drop-off and pick-up their clothes or other materials for dry cleaning or laundering.
- 7) *Farmer's market.* A partially enclosed establishment principally involved in the sale of locally grown fresh produce.
- 8) *Financial institution.* An establishment engaged in deposit banking. Typical uses include commercial banks, savings and loans institutions, and credit unions, including outdoor automated teller machine facilities.
- 9) *Floral shop.* An establishment whose principal use is the arrangement and retail sale of flowers and floral arrangements.
- 10) *Funeral home.* An establishment engaged in preparing the human deceased for burial and arranging and managing funerals. Funeral homes may include crematories.
- 11) *Gas and fuel, retail.* The use of land for the retail distribution of gasoline and other fuels, primarily for vehicles.
- 12) *Glass sales.* An establishment primarily engaged in the retail sale of glass for residences and businesses.
- 13) *Greenhouse or nursery, retail.* An establishment primarily engaged in the retail sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes.
- 14) *Grocery, general.* An establishment primarily engaged in the indoor retail sale of food and other related household items including but not limited to produce, meat and fish, breads, milk, juices, and other beverages (both non-alcoholic and beer and wine), frozen and concentrated foods, toiletries, and medication.
- 15) *Grocery, speciality.* An establishment primarily engaged in the indoor retail sale of specialty grocery items such as gourmet foods, butcher shops, fish shops, fruit and vegetable markets.
- 16) *Health/fitness center or spa.* A building generally containing multi-use facilities for conducting recreational activities, including but not limited to the following: aerobic exercises, weight lifting, basketball, running, swimming, racquetball, handball, tennis, squash, cheerleading, gymnastics, and dance studio. A health/fitness center for spa may also include the following customary accessory activities as long as they are primarily

intended for the use of the members of the center and not for the general public. Babysitting service, bathhouse, and food services. Other services that may be provided include personal care services such as facials, manicures, body wraps, therapeutic massages, etc.

- 17) *Kennel, indoor.* Any enclosed building, for the raising, boarding or breeding of such domesticated animals as dogs and cats, not necessarily owned by the occupants of the premises.
- 18) *Kennel, outdoor.* Any outdoor facility used, designed or arranged to facilitate the care of such domestic animals as dogs and cats, not necessarily owned by the occupants of the premises.
- 19) *Landscape maintenance service.* An establishment primarily engaged in the provision of landscaping installation or maintenance services, excluding the sale of plants or lawn and garden supplies from the premises.
- 20) *Laundromat.* An establishment provides home-type washing and drying facilities for persons on a self-service basis, for profit.
- 21) *Monument sales, retail.* An establishment primarily engaged in the retail sale of monuments, such as headstones, footstones, markers, statues, obelisks, cornerstones, and ledges, for placement on graves.
- 22) *Newsstand or gift shop.* A small establishment primarily engaged in the retail sale of gifts, novelties, greeting cards, newspapers, magazines, or similar items.
- 23) *Personal service.* An establishment primarily engaged in the provision of frequently or recurrently needed services of a personal nature, or the provision of informational, instructional, personal improvement or similar services, which may involve the limited accessory sale of retail products. Typical uses include art and music schools, driving schools, and licensed therapeutic massage studios.
- 24) *Pharmacy.* An establishment where prescription and other drugs and medications are prepared and sold, along with other related household items. A pharmacy may also include as an accessory use (in no more than 15 percent of the establishment) a soda fountain and/or coffee shop that sells drinks and prepared food.
- 25) *Printing and copying service.* An establishment engaged in retail photocopy, reproduction, or blueprinting services, both manual and electronic.
- 26) *Real estate sales.* An establishment engaged in the sale of real property consistent with the requirements of the Louisiana Realtors Act.

- 27) *Retail sales, bulky goods.* An establishment providing retail sales or rental or large items, such as household or office furniture, major household appliances, mattress; or retail sales or rental of small machines such as lawnmowers, mopeds, and motorcycles, including incidental repair services. Retail sales, bulky goods does not include mobile home sales and servicing.
 - 28) *Retail sales, general.* An establishment providing general retail sales or rental of goods, but excluding those uses specifically classified in another use type. Typical uses include; business machine sales; the sale of electronic equipment like computers, TVs, audio visual equipment and cameras; antique stores; sporting good stores; shoe stores; interior design businesses with retail sales; jewelry stores; rental and accessory repair stores, clothing stores, department stores, discount stores, floor covering stores, garden supply stores, office supply stores, optical retail sales, paint stores, toy stores and variety stores. Repair services for bicycles, jewelry, clocks, lamps, small appliances and similar items are also permitted when they are offered as a service by a business primarily engaged in the retail sale of that good.
 - 29) *Self-service storage.* An enclosed storage facility of a commercial nature containing independent, fully enclosed bays that are leased to persons exclusively for storage of their household goods or personal property.
 - 30) *Studio for art.* Studios and workplaces of photographers, musicians, and artists.
 - 31) *Tailor shop.* An establishment engaged in the custom design, and sewing of clothes for men, women and children.
 - 32) *Theater.* An establishment for showing motion picture or live performances in an enclosed theater.
 - 33) *Upholstery shop.* An establishment engaged in furniture repair and re-upholstering.
- H) ***Vehicle Repair and Service***
- 1) *Automotive paint or body shop.* An establishment primarily engaged in the painting, repainting, or retouching of motor vehicles, or the performance of major external repairs of a non-mechanical nature for motor vehicles.
 - 2) *Automotive parts.* An establishment primarily engaged in the retail sale of automotive parts, small engine parts, and other related parts.

- 3) *Automotive service station.* An establishment primarily engaged in the retail sale of gasoline or other motor fuels. Activities may include accessory activities such as the sale of accessories or supplies, the lubrication of motor vehicles, the minor adjustment or repair of motor vehicles, or the sale of convenience food items. Typical uses include gas stations, with or without accessory convenience food sales.
- 4) *Car wash or auto detailing.* An establishment primarily engaged in the washing or detailing of motor vehicles. Car washes may use production line methods with a conveyor, blower, or other mechanical devices, and/or may employ hand labor. Detailing includes hand washing and waxing, window tinting, striping, and interior cleaning.
- 5) *Repair and maintenance, general.* An establishment engaged in the repair and maintenance of motor vehicles or other heavy equipment or machinery, including automobiles, boats, motorcycles and trucks, excluding paint and body work. Typical uses include automobile repair garages, automobile tune-up stations, automotive glass shops, quick-lubes and muffler shops. General repair and maintenance does not include mobile home servicing.
- 6) *Repair services, limited.* An establishment engaged in the repair of household appliances, furniture, and similar items, excluding repair of motor vehicles. Typical uses include small appliance repair (including golf carts, mopeds and lawn mowers), bicycle repair, clock and watch repair, and shoe repair shops.
- 7) *Towing service.* The use of land for the operation of a business primarily engaged in the towing of vehicles with no sales or repair activity occurring on the lot. Towing service does not include the storage of towed vehicles prior to retrieval by the owner or another party.
- 8) *Towing service storage.* The use of land for the temporary storage of operable or inoperable vehicles prior to retrieval by the owner or another party in conjunction with a commercial towing service. Towing service storage may include vehicle repair but not sales.
- 9) *Truck terminal.* A facility for loading and unloading freight or package express from trucks.
- 10) *Vehicle inspection center.* An establishment engaged in vehicle inspection or the testing of motor vehicle emissions, but not engaged in any vehicle repair.
- 11) *Vehicle sales and rental, heavy.* An establishment engaged in the retail or wholesale sale or rental, from the premises, of motorized vehicles or equipment, along with incidental service or maintenance. Typical uses include new and used automobile sales; automobile rental; boat sales and rental; recreational vehicle sales; construction equipment rental yards; moving truck, van, and trailer rental; and farm equipment and machinery sales and rental.

- 12) *Vehicle sales and rental, light.* An establishment engaged in the retail sale or rental, from the premises, of new or used motorized vehicles to include cars, vans, pick-up trucks, and sport utility vehicles, along with incidental service or maintenance. It shall not include moving trucks, vans, trailers or any other vehicles used for the purpose of moving.

4.3.6 Industrial Uses

A) *Industrial Service*

- 1) *Building supplies, wholesale.* An establishment primarily engaged in the sale, fabrication, and outdoor storage of lumber and allied products to contractors for the construction, maintenance, repair and improvement of land. Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.
- 2) *Contractor's office and storage yard.* An office and accessory storage facility used by building trade and service contractors on land other than construction sites.
- 3) *Gas and fuel, wholesale.* The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.
- 4) *Greenhouse or nursery, wholesale.* The cultivation for wholesale sale of horticultural specialties such as flowers, shrubs, and trees, intended for ornamental or landscaping purposes.
- 5) *Laboratory, industrial research.* An establishment engaged in research of an industrial or scientific nature, other than medical testing and analysis and routine product testing, which is offered as a service or which is conducted by and for a private profit-oriented firm.
- 6) *Machine or welding shop.* A workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine shops, welding shops and sheet metal shops.
- 7) *Railroad facility.* A facility for loading, unloading, and the interchange of passengers, baggage, and freight using the railroad, as well as facilities used for the repair and maintenance of railroad equipment.

- 8) *Warehousing.* An establishment primarily engaged in the storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical uses include motor freight transportation, moving and storage facilities, cold storage, warehousing and dead storage facilities, but exclude self-service storage facilities and office-warehouse combinations.
- 9) *Woodworking or cabinetmaking.* An establishment engaged in the production of finished products from wood.
- 10) *Wholesaling, general.* An establishment primarily engaged in the display, storage distribution and sale of goods to other firms for resale, but excluding vehicle sales, wholesale greenhouses or nurseries, wholesale of gas and fuel, and wholesale building supplies.

B) *Production*

- 1) *Asphalt or concrete plant.* An establishment engaged in the manufacture, mixing or batching of asphalt, asphaltic cement, cement or concrete products.
- 2) *Dry cleaning and dyeing plant.* An establishment engaged in dry cleaning of clothes and other materials on site, as well as the coring of cloth for commercial purposes.
- 3) *Forestry.* The scientific management of forests, primarily for commercial purposes.
- 4) *Laundry plant.* An establishment that carries on washing, drying, dry-cleaning and ironing services on-site, for customers who drop-off and pick-up at a different location.
- 5) *Manufacturing and processing.* An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding heavy industrial processing. Typical uses include food processing and beverage bottling, large-scale bakeries, electronics assembly, pharmaceuticals, monuments, tobacco products, dry cleaning plants and printing and publishing.
- 6) *Wood or lumber processing.* An establishment engaged in the production of lumber or similar building material products from wood.

4.3.7 Agricultural Uses

A) ***Active Farm***

Uses that are in active agricultural operations, like the raising of agricultural products, forestry products, livestock, poultry and dairying.

B) ***Produce Stand***

A temporary structure that is no greater than 20 feet by 30 feet in size that is located on a lot for the purpose of the sale of agricultural products on a seasonal basis.

4.4 SUPPLEMENTAL STANDARDS

This section contains the supplementary standards for the specific uses that are identified in the Use Table (Table 4.2.2). In the case of conflict with other provisions of this Ordinance, the more restrictive standard shall apply, unless otherwise specifically provided.

4.4.1 Residential Uses

A) ***Congregate Living Facility***

A congregate living facility use shall comply with the following standards:

- 1) ***Potable water supply and sewage disposal systems.*** Potable water supply and sewage disposal systems shall be provided for a congregate living facility;
- 2) ***Compatibility / handicap access.*** The facility shall:
 - a) Be physically designed to conform to and be compatible with the general architectural character of the neighborhood in which it is proposed to be developed in terms of its height, bulk, materials and style; and
 - b) Comply with all regulations regarding handicapped access pursuant to federal and State law;
- 3) ***Reserve land for conversion other permitted use.*** Additional land shall be reserved that is sufficient in area to meet future parking standards if the facility is converted to any other permitted use, based on the standards in Sec. 8.3, *Off-street Parking and Loading*. The boundaries of the reserve parking area shall be identified;

- 4) *Drop-off area.* A safe drop-off area shall be established for group transportation, such as vans or similar vehicles;
- 5) *Food dispensing and consumption.* The facility shall provide and continuously maintain central facilities for daily food dispensing and consumption. Individual kitchen facilities may be provided in the living quarters of a congregate living facility;
- 6) *Limited amount of commercial uses.* A limited amount of commercial uses may be developed as permitted accessory uses in a congregate living facility. Such uses shall be limited to retail and congregate living personal service uses designed to serve exclusively the residents of the facility, such as a barber or beauty shop, small convenience retail sales and banking services. No more than 10 percent of the gross floor area of the facility shall be dedicated to such commercial uses. There shall be no exterior signage or other indication of the existence of these commercial uses that may attract nonresidents; and
- 7) *Conversion to conventional dwelling units.* Prior to conversion to conventional dwelling units, a structure designed to accommodate a congregate living facility shall, if necessary, be structurally modified to comply with the standards of this Ordinance. Congregate living facilities that are converted to other uses, including other residential uses, shall comply with all standards in effect at the time of application.

B) *Family Care Home*

No new family care home is permitted within a one-half mile radius of an existing family care home.

C) *Historic Site, Adaptive Use*

- 1) *Permitted by right for professional offices and a bed and breakfast in all non-residential districts.* An historic-site, adaptive use is permitted by right for professional offices and a bed and breakfast in all non-residential districts that allow those uses as a permitted use.
- 2) *Residential districts.* The following uses are permitted for an adaptive use of an historic site in the residential zone districts with the approval of a special use permit pursuant to Sec. 2.3.5, *Special use*.
 - a) Offices and meeting facilities of educational and non-profit organizations;

- b) Ancillary distribution and display of historical information, artifacts, products, memorabilia and the sale of handmade items;
- c) Bed and breakfast establishments as specified in Section 4.4.5 F.1, *Bed and breakfasts*.

D) ***Manufactured Home***

A manufactured home use shall comply with the following standards:

- 1) *Single family dwelling unit*. It shall only be occupied as a single family dwelling unit;
- 2) *Twenty-four feet in width*. It shall be a minimum of 24 feet in width (measured along the narrowest axis);
- 3) *Length*. Its length shall not exceed its width by three times (measured along the longest axis, excluding towing apparatus, wheels, axles and transporting lights);
- 4) *Set-up*. The set-up of the manufactured home shall be consistent with the predominant number of units in the surrounding neighborhood, and shall be in accordance with the standards established by the Louisiana State Fire Marshal's Office.
- 5) *Continuous masonry wall*. A continuous masonry wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home.
- 6) *Exterior*. The exterior of the manufactured home shall consist of one or more of the following materials:
 - a) Vinyl or metal siding (whose reflectivity does not exceed that of white paint);
 - b) Cedar or other wood siding;
 - c) Weather resistant press board siding;
 - d) Stucco siding, brick or stone siding, which shall be comparable in appearance and durability to the exterior siding commonly used in the standard residential construction of the surrounding neighborhood;
- 7) *Pitch of roof*. The pitch of the roof shall have a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run;

- 8) *Roof covering.* The roof shall be finished with a roof covering that meets the minimum standards of the Federal Housing Administration and comparable in appearance of the surrounding neighborhood.
- 9) *Eaves projection.* All roof structures shall provide an eaves projection of a minimum of eighteen (18) inches, not including a measurement for a gutter;
- 10) *Entrance and exit.* Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home, shall be anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of 24 square feet. Use of wood stairs without a porch is prohibited at any entrance to a manufactured home;
- 11) *Size.* The size of the manufactured home shall be compatible with the homes in the surrounding neighborhood. The length and size shall be no smaller than the average unit in the neighborhood; and
- 12) *Utilities.* All manufactured homes must be connected to the Town utility system.
- 13) *Mobility.* All wheels, towing apparatus, transporting lights shall be removed.
- 14) *Orientation.* The manufactured home shall be set with its long side parallel to the main road.

E) ***Modular Home***

A modular home use shall comply with the following standards:

- 1) *Single-family dwelling unit.* It shall only be occupied as a single-family dwelling unit;
- 2) *Building Codes.* Meets International Residential Code 2003;
- 3) *Width.* It shall be a minimum of 24 feet in width (measured along the narrowest axis);
- 4) *Length.* Its length shall not exceed its width by three times (measured along the longest axis);

- 5) *Size.* The size of the home shall be compatible with the homes in the surrounding neighborhood. The size shall be no smaller than the average unit in the neighborhood.
- 6) *Continuous masonry wall or concrete slabs.* A continuous masonry wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the home or a concrete slab;
- 7) *Exterior.* The exterior of the home shall consist of one or more of the following materials:

Wood siding, stucco siding, brick or stone siding, vinyl siding, or hardplank siding, which shall be comparable in appearance and durability to the exterior siding commonly used in the standard residential construction of the surrounding neighborhood;
- 8) *Roof covering.* The roof covering shall consist of one or more of the following materials:

Asphalt shingles, slate shingles, or similar materials, which shall be comparable in appearance and durability to the roof covering commonly used in the standard residential construction of the surrounding neighborhood;
- 9) *Pitch of roof.* The pitch of the roof shall have a minimum vertical rise of seven (7) feet for each twelve (12) feet of horizontal run;
- 10) *Eave projection.* All roof structures shall provide an eave projection of a minimum of eighteen (18) inches. All eaves shall include gutters;
- 11) *Entrance and exit.* Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from home shall be attached firmly to the primary structure and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of 24 square feet. Use of wood stairs without a porch is prohibited at any entrance to the home;
- 12) *Utilities.* All homes must be connected to the Town utility system; and,

- 13) *Conformity.* All other homes constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly that do not meet the above standards are permitted only in the Mobile Home Park (MHP) district.

F) ***Nursing or Convalescent Facility***

A nursing or convalescent facility use shall comply with the following standards:

- (1) *Ambulance service.* If ambulance service is required, a nursing or convalescent facility use shall have access from a collector road designed to minimize the adverse effects on adjacent land. The environment created for a nursing or convalescent facility use should be of a pronounced residential nature and should be designed to minimize any adverse conditions that might detract from the primary convalescent purpose of the facility;
- (2) *Frontage.* The minimum frontage for the lot on which the nursing or convalescent facility is located shall be 100 feet, or the minimum requirement of the district, whichever is greater.
- (3) *Sleeping rooms.* Sleeping rooms shall be no less than 100 square feet for each patient;
- (4) *Central kitchen.* The preparation of food shall be accomplished at a central kitchen facility under the auspices of a trained nutritionist. Meals can be served to persons in their rooms; and
- (5) *Meets state requirements.* The facility shall comply with all state licensing requesting.

G) ***Security or Caretaker Quarters***

A security or caretaker quarter use shall comply with the following standards:

- 1) *General.* No more than one security or caretaker quarters use shall be developed upon the same lot as a permitted commercial or industrial use.
- 2) *Use.* The security or caretaker quarters use shall be for the exclusive use of and shall be occupied only by a guard, custodian, caretaker, owner, manager or employee of the owner of the principal use, and his family. Such person shall be actively engaged in providing security, custodial or managerial services upon the premises;

- 3) *Not permitted with temporary use.* Unless otherwise provided in this Ordinance, a security or caretaker quarters use shall not be permitted in association with a temporary use;
- 4) *No substandard lot.* A security or caretaker quarters use shall not be established upon a substandard lot, nor shall the development of such quarters cause a site to violate this Ordinance; and
- 5) *Principal use must survive.* A security or caretaker quarters use shall continue only so long as the principal use that it is meant to serve remains active. Upon termination of the principal use, the right to have the caretaker or security quarters shall end, and the quarters shall immediately be discontinued. Once discontinued, such quarters shall not be reestablished except in conformity with this section.

4.4.2 Public and Civic Uses

A) ***Cemetery***

An accessory building in a cemetery use shall be located not less than 300 feet from any lot line.

B) ***Church or Place of Worship***

Churches shall not include day care facilities, pre-schools, schools or homeless shelters, unless they are approved as a special use pursuant to Sec. 2.3.5, *Special Use*.

C) ***Day Care***

- 1) Day care facilities in the Town shall comply with the following standards:
 - a) The day care facility shall be used solely by the employees of the Town use in which the daycare is located.
 - b) The day care facility shall be less than 20 percent of the gross square footage of the permitted use; and
 - c) Day care facility shall not have any advertising or signage.

D) ***Hospital***

A hospital or medical center use shall comply with the following standards:

- 1) *Lot area.* The minimum lot area shall be five acres; and
- 2) *Frontage.* The minimum frontage for the lot shall be 300 feet.

E) ***Veterinary Clinic or Hospital***

- 1) *Treatment rooms, cages, pens or kennels.* All treatment rooms, cages, pens or kennels in a veterinary clinic or hospital shall be designed and maintained within a completely enclosed soundproof building, and the veterinary clinic or hospital shall be operated in such a way as to produce no objectionable odors outside its walls;
- 2) *LI Light Industrial District.* A veterinary clinic or hospital use within the LI Light Industrial District may use outdoor runs or boarding facilities if the following standards are met.
 - a) The minimum lot size shall be one acre;
 - b) No outdoor run or boarding structure shall be located within 100 feet of any property line; and
 - c) Outdoor runs shall be hard surfaced or grassed with drains provided every 10 feet, and shall be connected to an approved sanitary facility. Outdoor runs shall provide a chain-link material on the walls and the top. If necessary to protect neighboring property from potential loss of use or diminishment of land value, a landscape screen of at least 75 percent opacity shall be provided around the outdoor run.
- 3) *Other.* Otherwise, indoor facilities for animals shall comply with the standards in Sec. 4.4.5(G)(5), *Kennel, indoor*.

4.4.3 Utilities

A) ***Chipping and Mulching***

A chipping and mulching use shall comply with the following standards:

- 1) *General.* A chipping or grinding machine shall be set back a minimum of 200 feet from any property line abutting a residential district or use. Outdoor material storage piles shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a residential district or use;
- 2) *Consent from property owners for use.* A notarized letter of approval shall be provided from the property owner verifying consent to use the property for chipping and mulching.
- 3) *Access road.* An access road for collection vehicles shall be provided to the entrance of the facility. Acceptable access does not include local streets. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site;

- 4) *On-site storage of unprocessed material.* On-site storage of unprocessed material shall be limited to 45 days and the pile height of storage material shall be limited to 15 feet. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts. Outdoor material storage piles shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a residential district;
- 5) *Buffered.* The operation shall be adequately buffered to ensure its compatibility with surrounding land uses.
- 6) *No encroachment into buffer.* The development shall not encroach into any buffer required by this Ordinance; and however the term development does not include items such as sewer manholes, utilities, light poles, conduits, drain piping;
- 7) *Setback.* The minimum required setback shall be the greater of any required buffer or setback.

B) ***Communication Tower***

A communication tower use shall comply with the following standards:

- 1) *Interpreted not to violate federal or state law.* These standards shall be interpreted or enforced so as to not to violate any provisions of federal or state law, including but not limited to the federal Telecommunications Act.
- 2) *Stealth communication tower.* A stealth communication tower may be placed on a building or other permitted structure (such as a water tower) or as a stand-alone tower. A stealth communication tower may be approved as a special use (see Sec. 2.3.5, *Special Use*, and Sec. 4.2.2, *Use Table*) in the RA Rural Agricultural, the RR Rural Residential, the HDMF High Density Multi-Family Residential District, the MH Manufactured Housing Residential District, and the MHP Mobile Home Park District. A stealth communication tower may be approved as a permitted use in the GB General Business District and LI Light Industrial Park, (see Sec. 4.2.2, *Use Table*). Prior to approval of a stealth communication tower, it shall be demonstrated that:
 - a) The proposed facility is licensed by the FCC to provide fixed or mobile wireless communication services, or if no FCC licenses have been obtained, demonstration there is a binding commitment(s) from one or more FCC licenses to utilize the proposed wireless telecommunication facility;

- b) The proposed facility is co-located or accommodated on an existing communication tower within a three mile radius, or if it is not co-located, the applicant made a good faith effort to co-locate the proposed facility on an existing communication tower within a three mile radius but it is impracticable to do so.
- c) Good faith effort is demonstrated by reasonable offers to purchase rights to co-locate the facility from all owners of existing communication towers within the three mile radius, and owner rejection of the offers or a showing of impracticability;
- d) Impracticability is demonstrated by the following:
 - (i) A written determination (made by a qualified and licensed Louisiana professional engineer) that the equipment needed for operation of proposed facility exceeds the structural capacity of existing towers, and that existing towers cannot be modified to accommodate the proposed facility at a reasonable cost;
 - (ii) A written determination (made by a qualified and licensed Louisiana professional engineer) that the equipment needed for operation of the proposed facility would cause interference materially affecting the operation of the existing towers which cannot be mitigated at a reasonable cost;
 - (iii) A written determination (made by a qualified and licensed Louisiana professional engineer) that the existing towers are not capable of accommodating the proposed facility because of the height requirements of the proposed facility;
 - (iv) A written determination (made by a qualified and licensed Louisiana professional engineer) that the existing towers are not capable of accommodating the proposed facility because of geographic service area requirements, or other factors that make it impossible to located the proposed facility at an existing tower.

- e) If co-location is impracticable, the new tower is designed;
 - (i) Structurally, electrically, and in all other relevant ways to provide for accommodation for the antenna for the proposed tower and two future users;
 - (ii) To allow for future rearrangement of antennas mounted at varying heights;
 - (iii) To allow co-location of public safety service equipment at usual and customary rates that are in addition to the sites required for future users;
 - (iv) To be consistent with the general character of the surrounding area and land uses, in terms of height, bulk, texture and color;
- f) The tower complies with current Federal Communications Commission standards for non-ionizing electromagnetic radiation (NIER), and there are assurances there will be no leakage or interference that will affect surrounding lands;
- g) A minimum of \$1,000,000 in general liability insurance covering any liability arising from the construction or operation of the tower is obtained by the applicant, and maintained in full force and effect until all above ground portions of the tower are removed;
- h) The tower and its related development conforms to the minimum dimensional standards of the zoning district in which it is located (See Secs. 5.1.1-5, 1.4), except that if a tower is located on a building that is contiguous to a residential district or use, the building shall comply with the setback requirement for the district, plus be set back an additional one and one-half times the height of the tower;
- i) The tower and all related development complies with the landscaping and buffering standards in Sec. 8.2, *Landscaping, Buffering, and Screening*, and all other relevant development standards in Article 8: *General Development Standards*;
- j) If located in a residential zoning district, all buildings in the tower complex are designed to appear as residential dwellings;

- k) The tower does not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration;
 - l) The owner/operator of the tower agrees to submit an annual report to the Town Clerk which includes written evidence of licensing by the FCC, the names of the users of the tower, and how many additional users can be accommodated on the tower. Failure to provide evidence of the license shall constitute grounds for revocation of the use; and
 - m) An obsolete or unused stealth communication tower shall be removed within 12 months of cessation of use.
- 3) *Commercial communication tower.* A commercial communication tower may be placed in the GB General Business District as a special use (Sec. 2.3.5, *Special Use* and Sec. 4.2.4, *Use Table*). A commercial communication tower may be placed in the LI Light Industrial District as a permitted use (see Sec. 4.2.4, *Use Table*). Prior to approval of a commercial communication tower, it shall be demonstrated that:
- a) The proposed facility is licensed by the FCC to provide fixed or mobile wireless communication services, or if no FCC licenses have been obtained, demonstrated there is a binding commitment(s) from one or more FCC licenses to utilize the proposed wireless telecommunication facility.
 - b) The proposed facility is co-located or accommodated on an existing commercial communication tower within a three mile radius., or if it is not co-located, the applicant made a good faith effort to co-locate the facility on an existing communication tower within a three mile radius but it is impracticable to do so.
 - c) Good faith effort is demonstrated by reasonable offers to purchase rights to co-locate the proposed facility from all owners of existing communication towers within the three mile radius, and owner rejection of the offers or a showing of impracticability;

- d) Impracticability is demonstrated by:
 - (i) A written determination (made by a qualified and licensed Louisiana professional engineer) that the equipment needed for operation of the proposed facility exceeds the structural capacity of existing towers, and that existing towers cannot be modified to accommodate the proposed facility at a reasonable cost;
 - (ii) A written determination (made by a qualified and licensed Louisiana professional engineer) that the equipment needed for operation of the proposed facility would cause interference materially affecting the operation of the existing towers which cannot be mitigated at a reasonable cost;
 - (iii) A written determination (made by a qualified and licensed Louisiana professional engineer) that the existing towers are not capable of accommodating the proposed facility because of the height requirements of the proposed tower; or
 - (iv) A written determination (made by a qualified licensed Louisiana professional engineer) that the existing towers are not capable of accommodating the proposed facility because of geographic service area requirements, or other factors that make it impossible to locate the proposed facility at an existing tower.
- e) If co-location is impracticable, the new tower is designed:
 - (i) Structurally, electrically, and in all other relevant ways to provide for accommodation for the antenna for the proposed tower and two future users;
 - (ii) To allow for future re-arrangement of antenna mounted at varying heights;
 - (iii) To allow co-location of public safety service equipment at usual and customary rates that are in addition to the sites required for future users;

- f) The tower complies with current Federal Communications Commission standards for non-ionizing electromagnetic radiation (NIER), and there are assurances there will be no leakage or interference that will affect surrounding lands;
- g) A minimum of \$1,000,000 in general liability insurance covering any liability arising from the construction or operation of the tower is obtained by the applicant/owner, and maintained in full force and effect until all above ground portions of the tower are removed.
- h) The tower and its related development conforms to the minimum dimensional standards of the zoning district in which it is located (See Secs. 5.1.1-5.1.4), except that:
 - (i) The height of the tower shall not exceed 250 feet.
 - (ii) The tower shall be located so as to provide a minimum distance from the tower to all property lines equal to 45 percent of the height of the tower;
 - (iii) The tower shall be set back a minimum of 75 feet from any existing or planned street right-of-way line;
 - (iv) The tower's peripheral supports and guy anchors may be located within required yard setbacks, provided that they shall be located entirely within the boundaries of the property on which the tower is located and shall be located no closer than five feet from any property line if the tower is adjacent to a single-family residential district or residential uses;
 - (v) The tower's supports and peripheral anchors shall be set back a minimum of 50 feet from any existing or planned street right-of-way line;

- i) The tower and all related development complies with the landscaping and buffering standards in Secs. 8.2, *Landscaping, Buffering, and Screening*, and all other relevant development standards in Article 8: *General Development Standards*;
- j) A fence or wall not less than eight feet in height from finished grade shall be constructed to encompass the tower and each guy anchor (if used). Access to the tower shall be through a locked gate;
- k) If high voltage is necessary for the operation and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE-DANGER";
- l) The tower shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration;
- m) The owner/operator of the tower agrees to submit an annual report to the Town Clerk that includes written evidence of licensing by the FCC, the names of the users of the tower, and how many additional users can be accommodated on the tower. Failure to provide evidence of the license shall constitute grounds for revocation of the use;
- n) An obsolete or unused commercial communication tower shall be removed within 12 months of cessation of use.
- o) The height of the tower from natural ground shall be posted on a sign on the front gate which shall display in large bold letters the following: "TOWER HEIGHT = ??? FEET; LAT. = ???; LONG. = ???".

C) ***Electrical Power Facility***

An electrical power facility use shall comply with the following standards:

- 1) *Location.* The location of the proposed electrical power facility shall be within reasonable proximity of the area to be served by the facility.
- 2) *Setback.* The proposed electrical power facility shall be setback a minimum of 100 feet from property lines and buffered to ensure it does not have an adverse impact on surrounding land uses;

- 3) *Compatibility.* If deemed necessary to ensure land use compatibility with surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed electrical power facility use shall be provided at the time the facility is constructed or when surrounding development occurs.

D) ***Recycling Center***

A recycling center use shall comply with the following standards:

- 1) *Storage areas.* No storage areas shall be visible from rights-of-way, residential uses or residential districts;
- 2) *Recyclable materials.* Recyclable materials shall be contained within a leak-proof bin or trailer. There shall be no storage of materials on the ground;
- 3) *Limited sorting and separation.* Only limited sorting, separation or other processing of deposited materials shall be allowed on the site; and
- 4) *No collection or storage of hazardous or biodegradable wastes.* There shall be no collection or storage of hazardous or biodegradable wastes on the site. There shall be no chipping, mulching or receiving of construction debris.

E) ***Recycling Collection Station***

A recycling collection station use shall comply with the following standards:

- 1) *Mobility of collection bin.* The mobility of the collection bin shall be retained;
- 2) *Location of collection bin.* The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five percent of the total on-site spaces;
- 3) *Appearance.* The bin and adjacent areas shall be maintained in good appearance and free from trash;
- 4) *No collection or storage of hazardous or biodegradable wastes.* There shall be no collection or storage of hazardous or biodegradable wastes on the site.

F) ***Recycling Plant***

A recycling plant use shall comply with the following standards:

- 1) *Location and buffers.* The proposed recycling plant shall be properly located and buffered to ensure compatibility with surrounding land uses. To ensure compatibility with surrounding

uses, adequate setbacks, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:

- a) The minimum lot size for recycling plants shall be five acres;
- b) Except for a freestanding office, no part of a recycling plant and its accessory ramps, on-site circulation system or storage areas, shall be located within 50 feet of any property line. However, if the facility is contiguous to land in the LI Light Industrial District, the setback shall be 25 feet from the contiguous property line.
- c) At a minimum, the development shall comply with the standards of Sec. 8.2, *Landscaping, Buffering, and Screening*.
- d) The development shall not encroach into any buffer required by this Ordinance;
- e) The minimum required setback from any property line shall be the greater of any required buffer or setback.
- f) No part of a recycling plant, its accessory ramps, on-site circulation system or storage areas shall be sited within 250 feet of a school, park, church, library or residential lot;
- g) All storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way of adjacent lots. In no case shall the height of recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed 2 feet or the height of the principal building on the lot, whichever is greater. For an outdoor recycling plant contiguous to land in a residential district, an opaque fence/wall a minimum of eight feet in height shall be placed along the inside border of the required landscape strip. The purpose of the fence/wall inside the landscape strip is to protect the landscape strip from the intensive activity of the recycling facility and to supplement the landscape strip as a buffer;

h) An access road that can be negotiated by loaded collection vehicles shall be provided to the entrance of the recycling plant. Access shall not be provided on a residential street. Access shall be restricted to specific entrances with gates which can be locked at all times and which carry official notice that only authorized persons are allowed on the site.

2) *Storage of recyclable materials.* All outdoor storage of recyclable materials shall be in leak-proof containers or located on a paved areas that is designed to capture all potential run-off associated with the stored material. Run-off shall be handled in a manner that is in conformance with local, state and Federal regulations.

G) ***Utility, Minor***

A minor utility use shall comply with the following standards:

1) *Location.* The proposed minor utility shall be located within reasonable proximity of the area to be served by the facility; and

2) *Compatibility.* The proposed minor utility shall be properly located and buffered to ensure compatibility with surrounding land uses. If deemed necessary to ensure compatibility with surrounding uses, setbacks, screening and buffering around the perimeter of the utility shall be required at the time the facility is developed.

3) *Water towers.*

a) The height of a water tower may reach up to but not more than 200 feet.

b) An obsolete or unused water tower shall be removed within 12 months of cessation of use.

4.4.4 Recreational Uses

A) ***Arena, Auditorium, or Stadium***

All arena, auditorium or stadium uses shall comply with the following standards:

- 1) *Distance from residential district.* Arena, auditorium or stadium uses shall be located a minimum of 500 feet from any residential district, measured from all property lines;
- 2) *Lot area.* The minimum lot area required for arena, auditorium or stadium uses shall be no less than five acres;
- 3) *Frontage.* The minimum required frontage on a public street for arena, auditorium or stadium uses at the primary point of access shall be a minimum of 600 feet in length.
- 4) *Vehicular access.* All points of vehicular access for arena, auditorium or stadium uses shall be from an arterial road. The access points shall be located to minimize vehicular traffic to and through local streets in residential neighborhoods; and
- 5) *Safety fences.* Safety fences up to a height of six feet shall be required, if determined appropriate, to protect the general health, safety and welfare.

B) ***Pen or Corrals for Livestock***

All pens or corrals uses shall comply with the following standards:

- 1) *Distance from residential district.* Pen and corrals uses shall be located a minimum of 100 feet from any residential district, measured from all property lines.
- 2) *Minimum area per animal.* The minimum area required for pen or corral uses shall be as follows:

Type	Minimum Size
Large animals including horses, mules, cattle, etc.	10,000 s.f./animal

- 3) *Fences.* Fences shall be provided and maintained around pen and corral areas (4 ft. minimum height) to protect general health, safety and welfare.

C) ***Campground***

A campground use shall comply with the following standards:

- 1) *Lot area.* A campground use shall have a minimum lot area of two acres;

Portion used for campground facilities. No more than 30 percent of the entire site may be used for campground facilities.

- 2) *Landscape screen.* A landscape screen of at least 75 percent opacity shall be required around a recreation facility use within the campground if it is deemed necessary to protect neighboring land from potential loss of use or diminishment of land value; and

- 3) *Distance from property line.* No campground use shall be located within 80 feet of any property line.

D) ***Entertainment, Outdoor***

An outdoor entertainment use shall comply with the following standards:

- 1) *Access.* Access to an outdoor entertainment use shall be from a hard surfaced, public road. The minimum required frontage on a public road to be used for the primary point of access shall be 200 feet.

- 2) *Safety fence.* A safety fence up to a height of 6 feet shall be required around a recreation facility. A landscape screen of at least 75 percent opacity shall be required around a recreation facility use if it is deemed necessary to protect neighboring property from potential loss of use or diminishment of land value.

E) ***Game Rooms and Devices***

Game room uses and devices shall comply with all other duly adopted local ordinances related to control of gang devices.

4.4.5 Commercial Uses

A) ***Adult Use***

- 1) *Adult establishment.* An adult establishment shall comply with the following standards:

- a) No adult establishment shall be located within 1,000 feet of a church, public or private school, child day care center, residential district, residential development, public park, or an establishment with an on-premise alcohol license;

- b) There shall be no more than one adult establishment on the same lot or property or in the same building, structure, or portion thereof;
 - c) No other principal or accessory use may occupy the same building, structure, property, or portion thereof as an adult establishment; and
 - d) Except for freestanding and facade mounted signs permitted pursuant to Sec. 8.8, *Signs*, no other advertisements, displays or signs or other promotional materials shall be visible to the public from sidewalks, walkways or vehicular use areas.
- 2) *Bar or nightclub.* A special use permit (Sec. 2.3.5) shall be required for all bars and nightclubs that have an outside serving area. Outside serving areas shall be prohibited in bars and nightclubs located adjacent to any residential district or an existing residential use.
- B) ***Communication***
There are no supplemental standards for any of the of the commercial communication uses.
- C) ***Food and Beverage Service***
 - 1) *General:* Cafeterias are allowed within a permitted use in the LI Light Industrial District if the cafeteria is provided solely for employee use, it does not provide any outside signage or advertising, and it consists of less than 20 percent of the gross floor area of the building.
- D) ***Office and Research***
 - 1) *Pilot plant.* In no instance can a product produced at a pilot plant be sold for use in operations in other location.
- E) ***Parking, Commercial***
 - 1) *Parking garage or lot, commercial.* A commercial parking garage or lot use shall comply with the following standards:
 - a) A commercial parking garage or lot use shall be the principal use. Parking spaces may be rented for parking. No other business of any kind shall be conducted on the lot, including repair, service, washing, display or storage of vehicles or other goods; and

- b) A commercial parking garage or lot shall not be contiguous to lands in the residential districts.
- c) Street frontage of a commercial parking lot in the GB General Business District shall be limited to 100 feet.
- d) Overnight parking of recreational vehicles (RV's) shall be prohibited.

F) ***Public Accommodation***

- 1) ***Bed and breakfast.*** A bed and breakfast use shall comply with the following standards:
 - a) The bed and breakfast shall be a property that complies with one of the following standards:
 - (i) It is within an historic site as defined by Sec. 4.3.1(F), *Historic site, adaptive use*; or
 - (ii) It is within the GB General Business District.
 - b) A bed and breakfast in the GB General Business District, may prepare and serve food in a restaurant facility within the bed and breakfast to non-guests.
 - c) The owner-operator resides on the premises;
 - d) The bed and breakfast is located within a structure which was originally permitted within the district;
 - e) The individual guest rooms shall have no cooking implements, including, but not limited to , stoves, grills or ovens;
 - f) No meals other than breakfast are served to paying guests except in the GB General Business District;
 - g) Only exterior alterations necessary to assure safety of the structure or enhance the compatibility with the surrounding neighborhood are made for the purpose of providing a bed and breakfast;

- h) One parking space shall be provided for each guest room. Parking shall not be permitted in the front yard. On-street parking shall be permitted on residential side streets. There shall be 20 feet of street frontage for every on-street parking space. On-site parking shall be screened with a landscaped buffer to reduce undue noise, odor or glare on surrounding lands.
 - i) The bed and breakfast shall be adequately buffered to ensure its compatibility with surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6; and
 - j) Outdoor advertising shall be limited to one small on-site sign nine square feet in size.
- 2) *Hotel or motel.* A hotel or motel use shall comply with the following standards:
- a) The minimum lot area shall be one acre or the minimum required by the district; whichever is greater; and
 - b) The minimum lot width shall be at least 100 feet or the minimum required by the district; whichever is greater; and
 - c) The number of sleeping units shall not exceed one per 1,000 square feet of lot area.

G) ***Retail Sales and Service***

- 1) *Convenience store with and without gas sales.* Convenience stores with and without gas sales shall comply with the following standards:
- a) Convenience stores shall have shingled or tiled roofs; flat roofs are prohibited;
 - b) Convenience stores with gas sales shall have a pitched canopy over the gasoline pumps that matches the roof of the building.
 - c) Gasoline pump canopies shall be located:
 - (i) With the shortest side of the canopy facing the primary abutting street and with the canopy no closer to the primary street than the convenience store building, or

- (ii) Such that the convenience store building is located between the primary abutting street and the gasoline pump canopy.
 - d) The windows and doors on the front and sides of the building shall be limited in size and number resulting in a residential character;
 - e) Signage advertising particular items and sales shall not be posted in the windows. Signage is limited to that allowed in Sec. 8.8.
- 2) *Farmer's market.* A farmer's market shall comply with the following standards:
- a) A farmer's market shall be located on a parcel a minimum of one acre in size, except in the Downtown General Business District.
 - b) The primary access for the farmer's market shall be from an arterial road and shall not cause traffic to flow through nearby residential areas. Back-out parking directly onto a public street shall be prohibited; and
 - c) The boundaries of the farmer's market shall be adequately buffered to ensure its compatibility with surrounding land uses.
- 3) *Financial institution.* Drive-through facilities associated with a financial institution shall comply with the following standards:
- a) Drive-through facility canopies shall be pitch-roofed consisting of materials and at an angle to match the primary standards;
 - b) Drive-through facilities shall be situated to the side and preferably to the rear of the primary building; and
- 4) *Kennel, indoor.* An indoor kennel use shall be located in an enclosed soundproof building and be designed and operated so that it does not produce objectionable odors outside its walls.
- 5) *Kennel, outdoor.* An outdoor kennel use shall be subject to the following use standards:
- a) The kennel use shall be limited to the raising, breeding, boarding, and grooming of domesticated animals such as dogs and cats;

- b) The minimum lot size shall be one acre;
 - c) The minimum required frontage on a public road to be used for the primary point of access shall be 100 feet;
 - d) No structure or outdoor run shall be located within 100 feet of any property line;
 - e) Outdoor runs shall be hard surfaced or grassed with drains provided every 10 feet, and shall be connected to an approved sanitary facility. If necessary to protect the general public, safety fences of up to a height of six feet shall be required on outdoor runs. If necessary to protect neighboring property, a landscape screen of at least 75 percent opacity shall be provided around the outdoor run; and
 - f) The outdoor kennel shall be adequately buffered to ensure its capability with surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.
- 6) *Landscape maintenance service.* Any outside storage in a landscape maintenance service use shall be completely screened from off-site view by buildings and/or solid fencing with landscaping on the outside of the fencing, and shall comply with the buffer standards of Sec. 8.2.6.
- 7) *Laundromat.* A laundromat shall be designed to ensure that the windows and doors on the front and sides of the building shall be consistent and compatible in size and number with surrounding land uses.
- 8) *Reserved*
- 9) *Reserved*
- 10) *Pharmacy.*
- a) Drive-through facility canopies shall be pitch-roofed consisting of materials and at an angle to match the primary building.

- (i) Drive-through facilities shall be situated to the side and preferably to the rear of the primary building; and
 - (ii) Drive-through facilities shall be situated to the side and preferably to the rear of the primary building; and
- 11) *Self-service storage.* A self-service storage use shall comply with the following standards:
 - a) The only commercial uses permitted on the site of a self-service storage facility shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate or process goods; service or repair vehicles, small engines or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind, or conduct any other commercial or industrial activity on the site;
 - b) A security or caretaker quarters use may be established on the site of a self-storage facility;
 - c) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address;
 - d) Except as provided in this section, all property stored on the site of a self-service storage facility use shall be entirely within enclosed buildings;
 - e) Open storage of recreational vehicles and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self service storage facility use, provided that the following standards are met:
 - (i) The storage shall occur only within a designated area. The designated area shall be clearly delineated.
 - (v) The storage area shall not exceed 25 percent of the buildable area of the site;

- (vi) The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building and/or solid fencing with landscaping on the outside of the fence;
 - (vii) Storage shall not occur within the area set aside for minimum building setbacks;
 - (viii) No dry stacking of boats shall be permitted on site; and
 - (ix) No vehicle maintenance, washing or repair shall be permitted.
- f) The minimum lot size for a self-service storage facility shall be three acres. No variance or other relief shall be granted from this standard;
- g) The development shall not encroach into any buffer required by this Ordinance, the minimum required setback from any property line shall be the greater of any required buffer or setback (Sec. 8.2.6(B)).
- h) If separate structures are constructed, there shall be a minimum separation of 15 feet between the buildings within the facility.
- i) The maximum size of a storage bay shall be 450 square feet;
- j) With the exception of a structure used as a security or caretaker quarters, the maximum height of a self-service storage facility use shall be 20 feet. In addition, a parapet wall shall be constructed to screen roof-mounted heating and air conditioning and other equipment, if any. The combined height of the building and the parapet wall shall not exceed 25 feet;
- k) The following on-site circulation standards shall apply:
 - (i) Interior parking shall be provided in the form of aiseways adjacent to the storage bays. These aiseways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aiseways shall be 21 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted.

- (ii) The one-or two-way traffic flow patterns in aiseways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows;
 - (iii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aiseways.
- l) Outdoor lighting shall be the minimum necessary to discourage vandalism and theft. If a facility abuts a residential district, outdoor lighting fixtures shall be no more than 15 feet in height.
 - m) No exterior loudspeakers or paging equipment shall be permitted on the site;
 - n) Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public road; and
 - o) The exterior facades of all structures shall receive uniform architectural treatment, including masonry, stucco, and painting of surfaces. The colors selected shall be compatible with the character of the neighborhood.

H) ***Vehicle Repair and Service***

- 1) *Automotive paint or body shop.* An automotive paint and body shop use shall be conducted within an enclosed structure.
- 2) *Automotive service station.* An automotive service station use shall comply with the following standards:
 - a) The automotive service station shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation and turning movements;
 - b) The operation shall be adequately buffered to ensure its compatibility with surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.
 - c) Adequate access shall be provided into and off of the site;
 - d) At accessory repair activities shall be conducted within an enclosed structure. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site;

- e) Vehicles shall not be tested off-site on residential streets;
 - f) No outdoor speaker or public address systems that are audible off-site shall be permitted.
- 3) *Car wash or auto detailing.* Car wash and auto detailing uses shall comply with the following standards:
- a) An automatic car wash shall be considered an accessory use to an automotive service station use when it is located on the same lot, and shall be governed by the use and property development regulations applicable to the service station use;
 - b) No outdoor speaker or public address systems which are audible off-site shall be permitted.
- 4) *Repair and maintenance, general.* A general repair and maintenance use shall comply with the following standards:
- a) All repair and maintenance activities shall be conducted within an enclosed structure in the General Business (GB) district. In the Light Industrial (LI) district, repair and maintenance activities shall be conducted within an enclosed structure or within an area screened from the view of adjacent lands by solid fencing, dense vegetative buffers, earthen berms, and/or other effective screening;
 - b) Outside storage areas are only allowed in the Light Industrial (LI) district and must be fully screened from off-site view by a solid fence and landscaping on the outside of the fence, and comply with the buffer standards of Sec. 8.2.6;
 - c) No storage of junked vehicles or vehicles to be used for parts is allowed within the General Business (GB) districts;
 - d) Outside repair or maintenance activities are only allowed in the Light Industrial (LI) district and shall not be conducted within 100 feet of any property line adjacent to a residential district.
 - e) No service bay door shall be oriented toward any adjacent residential district or any adjacent public street;

- f) Vehicles shall not be tested off-site on residential streets.
 - g) No outdoor speaker or public address system that is audible off-site shall be permitted;
 - h) All vehicles awaiting service or repair must be parked on-site;
- 5) *Towing service storage.* The storage area for a towing service storage shall be completely screened from off-site view by buildings and/or solid fencing with landscaping on the outside of the fence, and shall comply with the buffering standards of Sec. 8.2.6.

4.4.6 Industrial Uses

A) *Industrial Service*

- 1) *Greenhouse or nursery, wholesale.* A wholesale greenhouse or nursery use shall comply with the following standards:
 - a) A whole greenhouse or nursery use in the Residential Agricultural (RA) district shall be located on a lot greater than 10 acres;
 - b) Loading or operation of heavy machinery at a wholesale greenhouse or nursery use shall not occur between the hours of 11:00 P.M. and 6:00 A.M.
- 2) *Machine or welding shop.* A machine or welding shop use shall be conducted within an enclosed structure.

B) *Production*

There are no supplemental standards for any of the industrial production uses.

4.5 ACCESSORY USES AND STRUCTURES

4.5.1 Permitted and Special Uses

Permitted uses and approved special uses shall be deemed to include accessory uses and activities that are necessary and customarily associated with, and are clearly incidental and subordinate to, the principal uses allowed in the zone districts. Accessory uses and activities shall be subject to the same regulations as apply to principal uses in each district, unless otherwise expressly stated.

4.5.2 Time of Establishment

No accessory use shall be established and no accessory structures shall be allowed until approval of all required permits for the principal use or activity.

4.5.3 Operation

Accessory uses shall be constructed, maintained and conducted to avoid production of noise, vibration, concussion, dust, dirt, smoke, odors, noxious gases, heat, and glare from artificial illumination or from reflection of natural light.

4.5.4 Dimensional Standards for Accessory Structures

Most accessory uses take place within the primary structure on a site. Accessory uses that occur in separate, accessory structures shall comply with the standards of this section, unless otherwise expressly stated.

A) *Location of Accessory Structures*

In residential districts all accessory structures shall be located in the rear yard except when built as part of the principal building or structure. Accessory structures shall be considered a part of the principal building when the distance between structures is solidly covered by a breezeway, portico, or similar architectural device at least four feet in width. Detached accessory uses shall be setback no less than five feet from the side and rear lot lines and sixty (60) feet from the front property line in all districts. Detached structures shall be no less than ten (10) feet from the principal building or structure.

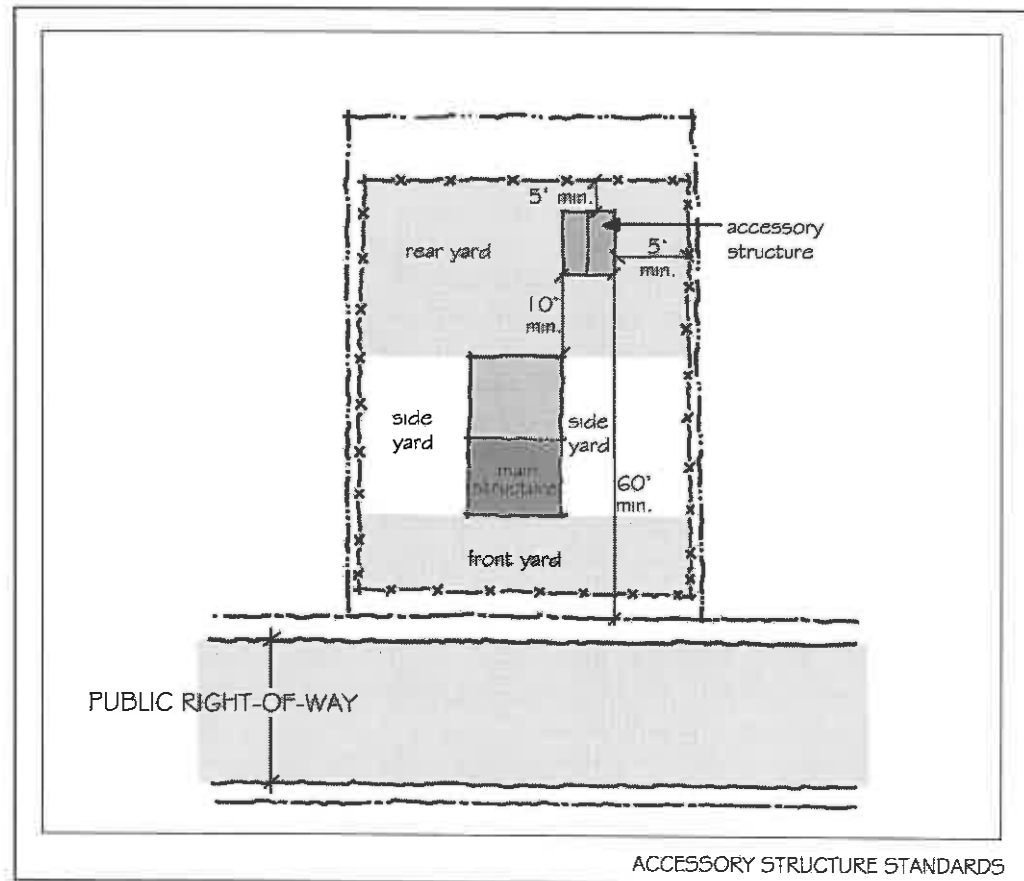


Figure 4.5.4(A): Location of Accessory Structures

- B) ***Percentage of Required Yard Occupied and Required Setbacks.***
Unless otherwise specified, no detached accessory building shall occupy more than 35 percent of the area of the required yard, nor be located closer than 10 feet to any principal building.

C) ***Height of Accessory Structures***

No detached accessory building or structure shall exceed the height of the principal building or structure.

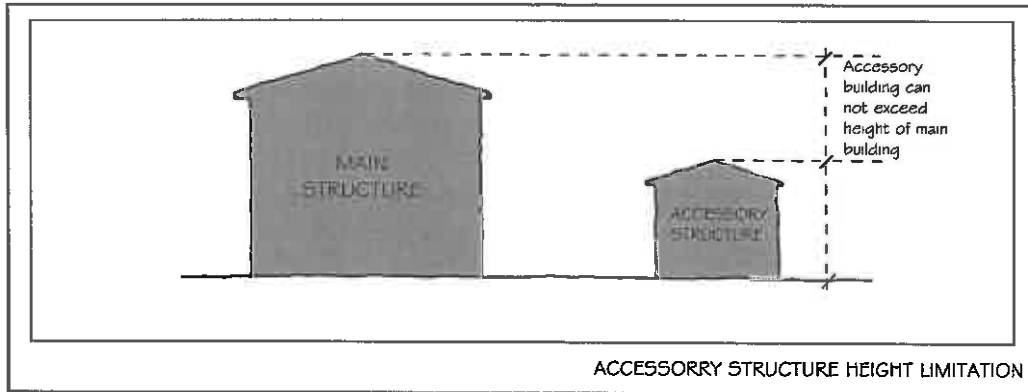


Figure 4.5.4(C): Accessory Structure Height Limitation

D) ***Corner Lot***

When an accessory structure is located on a corner lot in residential districts, the structure shall be set back not less than ten (10) feet from the side lot line abutting the street.

E) ***Similar Materials***

The accessory apartment shall be constructed of materials substantially equivalent to either the principal dwelling unit or other permanent accessory structure on the lot, provided that such materials comply with all other applicable standards of the building code; Pre-manufactured buildings shall be submitted to the Town for approval to ensure compliance with this Section.

F) ***Compatible Character***

The accessory apartment shall be compatible in character and subordinate in size to the principal dwelling unit or the commercial uses in which they are located.

4.5.5 Home Occupation

A home occupation shall comply with the following standards:

A) ***Incidental***

The home occupation shall be clearly incidental and secondary to the residential use of the building and shall be confined to no more than 25 percent of the total floor area of the dwelling, or 500 square feet, whichever is less;

B) ***Specialized Services***

No specialized service, such as but not limited to, dance instruction, crafts or music lessons may be provided for a group larger than five persons. No goods, products or commodities bought for the express purpose of resale shall be sold at retail or wholesale on the premises; homemade items, foodstuffs, and crafts made in the

home may be offered for sale on the premises in the RA Rural Agriculture and RR Rural Residential districts only.

- C) ***Enclosed Building***
A home occupation shall be conducted within the principal dwelling or an enclosed accessory structure, and shall not be conducted within any open porch that is attached to and part of the principal structure;
- D) ***Essential Character***
The home occupation shall not change the essential residential character of the use;
- E) ***Immediate Family***
A home occupation use shall be conducted by a member of the immediate family residing in the dwelling unit;
- F) ***Employees***
Only members of the immediate family residing in the dwelling unit may be employed to work for the home occupation.
- G) ***No External Evidence***
No external evidence or sign shall advertise, display, or otherwise indicate the presence of the home occupation, nor shall the street address of the home occupation be advertised through signs, billboards, television, radio, or newspapers;
- H) ***Sales***
A home occupation shall not involve the sale of any stock in trade, supplies, products or services on the premises;
- I) ***No Displays***
No equipment or materials used in the home occupation shall be stored or displayed outside of the dwelling
- J) ***Vehicle***
Only one vehicle used in connection with the home occupation shall be stored on the premises. The vehicle shall not be a truck, such as a dump truck, a fuel oil delivery truck or a wrecker, and no advertising or reference to the home occupation shall be displayed on the vehicle in any manner; and
- K) ***No Mechanical, Electrical or Other Equipment Which Causes Nuisance***
No home occupation shall involve the use of any mechanical, electrical or other equipment, materials or items which product noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building. There shall be no storage of hazardous or noxious materials on the site of the home occupation.

4.5.6 Accessory Apartment

Accessory apartment means a secondary dwelling unit either (1) in or added to an existing single-family dwelling, (2) in an accessory structure on the same lot as the principal single-family dwelling or (2) on all but the ground floor of a commercial use in the GB General

Business District. An accessory apartment is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping. An accessory apartment use shall comply with the following standards:

- A) ***General***
A maximum of one apartment may be permitted as an accessory use to a principal single-family dwelling unit. The accessory apartment may be attached to the principal dwelling unit or may be freestanding. Accessory apartments may also be developed on all but the ground floor of commercial uses in the GB General Business District.
- B) ***Accessory to Single Family***
In single family homes or lots, no accessory apartment shall contain more than one bedroom or be larger than 800 square feet in size;
- C) ***Similar Materials***
The accessory apartment shall be constructed of materials substantially equivalent to either the principal dwelling unit or other permanent accessory structure on the lot, provided that such materials comply with all other applicable standards of the building code;
- D) ***Compatible Character***
The accessory apartment shall be compatible in character and subordinate in size to the principal dwelling unit or the commercial uses in which they are located.
- E) ***Yard Setbacks***
The accessory apartment shall comply with the minimum yard setbacks applicable to the district in which it is located; and
- F) ***Ownership***
The accessory apartment in the residential districts shall remain accessory to and under the same ownership as the principal single family dwelling unit. The accessory units in the GB General Business District may be under separate ownership.

4.6 TEMPORARY USES AND STRUCTURES

4.6.1 Permit Required

- A) ***General***
A temporary use or structure for one or more of the following described uses shall be permitted in any zone district. All temporary uses and structures shall obtain a temporary use permit pursuant to the procedures set forth in Sec. 2.3.11, Temporary use.
- B) ***General Regulations***
The general regulations of this subsection shall apply to all allowed temporary uses unless otherwise expressly stated.

- 1) *Temporary signs prohibited.* No temporary signs shall be permitted in a public right-of-way or off-premises of the temporary use. All temporary signs associated with the temporary use shall be removed when the activity ends.
- 2) *Conditions of approval.* Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site.
- 3) *Obtain all other applicable permits.* The operator must obtain all other required permits applicable to the temporary use.
- 4) *Not located in public right-of-way.* Temporary uses shall not be located within a public right-of-way.

C) ***Uses Allowed***

Temporary uses shall be allowed in accordance with the standards of this subsection.

- 1) *Fairs, carnivals, circuses and tent revivals and other public gatherings.* Fairs, carnivals, circuses and tent revivals and other public gatherings shall be allowed as follows:
 - a) In the GB Business District, such uses shall be allowed for up to seven consecutive days. Five events are allowed per calendar.
 - b) In Residential districts (except the RA Residential Agriculture and RR Rural Residential Districts), such uses may be allowed for up to four consecutive days on the site of a school or church use. Two events are allowed each calendar year.
 - c) In the RA Residential Agriculture and RR Rural Residential Districts, such uses may be allowed for up to seven consecutive days. One event is allowed per calendar year.
- 2) *Natural disaster or other health and safety emergencies.* Temporary uses and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.
- 3) *Produce stands.* Produce stands are allowed as temporary uses in the RA Residential Agriculture District, the RR Rural Residential District, and the GB Business District for up to two months at a time. Two events are allowed in each calendar year.

- 4) *Seasonal outdoor sales.* Seasonal outdoor sales are allowed for up to one month at one time. Seasonal outdoor sales shall not consist of inventory that a business typically sells. Seasonal outdoor sales include, but are not limited to, fireworks displays, Christmas tree lots, pumpkin sales, etc. Two events are allowed on the same parcel each calendar year in all districts except the LD Low Density Residential District, the MD Medium Density Residential District, and the HDMF High Density Multi-Family Residential District. Churches and non profit organizations are exempt from this section and can conduct seasonal outdoor sales in any zoning district and are not limited to two events per calendar year.
- 5) *Temporary construction, security, and real estate sales offices.* Temporary construction , security, and real estate sales offices shall be allowed as follows:
 - a) The owner of a construction project may place on the construction site a temporary office for use by construction, security, and real estate sales personnel.
 - b) The temporary office shall be located on the lot on which construction or development is occurring and shall not be located within 25 feet of any abutting residential use.
 - c) The office shall be removed within 10 days after final inspection of the permanent structure or expiration of the corresponding building permit, whichever event occurs first. In the case of residential development projects, the office must be removed within 10 days of sale or lease of all dwelling units.
- 6) *Residential yard or garage sales.* Residential yard or garage sales shall be allowed as follows:
 - a) A maximum of one yard or garage sale shall be permitted within any 90 day period.
 - b) All yard and garage sales shall be conducted so that no goods offered for sale are located on any public street or sidewalk, and so that vehicle and pedestrian traffic on public streets and sidewalks is not constructed.
 - c) No sign advertising a yard or garage sale may be posted on any public property.
- 7) *Other temporary uses.* The Mayor may approve other temporary uses and activities or special events if it is determined that such uses would not jeopardize the health, safety, or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

ARTICLE 5 MEASUREMENTS

5.1 TABLE OF INTENSITY AND DIMENSIONAL STANDARDS

All primary and accessory structures shall be subject to the intensity and dimensional standards set forth in the following tables. These intensity and dimensional standards may be further limited or modified by other applicable sections of this Ordinance. Additional regulations are set forth immediately following the tables. Rules of measurement and exceptions are set forth in Secs. 5.2. - 5.6.

5.1.1 Residential Districts

Use	Minimum lot Dimensions		Minimum Building Setbacks (Feet)				Max. Height (Feet)	Max. Built-Up Upon Area (%)*	Max. Floor Area Ratio (FAR)	Max. Density (Units per Acre)	Additional Regulations
	Area	Width (feet)	Front	Side	Rear	Other/ Buffer					
RA											
All uses	5 acres	—	30	15	25	Sec. 8.2.6	36	50	—	0.20	Sec. 4.4
RR											
Church or place of worship	—	—	50	50	50	Sec. 8.2.6	48	50	—	—	—
Farm residence	1 acre	—	40	15	25	—	36	50	—	1	—
Single Family	1 acre	—	40	15	25	Sec. 8.2.6	36	50	—	1	—
School	—	—	50	50	50	Sec. 8.2.6	48	50	—	—	—
All other uses	1 acre	—	40	15	25	Sec. 8.2.6	36	50	—	—	Sec. 4.4
LD											
Church or place of worship	—	—	50	50	50	Sec. 8.2.6	48	60	—	—	—
Single Family	20,000 Sq. ft.	100	25	20	25	There shall be a corner side setback of 18'. See Sec. 8.2.6	36	60	—	2	—
All other uses	½ acre	—	25	20	25	Sec. 8.2.6	36	60	—	—	Sec. 4.4

Article 5 / Measurements

Sec. 5.1 / TABLE OF INTENSITY AND DIMENSIONAL STANDARDS

Sec. 5.1.1 / Residential Districts

Use	Minimum lot Dimensions		Minimum Building Setbacks (Feet)				Max. Height (Feet)	Max. Built-Up on Area (%)*	Max. Floor Area Ratio (FAR)	Max. Density (Units per Acre)	Additional Regulations
	Area	Width (feet)	Front	Side	Rear	Other/ Buffer					
MD											
Church or place of worship	—	—	50	50	50	Sec. 8.2.6	48	60	—	—	—
Park, active or passive	—	—	30	30	30	Sec. 8.2.6	36	60	—	—	—
Single Family	13,000	80	20	10	20	There shall be a corner Sec. side setback of 15. Sec 8.2.6	36	60	—	4	—
All uses	½ acres	30	30	25	25	Sec. 8.2.6	36	5	—	0.20	Sec. 4.4
Congregate living facility (Special Use Permit)	—	—	50**	50**	50**	Sec. 8.2.6	48	65	—	21	Sec. 4.4.1.A. and F. Internal building setbacks shall comply with Sec. 5.2.2.F
HD MF											
Condos, Duplexes, Triplexes, Quadplexes, and Townhouses	13000 Sq. ft.	50**	50**	50** min./	50	There shall be a corner side setback of 18". Sec Sec. 8.2.6	36	60	—	10 - Quad 8 - Triplex 6 - Duplex	—
Congregate living facility Special Use Permit	—	—	50**	50**	50**	Sec. 8.2.6	48	65	—	21	Sec. 4.4.1.A. and F. Internal building setbacks shall comply with Sec. 5.2.2.F
Multi-family or apartments	—	—	50**	50**	50**	Sec. 8.2.6	48	65	—	14	Internal building setbacks shall comply with Sec. 5.2.2.F
Church or place of worship	—	—	50	50	50	Sec. 8.2.6	48	65	—	—	—

Article 5 / Measurements

Sec. 5.1 / TABLE OF INTENSITY AND DIMENSIONAL STANDARDS

Sec. 5.1.1 / Residential Districts

Use	Minimum lot Dimensions		Minimum Building Setbacks (Feet)				Max. Height (Feet)	Max. Built-Up on Area (%) [*]	Max. Floor Area Ratio (FAR)	Max. Density (Units per Acre)	Additional Regulations
	Area	Width (feet)	Front	Side	Rear	Other/ Buffer					
HDMF											
Day care (Special use permit)	—	—	25	15	25	Sec. 8.2.6	36	65	—	—	Sec. 4.4.2.C
All other uses	5000 sq. ft.	—	25	10	25	Sec. 8.2.6	36	65	—	—	Sec. 4.4
MH											
Manufactured home	8000 sq. ft.	—	25	10	25	Sec. 8.2.6	24	65	—	—	Sec. 4.4.1.D
Single family home	13,000	—	25	10	25	Sec. 8.2.6	36	65	—	4	—
All other uses	—	—	50	50	50	Sec. 8.2.6	36	65	—	—	Sec. 4.4
Mobile home/ Recreational Vehicle (RV)	5000 sq. ft.	50	25***	25***	25***	Sec. 8.2.6; Interior setbacks equal to Front 15'; Side 10'; Rear 10'.	12	65	—	8	
All other uses	—	—	50	50	50	Sec. 8.2.6	36	65	—	—	Sec. 4.4
** These setbacks are for multi-story, elevated spaces and include the perimeter of entire project only. *** These setbacks are for the perimeter of entire project only.											

Article 5 / Measurements
5.1.1 / TABLE OF INTENSITY AND DIMENSIONAL STANDARDS
Sec. 5.1.2./ Business Districts

5.1.2 Business Districts

Use	Minimum lot Dimensions		Minimum Building Setbacks (Feet)				Max. Height (Feet)	Max. Built-Up on Area (%)*	Max. Floor Area Ratio (FAR)	Max. Density (Units per Acre)	Additional Regulations
	Area	Width (feet)	Front	Side	Rear	Other/ Buffer					
GB											
Nursing or convalescent facility	—	—	40***	30***	40***	Sec. 8.2.6	36	65	—	12	Sec. 4.4.1.F, Internal building setbacks shall comply with Sec. 5.2.2.F
Church or place of worship	—	—	40	40	40	Sec. 8.2.6	36	65	—	—	—
Hospital	5 acres	300	75	75	75	Sec. 8.2.6	48	65	—	—	Sec. 4.4.2.D
School	—	—	50	50	50	Sec. 8.2.6	36	65	—	—	—
All other uses	—	—	25	20	30	Sec. 8.2.6	36	65	1.50	—	Sec. 4.4
*** These setbacks are for the perimeter of entire project only.											
LI											
All other uses	—	—	50	50	50	Sec. 8.2.6	36	65	1.50	—	Sec. 4.4

5.2 GENERAL MEASUREMENT REQUIREMENTS

5.2.1 Density

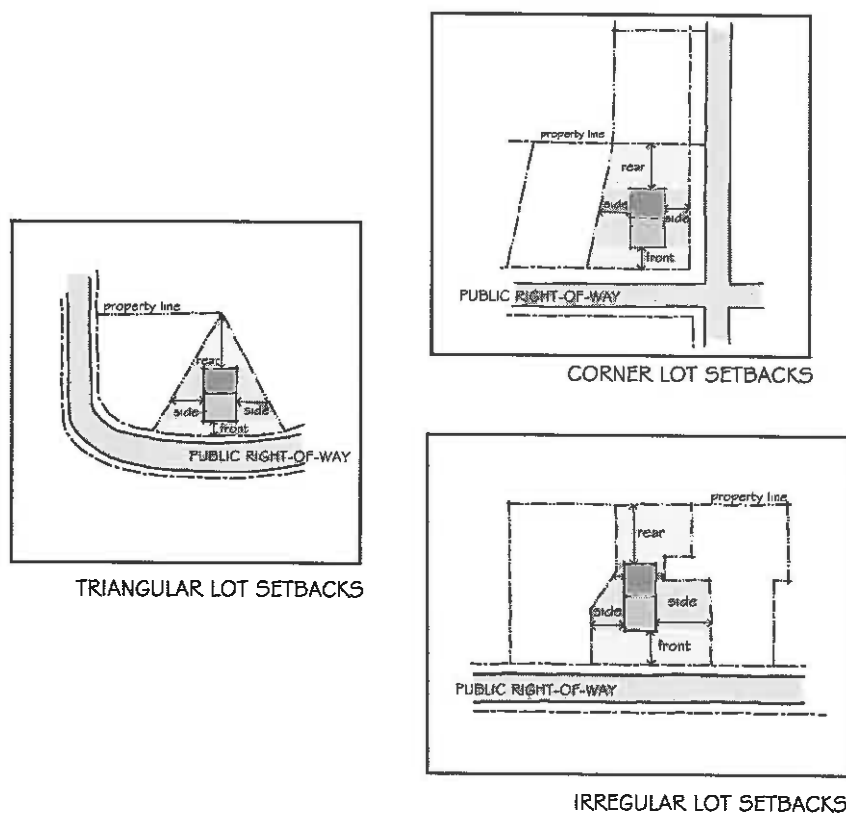
Density shall be measured by taking the quotient of the total number of dwelling units on a site proposed for development divided by the gross acres of the site.

5.2.2 Building Setbacks

A) *Measurement*

- 1) *General.* Required setbacks shall be measured as the distance between the nearest lot line and the edge of the roof overhang of the building or structure along a line at right angles to the lot line. Where no minimum front, side, or rear setbacks are specified, the setback line shall be coterminous with the corresponding lot line. Allowable projections into setback areas shall not be utilized for measurement of setbacks. Setbacks shall be established at time of review of a site plan (Sec. 2.3.6) or master plan for subdivision (Sec. 2.3.7.D).
- 2) *Buffer required.* Where there is a buffer required pursuant to Sec. 8.2.4, *Buffering*, that buffer plus an additional 10 feet shall serve as a setback for all uses in all zone districts.

Figure 5.2.2.A. Setbacks



B) General

- 1) *Same lot.* Except as specified below, all setbacks allocated to a building or structure shall be located on the same lot as such building or structure.
- 2) *Lot abuts alley.* Where a zoning-lot abuts an alley, one-half of the width of the alley shall be considered a part of the lot for purposes of computing the depth or width of any setback adjacent to the alley, provided that at least four feet of each required side setback and 12 feet of the rear setback shall be on the lot independent of the adjoining alley.
- 3) *Landscape features.* Trees, shrubs, flowers, fences, walls, hedges, and other landscape features may be located within any required setback.
- 4) *Accessory structures allowed within required setbacks.* In addition to landscape features, accessory structures are allowed to encroach into required setbacks as follows. However, in no case shall any accessory structure be located closer than ten (10) feet to a required buffer or other protected areas.
 - a) Accessory structures, including but not limited to sheds, above-ground and in-ground pools, hot tubs, patios, unattached carports, and unattached garages may be located as close as ten (10) feet from any property line, provided that the feature is located either 60 feet back from the front property line or is entirely within the rear yard. Accessory structures on townhouse lots can be located anywhere in the rear yard provided that the accessory structure meets applicable building codes.
 - b) Attached decks and unenclosed porches may encroach into the required front or rear setback up to 50% of the setback width (e.g. 12.5 feet into a 25 foot setback). Attached decks and unenclosed porches on townhouse lots can be located anywhere in the front, side or rear yard provided that the attached deck or unenclosed porch meets applicable building codes.
 - c) Enclosed porches may encroach no more than 6 feet into the required front or rear setback. Enclosed porches on townhouse lots can be located anywhere in the front, side or rear yard provided that the enclosed porch meets applicable building codes.

- d) Appurtenances including but not limited to chimneys, bay windows, balconies, cornices, eaves, fire escapes, etc. may encroach no more than 3 feet into any required setback. Appurtenances on townhouse lots can be located anywhere in the front, side, or rear yard provided that the appurtenance meets applicable building codes.

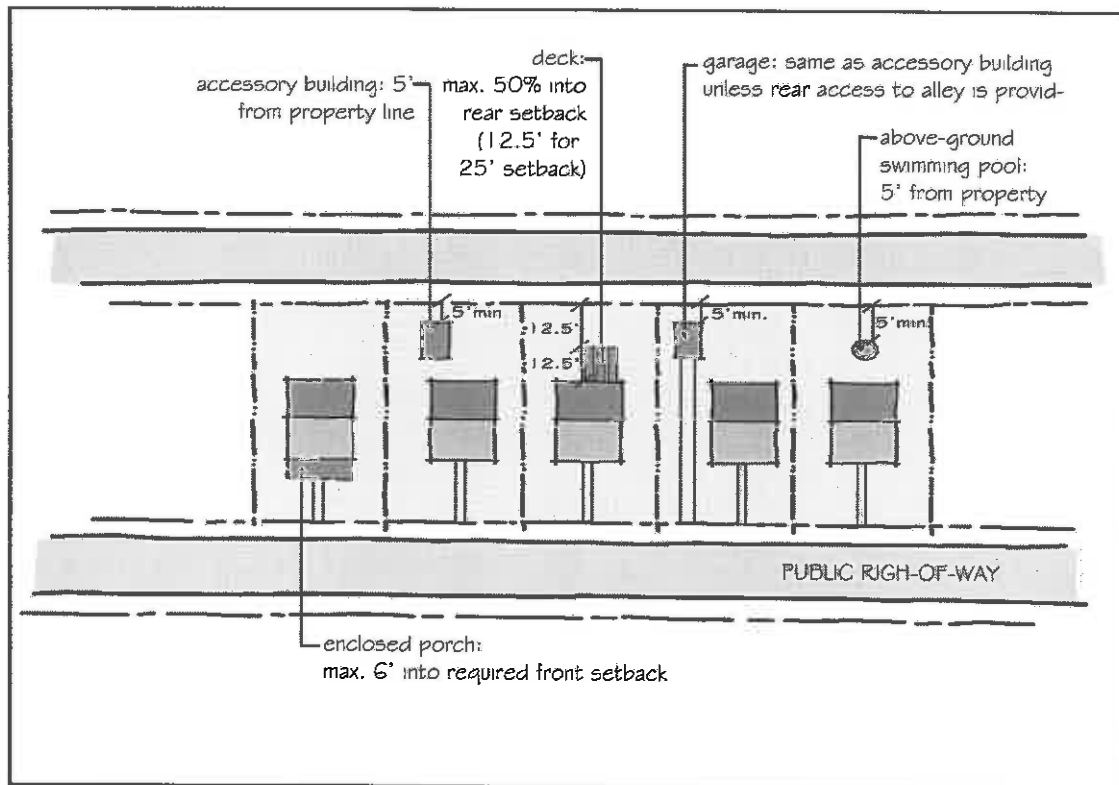


Figure 5.2.2(B)(4): Illustration of Features that May Encroach Into Required Setbacks

C) Front Setback

- 1) *General.* A front setback extends across the full width of a site the depth of which is the minimum horizontal distance between the front property line and a line parallel thereto on the site.
- 2) *Corner lot.* The front setback of a corner lot shall be measured from the side of the lot designated as the front. The front shall be the side where the front door of the building faces.

- d) Appurtenances including but not limited to chimneys, bay windows, balconies, cornices, eaves, fire escapes, etc. may encroach no more than 3 feet into any required setback. Appurtenances on townhouse lots can be located anywhere in the front, side, or rear yard provided that the appurtenance meets applicable building codes.

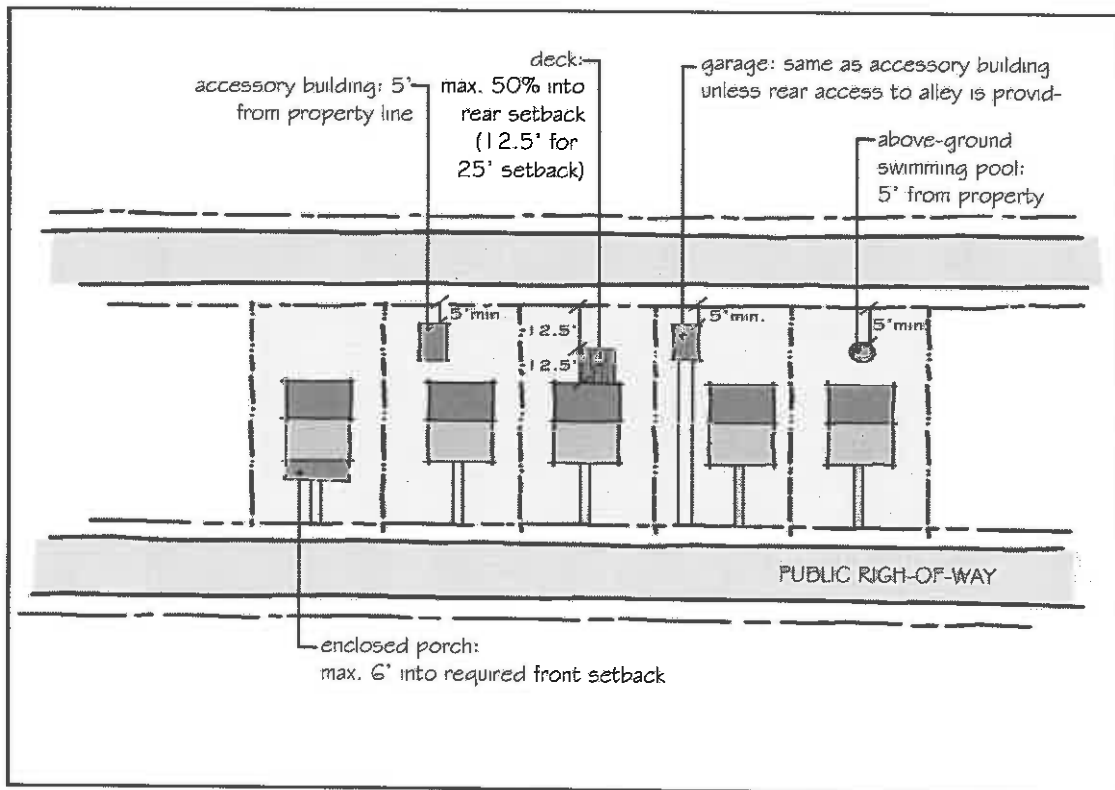


Figure 5.2.2(B)(4): Illustration of Features that May Encroach Into Required Setbacks

C) Front Setback

- 1) *General.* A front setback extends across the full width of a site the depth of which is the minimum horizontal distance between the front property line and a line parallel thereto on the site.
- 2) *Corner lot.* The front setback of a corner lot shall be measured from the side of the lot designated as the front. The front shall be the side where the front door of the building faces.

D) ***Side Setback***

A side setback extends from the rear line of the required front setback, or the front property line of the site where no front setback is required, to the front line of the required rear setback, or the rear property line of the site where no rear setback is required, the width of which is the horizontal distance between the side property line and a line parallel thereto on the site, except that the corner side setback shall extend to the rear lot line.

E) ***Rear Setback***

A rear setback extends across the full width of a site, the depth of which is the minimum horizontal distance between the rear property line and a line parallel thereto on the site, except that on a corner lot the rear setback shall extend only to the side setback abutting the street.

F) ***Internal Building Setbacks***

Internal building setbacks for condominium, townhouse, multi-family and apartment, congregate living facilities and nursing and convalescent facilities shall comply with the following spacing standards:

- 1) *Front to front.* Fifty (50) feet from front to front.
- 2) *Side to side.* Sixteen (16) feet from side to side.
- 3) *Side to rear.* Thirty-three (33) feet from side to rear or rear to side; and
- 4) *Rear to rear.* Fifty (50) feet from rear to rear.

5.2.3 Height Measurement and Requirements

A) ***Measurement***

Height shall be measured as the vertical distance in feet between the finished floor (not to include finished grade of a basement) to the highest point of the roof at the front elevation.

B) ***Exceptions to Height Regulations***

- 1) *What not to consider in determining height.* Cupolas, steeples, domes, flag poles, antennas for which a building permit is not required, chimneys, and roof structures used for ornamental or mechanical purposes, when located on a roof and collectively not exceeding in gross area 30 percent of the roof area, need be included in determining the height of the building or structure.
- 2) *Parapet walls.* Parapet walls may extend not more than five feet above the allowable height of a building.

5.3.2 Review and Approval

Review for compliance with the standards of this section shall occur during review of site plans (major and minor) (Sec. 2.3.6) or master plans for subdivision (Sec. 2.3.7.D), whichever is appropriate. Restrictions that assure the minimum distance between houses and any required servitudes shall be recorded of the deeds of the applicable lots. Proof of such recordation shall be submitted as part of the building permit application.

5.3.3 Setbacks

The side building setback on one side of the house may be reduced to zero. The front to side setback shall comply with the front yard setback requirements for the zone district established in Sec. 5.1.1, *Residential districts*.

5.3.4 Additional Standards

A) ***Distance Between Houses***

The minimum distance between all buildings in the development must be equal to twice the required side setback required by the underlying zone district. A deed restriction must be recorded on the deed of each applicable lot to ensure continued compliance with this setback. A copy of the deed restriction shall be filed with the Town Clerk prior to approval of a final plat for subdivision.

B) ***Maintenance Servitude***

A servitude to allow for maintenance or repair is required when the eaves or side wall of a house are within four feet of the adjacent property line. The servitude on the adjacent property must provide at least 10 feet of unobstructed spaces between the furthestmost project of the structure and be wide enough to allow five feet between the eaves or side wall and the edge of the servitude.

C) ***Privacy***

If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot are not allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are allowed.

D) ***Other Dimensional Standards***

The zero lot-line development shall comply with all other relevant dimensional standards and all other requirements of this Ordinance.

6.1 WATERSHED PROTECTION OVERLAY DISTRICT

6.1.1 Purposed, Authority, and Enactment

The purpose of the Watershed Protection Overlay Districts is to minimize sedimentation of streams, to minimize obstruction of natural drains and damage to property where construction occurs in close proximity to a drain, and to protect the environment, health, and general welfare of present and future residents of the Town. In addition, this Section provides for stormwater detention as a means to regulate peak flows in stormwater runoff from developments in General Business and Industrial areas. In furtherance of these goals and under such authorities, the Town of Kinder promulgated this Sec. 6.1, *Watershed Protection Overlay Districts*.

6.1.2 Primary and Secondary Watershed Protection Overlay Districts

Except for those lands and uses exempted pursuant to Sec. 6.1.3 *Exemptions*, the Watershed Protection Overlay Districts shall encompass all lands within the Town of Kinder.

6.1.3 Exemptions

The following activities are exempted from the requirements of Sec. 6.1 *Watershed Protection Overlay Districts*:

A) *Development Existing as of the Effective Date of this Section*

- 1) *Date built.* The continued use of structures that were built prior to the effective date of this Section;
- 2) *Substantial expenditures.* The completion of development for which the developer prior to the effective date of this Section made substantial expenditures of resource (e.g. time, labor, money) based on a good faith reliance on a valid permit received from the Town;
- 3) *Outstanding building permit.* The construction of any structure for which a developer has an outstanding valid building permit prior to the original effective date of this Section.

B) *Developments and Uses Exempted by State Law*

Any use, development, or activity that has been specifically exempted by any applicable state law from local regulations of this sort.

C) *Residential Zoning Areas*

Development within Residential Zones shall be exempt from the requirements of Section 6.1.7 *Storm Water Retention*.

6.1.4 General

A) ***Development Review***

All development within the Watershed Protection Overlay Districts shall comply with the watershed protection standards of Sec. 6.1 *Watershed Protection Overlay Districts*, and shall demonstrate compliance concurrent with the submission for approval for a site plan (major or minor) (Sec. 2.3.6), master plan for subdivision (Sec. 2.3.7(d)) or application for a building permit.

B) ***Compliance Prior to Approval of Certificate of Occupancy***

Prior to approval of a final plat (with respect to a subdivision), issuance of a certificate of occupancy (with respect to a site plan), or commencement of a use, in addition to meeting all other requirements of this ordinance, all of the watershed protection standards required by this Section must be met, and be approved the Town Engineer.

C) ***Definitions***

Certain words in this Section have meanings that are specific for the purposes of Sec. 6.1 *Watershed Protection Overlay Districts*. Such words shall be defined in Article 12, *Definitions*.

6.1.5 Uses

The uses allowed within the Watershed Protection Overlay Districts shall be governed by the use regulations permitted in the base zone district within which the land is located as set forth in the Sec. 4.2.2 *Use Table*.

6.1.6 Standards

A) ***General***

All development within Watershed Protection Overlay District shall be designed to comply with the noted standards unless the Town Council approval a variance.

B) ***Standards***

All development within the Watershed Protection Overlay District shall meet the following standards:

1) ***Riparian Buffers for Perennial Streams***

Within the Watershed Protection Overlay District, a vegetative buffer with a width of not less than 50 feet shall be maintained along each side of a perennial stream (defined for purposes of this Section in Article 12, *Definitions*). All buffers shall meet the requirements of Sec. 6.1.11 *Riparian Buffers*.

- 2) *Riparian Buffers for Intermittent Streams or Natural Drains*
Within the Watershed Protection Overlay District, a vegetative buffer with a width of not less than 25 feet shall be maintained along each side of a perennial stream (defined for purposes of this Section in Article 12, *Definitions*). All buffers shall meet the requirements of Sec. 6.1.11 *Riparian Buffers*.
- 3) *Riparian Buffers for Lakes and Ponds*
Within the Watershed Protection Overlay District, a vegetative buffer with a width of not less than 50 feet shall be maintained around any lake or pond. All buffers shall meet the requirements of Sec. 6.1.11 *Riparian Buffers*.

6.1.7 Storm Water Detention

- A) *Built-Upon Area*
Within the Watershed Protection Overlay District, all General Business or Industrial developments shall comply with the built-upon area limitations for the underlying district found in Sec. 5.1 *Table of Intensity and Dimensional Standards*.
- B) *Engineered Storm Water Control Structures*
Within the Watershed Protection Overlay District in the General Business or Industrial zones, engineering storm water control structures shall be used to collect and hold the runoff from the first one-inch of rainfall (minimum). Design shall ensure that Post-Development peak runoff shall not exceed Pre-Development peak runoff. These storm water control structures shall meet the requirements in Sec. 6.1.11 *Engineered Storm Water Controls*.

6.1.8 Definition of Built-Upon Area

For the purpose of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not limited to, all existing public and private streets and proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including stone and gravel within the development. Swimming pools and wooden decks shall not be included in the calculation of the built-upon area.

6.1.9 Calculation of Built-Upon Area

For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, built-upon area calculations shall be made based on the total acreage of built-upon area within a proposed development, divided by the total acreage of the lot area. Density calculations for expansions shall be based on the total acreage of built-upon area proposed for expansion, divided by the total acreage of lot area proposed for expansion. A certificate of occupancy shall not be granted, nor shall any final plat be recorded until a developer has caused all information pertaining to the percentage of the built-upon area on a property to be shown on the final plat for the property.

6.1.10 Riparian Buffers

A) ***Measurement of Riparian Buffers***

The buffer width at a particular point along a stream shall be measured by the perpendicular distance from the point along the stream bank to the landward edge of the buffer or herbaceous vegetation line. The buffer width at a particular point along an intermittent stream or natural drain shall be measured by the perpendicular distance from a point at the stream or drain centerline or thalweg to the landward edge.

B) The Town Engineer shall make decisions and interpretations regarding stream or classifications in accordance with all applicable criteria and the best available scientific information. Any person aggrieved by a decision of the Town Engineer may appeal such decision to the Town Council.

C) ***Diffuse Flow Requirement***

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation.

- 1) Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters the riparian buffer.
- 2) Periodic corrective action to restore diffuse flow shall be taken if necessary to impede the formation of erosion gullies.

D) ***Minimization of Impact***

All uses and activities that are permitted within any required riparian buffer shall be designed to minimize impact on water quality.

E) ***Notification on Site Plan and Subdivision Plan and Recording of Information***

Where required, riparian buffers shall be shown on all site plans and subdivision plans approved pursuant to Sec. 6.1.4 of this Ordinance. Prior to approval of a final plat (with respect to a subdivision), or commencement of a use, a developer shall first cause all information pertaining to required riparian buffers to be shown on the final plat for the property.

6.1.11 Engineered Storm Water Controls

All engineered storm water control structures and any alterations thereof shall be designed by a Louisiana registered professional engineer with qualifications appropriate for the type of system required.

6.1.12 Modifications by Variance

A) ***General***

All requests for variances from the standards of the Watershed Protection Overlay Districts shall be made to the Town Council.

B) ***Minor Variances***

- 1) *General.* Applications for minor variances shall be reviewed by the Town Engineer, who shall make a recommendation on the minor variance. The application shall then be reviewed by the Mayor, who shall approve, approve with conditions, or disapprove the variance.
- 2) *A variation shall be considered minor when* it results in a buffer with a width of fewer than 30 feet along either side of a perennial or intermittent stream, or around a lake or pond.
- 3) *Standards.* Minor variances shall be granted by the Town Engineer if the applicant demonstrates extreme hardship.

6.1.13 Civil Penalties

A) ***Notification of Violation***

When any subdivision, development, and/or land use is found to be in violation of any provision of Sec. 6.1 *Watershed Protection Overlay Districts*, the person responsible for the violation shall be notified by the Town Engineer. Such notification shall take the following form:

- 1) It shall be made in writing.
- 2) It shall indicate the nature of the violation.
- 3) It shall order:
 - a) *The discontinuance of the illegal use of land, buildings or structures,*
 - b) *The removal of illegal buildings or structures,*
 - c) *The removal of additions, alterations, or structural changes to illegal buildings or structures, or*
 - d) *The discontinuance of any illegal work being done.*
- 4) It shall order any action that is deemed necessary at that time to correct the violation.

- B) ***Civil Penalties***
Following notification of a violation of Sec. 6.1 *Watershed Protection Overlay Districts*, civil penalties may be imposed by the Town on the person responsible for the violation. Civil penalties will be imposed in accordance with Sec. 11.4.4 *Civil Penalties*.

6.2 FLOOD DAMAGE PREVENTION OVERLAY DISTRICT

6.2.1 Authority

The Town is authorized to adopt the Flood Damage Prevention Overlay District pursuant to the Lawarson Act.

6.2.2 Findings

A) ***Flood Inundation Adversely Affects Public Health, Safety and Welfare***

The flood hazard areas of the Town are subject to periodic inundation that results in possible loss of life, damage to property, creates health and safety hazards, results in disruption of commerce and governmental services, causes extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B) ***Flood Losses Caused by Cumulative Effects of Obstructions in Floodplains***

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

6.2.3 Purpose

It is the purpose of the Flood Damage Prevention Overlay District to promote the public health, safety, and general welfare of the Town and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A) ***Restrict Uses that are Dangerous due to Water or Erosion Hazards***

Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B) ***Protect Uses against Flood Damage***

Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C) ***Control the Alteration of Natural Floodplains, Stream Channels, and Natural Protective Barriers***

Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of floodwaters;

- D) ***Control Filling, Grading, Dredging***
Control filling, grading, dredging, and other development which may increase erosion or flood damage; and
- E) ***Prevent or Require the Construction of Flood Barriers That Will Unnaturally Divert Floodwaters***
Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

6.2.4 Objectives

The objectives of this section are:

- A) ***Protect Human Life and Health***
To protect human life and health;
- B) ***Minimize Expenditure of Public Money***
To minimize expenditure of public money for costly flood control projects;
- C) ***Minimize the Need for Rescue and Relief Efforts Associated with Flooding***
To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D) ***Minimize Prolonged Business Interruptions***
To minimize prolonged business interruptions
- E) ***Minimize Damage to Public Facilities***
To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- F) ***Maintain a Stable Tax Base***
To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and,
- G) ***Notification of Homebuyers***
To ensure that potential homebuyers are notified that property is in a flood area.

6.2.5 Applicability

This Flood Damage Prevention Overlay District shall apply to all areas of special flood hazard within the Town.

6.2.6 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in its "Flood Insurance Study, Town of Kinder and Incorporated Areas", dated March 3, 2002, with accompanying maps and other supporting data, and any revision thereto are adopted by referenced and declared to be a part of the Flood Damage Prevention Overlay District as areas of special flood hazard.

6.2.7 Establishment of Development Permit

A development permit shall be required in conformance with the provisions of this section prior to the commencement of any development activities.

6.2.8 Compliance

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this section and other applicable regulations.

6.2.9 Abrogation and Greater Restrictions

This section is not intended to repeat, abrogate, or impair any existing easements, covenants, or deed restriction. However, where this section and another conflict or overlay, whichever imposes the more stringent restrictions shall prevail.

6.2.10 Interpretation

In the interpretation and application of this section all provisions shall be:

A) ***Minimum Requirements***

Considered as minimum requirements;

B) ***Liberally Construed***

Liberally construed in favor of the governing body; and

C) ***Deemed Neither to Limit nor Repeal Other Powers***

Deemed neither to limit nor repeal any other powers granted under state statutes.

6.2.11 Warning and Disclaimer of Liability

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

6.2.12 Penalties for Violation

Violation of the provisions of this section of failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than 50 dollars (\$50.00) or be imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to present or remedy any violation.

6.2.13 Administration

A) *Designation of Local Administrator*

The Town Clerk or a designee as appointed to administer and implement the provisions of this Flood Damage Prevention Overlay District.

B) *Development Permit and Certification Requirements*

Application for a development permit shall be made to the Town Clerk or a designee on forms furnished by the Town prior to any development activities in the Flood Damage Prevention Overlay District. The development permit may include, but shall not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

- 1) *Base flood elevation data provided.* Where base flood elevation data is provided in accordance with Sec. 6.2.13(C)(5), *Obtain Flood Data*, and 6.2.6, *Basis for Establishing the Areas of Special Flood Hazard*, the application for a development permit shall show:
 - a) The elevation (in relation to mean sea level) of the lowest floor (including basement of all new and substantially improved structures; and show construction of the lowest flow at least once foot above the base flood elevation.
 - b) If the structure has been flood-proofed in accordance with Sec. 6.2.16(B)(3), *Commercial, Industrial, or Nonresidential Structure*, the elevation (in relation to mean sea level) to which the structure was flood-proofed.

- 2) *Base flood elevation data not provided.* Where the base flood elevation data is not provided, the Flood Plain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of this Section.
- 3) *Watercourse will be altered or relocated.* Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: A description of the extent of watercourse alternation or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.
- 4) *Structure flood-proofed.* When a structure is a flood-proofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure meets the flood-proofing standards Sec. 6.2.16(B)(3), *Commercial, Industrial, or Nonresidential Structure.*
- 5) *Floor elevation or certification required.* A floor elevation certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, it shall be the duty of the permit holder to submit to the Town Clerk a certification of the elevation of the lowest floor, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Town Clerk or a designee shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required shall be cause to issue a stop-work order for the project.

C) ***Duties and Responsibilities***

The duties of the Town Clerk or a designee shall include but are not be limited to:

- 1) *Reviewing all development permits. Reviewing all development permits to assure that the requirements of this section have been satisfied.*
- 2) *Advising permittee.* Advising the permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit;
- 3) *Actual elevations.* Obtaining actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Sec. 6.2.13(B)(5), *Floor Elevation Certification Required.*
- 4) *Interpretations.* Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretation as provided in this section.
- 5) *Obtain flood data.* When base flood elevation data or floodway data has not been provided in accordance with Sec. 6.2.6, *Basis for Establishing the Areas of Special Flood Hazard*; a hydraulic report shall be prepared by a licensed professional engineer to define the base flood or floodway elevation.
- 6) *Inspections.* Make on-site inspections of projects in accordance with Sec. 6.2.14, *Administrative Procedures.*
- 7) *Enforce.* Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Sec. 6.2.14, *Administrative Procedures.*
- 8) *Maintain records.* Maintain all records pertaining to the administration of this section and make these records available for public inspection during normal business hours.

6.2.14 Administrative Procedures

A) Inspections of Work in Progress

As the work pursuant to a permit progresses, the Town Clerk or designee shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this section and the terms of the permit. In exercising this power, the Town Clerk or a designee has a right, upon presentation of proper credentials, to enter on any premises at any reasonable hour for the purposes of inspection or other enforcement action.

B) Stop-Work Orders

Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this section, the Town Clerk or a designee may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

C) Revocation of Permits

The Town Clerk or a designee may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

D) Periodic Inspections

The Town Clerk or a designee shall have a right, upon presentation of proper credentials, to enter on any premises at any reasonable hour for the purposes of inspection or other enforcement action.

E) Violations to be Corrected

When the Town Clerk or a designee finds violations of applicable state and local laws, it shall be the Clerk's or the designee's duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property.

F) Actions in Event of Failure to Take Corrective Action

If the owner of a building or property shall fail to take prompt correction action, the Town Clerk or a designee shall give the property owner written notice, by certified or registered mail to the property owner's last known address or by personal service.

- 1) *In violation.* That the building or property is in violation of this section;

- 2) *Hearing date.* That a hearing will be held before the Town Magistrate at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
- 3) *Order.* That following the hearing, the Town Magistrate may issue such order to alter, vacate, or demolish the building, or to remove fill as appears appropriate.

G) ***Order to Take Corrective Action***

If, upon a hearing held pursuant to the notice described above, the Town Magistrate shall find that the building or development is in violation of this section, the Town Magistrate shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days; provided that where the Town Magistrate finds that there is imminent danger to life or other property, the Town Magistrate may order that corrective action be taken in such lesser period as may be feasible.

H) ***Appeal***

Any owner who has received an order to take corrective action may appeal that order to the Town Council by giving notice of appeal in writing to the Town Magistrate and the Town Magistrate within 10 days following issuance of the final order. In the absence of an appeal, the order of the Town Magistrate shall be final. The Town Council shall hear an appeal within a reasonable time and may affirm or revoke the order.

I) ***Failure to Comply with Order***

If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, the owner shall be guilty of a misdemeanor and shall be punished in accordance with Penalties for Violation, 6.2.12.

6.2.15 Variance Procedures

The Town Council shall hear and decide requests for variances from the requirements of this section. Any person aggrieved by the decision of the Town Council or any taxpayer may appeal such decision to the District Court.

A) ***Historic Structures***

Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

B) *Factors*

In passing upon such applications, the Town Council shall consider all technical evaluations, all relevant factors, all standards specified in other portions of this section, and:

- 1) *Danger from material.* The danger that material may be swept onto other lands to the injury of others;
- 2) *Danger to life and property.* The danger to life and property due to flooding or erosion damage;
- 3) *Flood damage.* The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 4) *Importance of services to community.* The importance of the services provided by the proposed facility to the community;
- 5) *Necessity of waterfront location.* The necessity to the facility of a waterfront location, where applicable.
- 6) *Availability of alternative locations.* The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 7) *Compatibility.* The compatibility of the proposed use with existing and anticipated development;
- 8) *Impacts.* The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- 9) *Costs of providing governmental services.* The costs of providing governmental services during and after flood condition including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

C) *Attach Conditions*

Upon consideration of the factors listed above and the purposes of this section, the Town Council may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this section.

D) *No increase in Flood Levels*

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

E) ***Conditions***

Conditions for variances:

- 1) *No violation of law.* Variances may not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations, or ordinances.
- 2) *Minimum necessary.* Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3) *Other.* Variances shall only be issued upon.
 - a) A showing of good and sufficient cause;
 - b) A determination that failure to grant the variance would result in exceptional hardship; and,
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or articles.

F) ***Written Notice***

Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevations and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

G) ***Records***

The Town Clerk or a designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

6.2.16 Provisions for Flood Hazard Reduction

A) ***General Standards***

In all areas of special flood hazard the following provisions are required:

- 1) *Anchored.* All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

- 2) *Material resistant to flood damage.* All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- 3) *Construction methods and practices minimize flood damages.* All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
- 4) *Prevent water from entering or accumulating within the components during conditions of flooding.* Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- 5) *Water supply systems.* All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- 6) *Sanitary sewage systems.* New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters;
- 7) *On-site waste disposal systems.* On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- 8) *New construction.* Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this section shall meet the requirements of “new construction” as contained in this section; and
- 9) *Nonconforming buildings.* Nonconforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this section. Provided, however, nothing in this section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the original effective date of this section and located totally or partially within the floodway zone, provided that the bulk of the building or structure below base flood elevation in the floodway zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this section.

B) *Specific Standards*

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Sec. 6.2.6, *Basis for Establishing the Areas of Special Flood Hazard*, or Sec. 6.2.13(C)(10), *Obtain Flood Data*, the following provisions are required:

- 1) *Residential development.* New construction of a residential structure shall have the lowest floor, including basements, elevated no lower than one foot above the base flood elevation.
- 2) *Substantial improvement of residential structure.* Substantial improvements of any residential structure (including manufactured homes) existing on the effective date of this Ordinance shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.
- 3) *Commercial, industrial, or nonresidential structure.* New construction or substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes) shall have the lowest floor, including basements elevated no lower than one foot above the level of the base flood elevation.
- 4) *Manufactured or mobile homes.* Manufactured or mobile homes existing on effective date of this Ordinance.
 - a) Manufactured or mobile homes that are placed or substantially improved in sites:
 - (i) Outside a manufactured home subdivision or mobile home park;
 - (ii) In a new manufactured home subdivision or mobile home park;
 - (iii) In an expansion to an existing manufactured home subdivision or mobile home park; or
 - (iv) In an existing manufactured home subdivision or mobile home park on which a manufactured or mobile home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured or mobile home is elevated no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - b) Manufactured or mobile homes that are to be placed or substantially improved on sites in an existing manufactured home subdivision or mobile home park that are not subject to the provisions of Sec. 6.2.16.B.4.a above must be elevated so that the lowest floor of the manufactured or mobile home is elevated no

- lower than one foot above the base flood elevation, and is securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
- c) Manufactured or mobile homes that are to be placed or substantially improved on sites in an existing manufactured home subdivision or mobile home park that are not subject to the provisions of Sec. 6.2.16.B.4.a) above must be elevated so that the lowest floor of the manufactured or mobile home is elevated no lower than one foot above the base flood elevation, and is securely anchored foundation to resist flotation, collapse, and lateral movement.
 - d) Manufactured and mobile homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured or mobile homes must be anchored to resist flotation, collapse, or lateral movement. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevations of the chassis are above 36 inches in height an engineering certification is required.
- 5) *Recreational vehicle.* A recreational vehicle is ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security and devices, and has no permanently attached additions. Recreation vehicles placed on site shall either:
- a) Be on site for fewer than 180 consecutive days;
 - b) Be fully licensed and ready for highway use; or
 - c) Meet the requirements of Sec. 6.2.13(B), *Development Permit and Certification Requirements*, Sec. 6.2.16(A), *General Standards*, and Sec. 6.2.16(B)(4), *Manufactured or Mobile Homes*.
- 6) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in the area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters.

Sec. 6.2 / FLOOD DAMAGE PREVENTION OVERLAY DISTRICT
Sec. 6.2.17 / Standards for Streams without Established Base Flood Elevations

- a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following standards:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and
 - (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

6.2.17 Standards for Streams without Established Base Flood Elevations and/or Floodways
Located within the Town there may be small streams where no base flood date has been provided or where no base flood data has been provided. The following provisions apply within such areas:

A) *No Encroachment*

No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted within a distance of the stream bank equal to five times the width of the stream at the top of the bank or 25 feet each side from the top of the bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increases in flood levels during the occurrence of the base flood discharge. (Refer to 6.1 *Watershed Protection Overlay District* for other restrictions for development adjacent to natural drains.)

B) *General.*

If Sec. 6.2.17(A), *No Encroachment*, is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable provisions of Secs. 6.2.16(A), *General Standards*, through 6.2.19, *Standards for Areas of Shallow Flooding (AO Zones)*, and shall be elevated or flood-proofed in accordance with elevations established in accordance with Sec. 6.2.13(c)(5), *Obtain Flood Data*. When base flood elevation data is not available from a federal, state, or other source, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

6.2.18 Standards for Subdivision

- A) ***Minimize Flood Damage***
All applications for subdivision shall be consistent with the need to minimize flood damage.
- B) ***Utilities Located to Minimize Flood Damage***
All applications for subdivision shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C) ***Adequate Drainage***
All applications for subdivision shall have adequate drainage provided to reduce exposure to flood hazards; and
- D) ***Base Elevation Data or Certification of No Floodplain***
Base flood elevation data or certification of no floodplain shall be provided for all subdivision proposals and other proposed development.

6.2.19 Standards for Areas of Shallow Flooding (AO Zones)

Located within the areas of special flood hazard established in Sec. 6.2.6, *Basis for Establishing the Areas of Special Flood Hazard*, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions shall apply within such areas.

- A) ***FIRM***
New construction and substantial improvements of residential structures (including manufactured homes) shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet. If no depth number is specified, the lowest, floor, including the basement, shall be elevated at least two feet above the highest adjacent grade.
- B) ***New Construction and Substantial Improvement of Nonresidential Structures***
All new construction and substantial improvements of nonresidential structures shall:
 - 1) ***Lowest floor:*** Have the lowest floor, including basement, elevated to one foot above the depth number specified on the flood insurance rate map, in feet. If no depth number is specified, the lowest floor, including the basement, shall be elevated at least two feet above the highest adjacent grade.

6.3 RESERVED

ARTICLE 7 SUBDIVISION

7.1 GENERAL PROVISIONS

7.1.1 Authority

This article is adopted under the authority of the Town of Kinder.

7.1.2 Jurisdiction

The regulations contained herein, shall govern each subdivision of land within the corporate limits of the Town as now or hereafter established.

7.1.3 Recordation of Plats

The Allen Parish Clerk of Court shall not file or record a plat of a subdivision of land located within the Town that has not been approved in accordance with these provisions.

7.1.4 Conformance with Article Prerequisite to Acceptance of Streets, Extension of Services

No street shall be maintained by the Town, nor street dedication accepted for ownership and maintenance, nor building permits issued, nor shall water, sewer, electric or other public facilities or services be extended to or connected with, any subdivision for which a plat is required to be approved unless and until the requirements set forth in this article have been complied with.

7.1.5 Reserved

7.1.6 Condominium and Townhouse Developments

A) *Requirements for Condominium Developments*

- 1) Before a declaration establishing a condominium development may be recorded in the Allen Parish Clerk of Court's office,, as prescribed in the Louisiana Condominium Act, the declaration and preliminary plans shall conform to the applicable subdivision requirements as set forth in this article and to the zoning requirements of this Ordinance.
- 2) In addition, the following requirements shall be complied with:
 - a) The declaration shall be a complete legal document prepared strictly in accordance with the Louisiana Condominium Act.
 - b) The plans of the buildings to be attached to the above declaration and recorded shall be prepared in accordance with the Louisiana Condominium Act.

- c) If any streets or utility servitudes are to be dedicated for public use and maintenance, a separate subdivision plat shall be submitted and recorded in accordance with requirements of this article.
- d) The declaration shall contain a statement that common expenses include ad valorem taxes, public assessments or governmental liens levied on common areas, if any.

B) *Requirements for Townhouse Developments*

- 1) A preliminary plat of a proposed Townhouse development and a final plat for subdivision of the development shall be submitted pursuant to the provisions of this subsection and Section 2.3.6, *Site Plans*.
- 2) A site plan shall show the location of the buildings, streets, alleys, walks, parking areas, recreation areas and facilities, numbered and dimensional residential or office sites. When developments are to have common areas, the site plan shall also show the common areas to be conveyed to a nonprofit corporate homeowners' association, the members of which shall be all of the owners of the residential sites within the development. Townhouse and related developments shall comply with the applicable density, setback, and buffer standards of this Ordinance and, in addition, the following requirements shall be complied with:
 - a) *Unit sites.* The site plan shall number and show the locations and dimensions of unit sites within the development. A unit site shall be that property intended for conveyance to a fee-simple owner after the construction thereon of a single-family residence or office and shall be sufficient in size to contain the residence or office to be constructed thereon. The unit site may be of any larger size desired by the developer. Lot "frontage" may be on open space properly restricted through a homeowners' association to ensure adequate access, if in the opinion of the Town a public street is within acceptable distance and would allow adequate community services.
 - b) *Common areas.* All areas that are shown on the site plan other than public streets and unit sizes, shall be shown and designated as common areas, the fee-simple title to which shall be conveyed by the developer to the homeowners association. Such common areas shall not be subsequently subdivided or conveyed by the homeowner's association.

- c) *Covenants and restrictions.* The developer shall file with the application for the preliminary approval a declaration of covenants and restrictions governing the common areas, if any, as required by this Ordinance, the homeowners' association, and unit sites. The restrictions shall contain (but not be limited to) provisions for the following:
- (i) If the plan of development includes common areas or a common maintenance of units and lots, a homeowners' association shall be mandatory and shall be organized and in legal existence prior to the sale of any unit in the development.
 - (ii) If a homeowners' association is organized, membership in the homeowners' association shall be mandatory for each original purchaser and each successive purchaser of a unit site.
 - (iii) The homeowners' association shall be responsible for the payment of premiums for liability insurance, local taxes on common areas, maintenance of recreational and other facilities located on the common areas, payment of assessments for public and private capital improvements made to or for the benefit of the common areas.
 - (iv) The homeowners' association shall be empowered to levy assessments against the owners of the unit sites within the development for the payment of expenditures made by the homeowners' association for the items set forth in subparagraph (iii) above and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the unit site of that owner.
 - (v) Servitudes over the common areas, if any, for access, ingress from and to public streets and walkways and servitudes for enjoyment of the common areas, as well as for parking, shall be granted to each owner of a unit site.
 - (vi) All walls between individual units shall have provision for the maintenance thereof and restoration in the event of destruction or damage shall be established.
 - (vii) A perpetual access servitude over the adjoining lot must be recorded for any unit located closer than 5 feet from a lot line.

7.1.7 Reserved

7.1.8 Penalties and Remedies for Violation of Article

Any person who, being the owner or agent of the owner of any and located within the territorial jurisdiction of the Town, hereafter subdivisions such person's land in violation of this article or transfer or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this article and recorded in the office of the Parish Clerk of Court, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town, through its attorney may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this article shall be subject, upon conviction, to fine or imprisonment as provided by Article 11 of this Ordinance.

7.1.9 Inspection Fees as Prescribed

Fees for the inspection of street and related improvements shall be charged according to a schedule adopted and amended from time to time by the Town Council and posted in the Town Clerk's Office. Fees must be paid either before final plat for subdivision approval or before performance guarantees in lieu of construction are returned to the subdivider.

7.2 DESIGN STANDARDS

7.2.1 Streets

A) *Generally*

In all subdivision developed, the street system shall conform to the Town's Master Street Plan. In areas where no thoroughfares or collector streets as represented thereon, streets shall be designed and located in proper relation to existing and proposed streets, to the topography of the area, and to natural features such as streams, hills, and stands of trees. Residential streets should further be laid out in such manner as to encourage the flow of through-traffic at slow speeds, except upon major thoroughfares. All proposed street designs shall provide for the appropriate projection of principal streets in surrounding areas to permit reasonable access for surrounding properties, both for current use and future subdivision. With the exception of major and minor thoroughfares, street design shall serve to discourage high-speed traffic in the subdivision. No private streets shall be allowed to be built within developments or subdivisions.

B) ***Street Rights-of-Way***

- 1) Minimum street right-of-way widths shall be determined on the basis of the street classification shown on the Town Master Street Plan or, where such plans do not apply, according to the nature of the street as illustrated on the plat. The subdivider shall refer to the Town's Standard Specifications and Construction Details for standard street sections and minimum rights-of-way.
- 2) Subdivisions along existing streets of inadequate right-of-way width shall provide additional right-of-way to meet the minimum widths specified. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half the required right-of-way measured from the centerline of the existing street shall be provided where a new subdivision is located only on one side of an existing street.

C) ***Pavement Widths***

Minimum pavement width shall be measured from back to curb to back of curb or edge of pavement to edge of pavement, as the case may be. The subdivider shall refer to the Town's Standard Specifications and Construction Details for standard and street sections.

D) ***Radii of Curvature***

Where a street centerline deflection of more than 10 degrees occurs, a curve shall be introduced. The subdivider shall refer to the Town's Standard Specifications and Construction Details.

E) ***Tangents***

A centerline tangent of not less than 100 feet shall be provided between reverse curves on all streets.

F) ***Intersections***

Street intersections shall be laid out in the following manner:

- 1) No more than 2 streets shall intersect at a point, unless the subdivider provides sufficient evidence that a proposed intersection with a greater number of streets will be designed to adequately ensure public safety.
- 2) Streets shall intersect as nearly as possible at right angles and no street shall intersect any other street at an angle of less than 60 degrees.

- 3) Proposed street connections along major thoroughfares shall be at least 800 feet apart from each other and shall align with existing opposite street connections to form intersections. Proposed street connections and resulting intersections along major thoroughfares shall be spaced the maximum distance possible from existing street connections and existing intersections, but need not exceed 800 feet where such spacing is possible. All distances for spacing requirements shall be measured from centerline to centerline.
- 4) Street jobs with centerline offsets of less than 100 feet shall be prohibited when the job lies wholly within the subdivision, except when approved by the Town Engineer, and shall be avoided on the exterior boundary of the subdivision, except where external access would otherwise be denied.
- 5) Property lines at street intersections shall be rounded with a minimum radius curvature of 20 feet. At an angle of intersection less than 75 degrees, a greater radius of up to 60 feet may be required, taking into consideration the functional classification of the streets, parking control, lane width, the number of lanes and similar factors.

G) *Cul-de-sacs*

- 1) In general, streets with one end permanently closed shall be avoided unless the size of the subdivision and the existing or proposed street system in the surrounding area clearly indicate that a through street is not essential in the location of the proposed cul-de-sac.
- 2) Cul-de-sacs should be so designed as to provide positive rather than negative drainage.
- 3) Permanent dead-end streets or cul-de-sacs shall not be longer than 500 feet, unless the Town Council approves a longer length in cases of unusual topography or other exceptional situations. The length of a cul-de-sac shall be measured from the center of the intersection at the beginning of the cul-de-sac running along the centerline to the center point of the turnaround.
- 4) Two or more cul-de-sacs that share a single means of ingress and egress shall not exceed 1,000 feet in length, measured cumulatively as if they were one cul-de-sac.

H) *Alleys*

- 1) No alleys shall be permitted under new subdivision developments.

I) ***Frontage Roads***

Where a tract of land to be subdivided adjoins a major thoroughfare, the Town Council may require that lots which would otherwise abut the thoroughfare be provided with frontage on a frontage road.

J) ***Street Names***

Street names shall be coordinated with the Town Engineer and the local 911 Emergency Response Agency to prevent duplication of street names with the Emergency Service Area.

K) ***Stub Street***

An existing stub street(s) shall be extended and connected to the subdivision.

7.2.2 Blocks

A) ***Generally***

Blocks shall be laid out with consideration given to the type of land use proposed within the block.

B) ***Length***

Residential and commercial subdivision blocks shall not exceed 1,200 feet in length, nor shall they be less than 200 feet in length.

C) ***Width***

Residential blocks shall have sufficient width to provide for 2 tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.

D) ***Sidewalks***

A pedestrian sidewalk not less than 5 feet in width on one side of every road is required. Sidewalks shall be constructed of permanent materials such as those generally used for sidewalks, including concrete, brick, or asphalt concrete.

7.2.3 Lots

A) ***Size***

The minimum lot size shall be 20,000 square feet for LD and 13,000 square feet for MD (Re: 5.1.1).

B) ***Setbacks and Yards***

Minimum building setback lines shall conform to the front yard requirements of Article 5, Measurements; lots shall be so designed as to provide yard spaces as required in connection with building sites by the terms of this Ordinance. Developers, are, however, encouraged to place structures in varying locations behind the required setback line as a means of affording visual variety in the neighborhood.

C) ***Compliance with Development Standards***

The subdivider shall refer to the General Development Standards of Article 8 and shall apply them in the layout of subdivisions in order to avoid creating lots or patterns of lots that will make compliance with such development standards difficult or infeasible.

D) ***Access***

Every lot shall abut a public street.

E) ***Double Frontage***

With the exception of corner lots, double frontage lots shall not be created except where the land could not be otherwise developed. The final plat for subdivision shall note on such lots that access shall be limited to 1 and such access shall not be from a thoroughfare.

F) ***Orientation***

Side lot lines shall be perpendicular or radial to street right-of-way lines except where a variation will provide a better street and lot layout.

G) ***Corner Lots***

For residential use, corner lots shall have additional width sufficient to provide setbacks based upon the yard standards of Article 5, Measurements, from both front and side streets.

H) ***Flag Lots***

1) The Town discourages and restricts creation of flag lots in subdivisions. A flag lot shall be permitted if necessary to allow a property owner reasonable use and benefit of a parcel of land or to alleviate situations that would otherwise cause extreme hardship for the owner. Flag lots are prohibited except:

- a) Where necessary to eliminate access onto arterial streets or thoroughfares;
- b) To reasonably utilize irregularly shaped land;

- c) To reasonably utilize land with severe topography;
 - d) To provide for the protections of significant natural or cultural resources.
- 2) No flag lot will be allowed if it increases the number of access points onto a major thoroughfare. Subdivisions approved after the effective date of this Ordinance shall not be resubdivided to create flat lots.
 - 3) Use of a single driveway, granted through a servitude, to serve adjoining flag lots or to serve a flag lot and an adjoining conventional lot is permitted and encourage to reduce access points on public streets.
 - 4) The minimum lot width at the public street for a flag lot is 30 feet. The Town Council, however, may reduce the width to a minimum of 20 feet where topographical conditions permit the design and construction of an adequate driveway and drainage within that width. The Town Council may also require greater width where necessary to ensure adequate and safe access.

7.2.4 Servitudes

A) *Utility Servitudes*

The subdivider shall dedicate servitudes to the Town or an appropriate utility company for utility installation where needed. Servitudes shall be sized in accordance with the Town's Standard Specifications and Construction Details. Servitudes shall be at least 20 feet wide and normally centered along rear or side lot lines. Wider servitudes may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20-foot wide servitude.

B) *Drainage Servitudes*

- 1) Where a subdivision is traversed by a watercourse, drainage way, channel or street, the drainage shall be considered as a natural drain as provided under State Revised Statutes and servitudes are not required, nor are they desired to be dedicated to the Town.
- 2) Where subsurface drainage is installed as part of the approved development, there shall be provided a drainage servitude of such width as will be adequate for the purpose, but no less than 15 feet in width.

7.3 PARK, RECREATION AND OPEN SPACE SITES

7.3.1 Dedication Generally; Fee in Lieu of Dedication Generally

- A) Every person who subdivides or develops land for residential purposes shall at the time of final approval of the master subdivision plan agree to dedicate a portion of such land, as set forth in this section, for the purpose of providing park, recreation or open space sites to serve the future residents of the neighborhood within which the subdivision is located.
- B) As an alternative to the dedication of a portion of such land by the subdivider, or where it is determined by the Town Council that a dedication of land is not feasible in a given plat or incompatible with the Town's plan, the subdivider may make provisions for an equitable amount of land in another location or pay to the Town a fee in-lieu of dedication as provided herein.

7.3.2 Standards for Dedication

- A) ***Unity***
The dedicated land shall form a single parcel of land except where the Town Council determine that 2 parcels or more would be in the public interest and determines that a connecting path or strip of land is in the public interest, and in which case the path shall not be less than 30 feet wide.
- B) ***Shape***
The shape of the dedicated parcel of land shall be sufficiently square or round to be usable for recreational activities such as softball, tennis, croquet, etc.
- C) ***Location***
The dedicated land shall be located so as to reasonably serve the recreation and open space needs of the subdivision for which the dedication was made and shall bear a reasonable relationship to the use of the areas by the future inhabitants of the subdivision or residential development.
- D) ***Access***
Public access to the dedicated land shall be provided either by adjoining street frontage or public servitde at least 30 feet in width.
- E) ***Topography***
Generally areas dedicated for recreation shall not exceed slopes of 5 percent.

- F) ***Usableness***
The dedicated land shall be usable for recreation; lakes may not be included in computing dedicated land area. Where the Town Council determines that recreational needs are being adequately met, either by other dedicated parcels of land or existing recreational facilities, then land that is not usable for recreation may be dedicated as open space.
- G) ***Plans***
Municipal plans shall be taken into consideration when evaluating land proposals for dedication.

7.3.3 Standards for Town Council's Choice Between Dedication and Fee

- A) Whether the Town Council accepts the land dedication or elects to require payment of a fee in lieu thereof or a combination of both, shall be determined by consideration of the following:
- 1) Recreational element of the Town's overall development plan.
 - 2) Topography, geology, access and location of land in the subdivision available for dedication; and
 - 3) Size and shape of the subdivision and land available for dedication.
- B) The determination of the Town Council as to whether land shall be dedicated or whether a fee should be exacted or a combination of both shall be final and conclusive.

7.3.4 Procedure for Determination of Choice Among Dedication, Fee, and Combination of Dedication and Fee

The procedure for determining whether the subdivider is to dedicate land, pay a fee, or both, shall be as follows:

- A) ***Subdivider***
At the time of filing a master subdivision plan, the subdivider shall, as part of such submission, indicate whether dedication of the property for park and recreational purposes is proposed, or whether the subdivider proposes to pay a fee in-lieu thereof. If the subdivider proposes to dedicate land for this purpose the subdivider shall designate the area thereof on the master subdivision plan as submitted.
- B) ***Action of Town***
At the time of the master subdivision plan review, the Town Council shall determine as a part of such approval, whether to require a dedication of land within the subdivision, payment of a fee in-lieu thereof or a combination of both, pursuant to the standards in Section 7.3.3.

C) ***Prerequisites for Approval of Final Plat***

Where dedication is required, such dedication shall be shown upon the final plat for subdivision submitted for approval. Where fees are required the same shall be deposited with the Town prior to the recording of the final plat for subdivision.

7.3.5 Computation of Size of Area Required for Dedication

The amount of land required to be dedicated is to be computed on the basis of the following formula: Area to be dedicated (in acres) equals 1/20 of an acre times the number of dwelling units or lots, whichever is greater, provided that for land so dedicated which (a) lies within an area within the one hundred-years floodplain or (b) has slopes greater than 15 percent, or (c) is included within overhead utility servitudes, said land shall be dedicated at a rate of 1/15 of an acre.

7.3.6 Computation of Fee Payable In-Lieu of Dedication

A) ***Generally***

Where a fee is paid in-lieu of land dedication, the amount of such fee shall be the product of the total number of dwelling units in the development or subdivision times \$400 per dwelling unit.

B) ***Fair Market Value***

Notwithstanding any other provision in the Code of Ordinances, the total fee in-lieu of dedication charged for a development or subdivision shall not exceed the fair market value of the land area that would have otherwise been required to be dedicated by the development or subdivision. For the purpose of this section, fair market value is to be determined with respect to a development or subdivision, at the time the initial development application submittal is made to the Town. Fair market value shall be determined by the Town Clerk, upon advice from the Parish Assessor.

7.3.7 Use of Land by Town; Sale of Land by Town; Use of Funds Received in Lieu of Dedication

A) ***Generally***

The land received by the Town under this article shall be used only for the purpose of providing neighborhood open space, park and recreational areas, but shall not be so restricted should the Town decide to sell such land as provided by the following paragraph.

B) ***Sale of Land***

The Town shall have the right to sell any land dedicated to the Town for neighborhood park and recreation purposes on finding by the Town Engineer that a particular piece of property is not feasible or compatible with the Town's land development plan.

- A) ***Generally***
The land received by the Town under this article shall be used only for the purpose of providing neighborhood open space, park and recreational areas, but shall not be so restricted should the Town decide to sell such land as provided by the following paragraph.
- B) ***Sale of Land***
The Town shall have the right to sell any land dedicated to the Town for neighborhood park and recreation purposes on finding by the Town Engineer that a particular piece of property is not feasible or compatible with the Town's land development plan.
- C) ***Special Fund***
Fees collected in lieu of dedications and any proceeds from such transactions or sales shall be held in a special fund by the Town, and the funds shall be used by the Town for the purpose of acquiring and developing public recreation areas as shown on the land development plan and for no other purpose. The depository for such funds may be the same as permitted for other funds of the Town and pending their expenditure in accordance with the terms of this section, such funds may be invested as other funds of the Town. The Town may, at its discretion, add additional monies to the fund for the purposes of purchasing public recreational land to be used for public recreational purposes.
- D) ***Public Safety Facilities***
Lands acquired pursuant to this section may be used for public safety facilities, including police, fire and rescue, notwithstanding any other limitations on such use under this section.

7.4 DEDICATION OF R.O.W. FOR THOROUGHFARE PLAN STREETS AND HIGHWAYS

When a street or highway corridor is identified on the Town's Master Street Plan and is located on land subject to be subdivided, subdivision the landowner shall dedicate the right-of-way for the street or highway.

7.4.1 Reasonable Relationship

There is a reasonable relationship between the proposed street or highway right-of-way requested to be dedicated and the traffic that will be generated by the proposed development.

7.4.2 No Deprivation of Land

The dedication of right-of-way does not result in the denial of a reasonable use of the original tract of land.

7.5 REQUIRED IMPROVEMENTS

7.5.1 General

The developer of any subdivision with the Town shall be responsible for the proper installation of improvements as set forth in the following sections and as set forth in the Standard Specifications and Construction Details of the Town. No final plat for subdivision shall be approved until required improvements have been installed or their installation guaranteed as provided herein in those areas shown on the plat.

7.5.2 Permanent Reference Points

The following permanent survey reference markers shall be installed:

A) *Markers*

All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision and all angle points and points of curve in each street, shall be marked with iron rod not less than three-fourths of an inch in diameter and 24 inches long driven so as to be within one inch of finished grade.

B) *Property Corner Tie*

At least one corner of the property surveyed shall be designated by course and distance(tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Station or state grid system coordinated monument, then this corner shall be marked with a monument so designated and shall be accurately tied to the station or monument by computed X and Y coordinates which shall appear on the map with a statement identifying the station or monument and to an accuracy of one per fifteen thousand (1:15,000). When such a monument or station is not available, the tie shall be made to some permanent and readily recognizable landmark or identifiable point, physical object or structure.

C) *Subdivision Survey Accuracy*

- 1) Angular error of closure shall not exceed 20 seconds times the square root of the number of angles turned.
- 2) Linear error of closure shall not exceed one foot per ten thousand feet (1:10,000) of perimeter of the lot of land, except for commercial and industrial subdivisions, where linear error of closure shall not exceed one foot per fifteen thousand feet (1:15,000) of perimeter.

7.5.3 Water Lines and Sanitary Sewers

- A) The subdivider shall, at such subdivider's expense, connect every lot of the subdivision to the municipal water and sewer system. Sufficient taps shall be extended to lot lines to prevent subsequent cutting of pavement. All materials, design, and installation shall be made in accordance with the Standard Specifications and Construction Details of the Town.

B) ***Water System and Sewer System Defined***

For the purpose of this section, the terms “water system” and “sewer system” shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blowoffs, manholes and pumping apparatus, but shall not include individual service meters, which shall be installed by the Town. Such appurtenances and fixtures shall comply with the Standard Specifications and Construction Details of the Town.

C) ***Size***

- 1) All sanitary sewers and water distribution lines shall conform with the Town’s Standard Specifications and Construction Details.
- 2) Oversized improvements may be required as provided in Section 7.5.10.

7.5.4 Streets

A) ***Grading***

The subdivider shall bear the costs of grading all streets within the subdivision, whether they are new streets or existing streets, to the full right-of-way width set forth in Section 7.2.1.

B) ***Base Materials, Paving, Curbs and Gutters, and Sidewalks***

The subdivider shall bear the costs of the installation of the base materials, paving, curbs and gutters and sidewalks if required (See subsection (D) of this section) for all new streets within the subdivision in accordance with the Standard Specifications and Construction Details of the Town and the requirements of Section 7.2.1, not inconsistent with the aforementioned standard specifications.

C) ***Open Swale Ditches Permitted***

When a subdivision of property zoned for residential use is designed such that all lots equal or exceed one acre in area, then curbs and gutters shall not be required; unless the streets in said subdivision are located on land consisting of soil types or excessive grades that present unusually difficult drainage problems as determined by the Town Council.

D) ***Sidewalks***

The subdivider shall construct sidewalks along one side of all streets. Such sidewalks shall provide direct pedestrian connections to adjacent properties outside the subdivision. The Town Engineer may recommend exceptions to this general requirement for areas within a subdivision that are not reasonably expected to draw a significant amount of pedestrian traffic, such as the bulb portion of a cul-de-sac, or if a topographic or natural feature makes construction of a sidewalk impractical (as determined by the Town Engineer). Subdividers are encouraged and expected to meander sidewalks to preserve existing significant trees. All installation of sidewalks shall conform to the Town's Standard Specifications and Construction Details.

7.5.5 Street Name Signs

Appropriate name signs that meet Town specifications shall be placed at all street intersections.

7.5.6 Storm Drainage

All storm drainage improvements shall be installed in accordance with the Standard Specifications and Construction Details. In addition, all storm drainage improvements shall comply with the following provisions:

A) ***Generally***

The subdivider shall provide an adequate subsurface drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Town Engineer. Drainage improvements shall be within dedicated street right-of-ways or servitudes and those improvements so located shall be the responsibility of the Town for maintenance.

B) ***Connection to Town System***

Where feasible, the subdivider shall connect to the municipal storm drainage system.

C) ***Design of System Not Connected to Town System***

Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement the natural drainage of surrounding properties, and said natural drains are not the responsibility of the Town for maintenance.

D) ***Cross Pipes***

Cross pipes under streets and driveways shall be reinforced concrete.

E) ***Side Slopes of Surface Courses Within Road Right-of Ways***

Surface drainage courses, roadside swale ditches, shall have side slopes of no greater than four (4) foot of horizontal distance for each one foot of vertical distance, and preferably flatter slopes if possible.

7.5.7 Underground Utilities

It is the desire of the Town Council that the subdivider install new underground utilities to serve the subdivision, at the subdivider's own expense and without expense to the Town, including but not limited to, electrical distribution lines, natural gas lines, water, sewer, telephone lines, and cable television lines.

7.5.8 Schedule of Installation

Subdivision improvements shall be installed on the site in the following sequence:

- 1) Street grading installation of water distribution lines, sanitary sewers, natural gas lines, and storm sewers. Connections or service lines for each system shall be extended to the right-of-way edge to preclude subsequent cutting of pavement.
- 2) Installation of subsurface storm drainage piping and catch basins.
- 3) Installation of electric, telephone and cablevision service lines. Connections for each system shall be extended beyond the curb line to preclude subsequent cutting of pavement.
- 4) Curbing and gutter, if applicable.
- 5) Street base material.
- 6) Street paving.
- 7) Sidewalks.

7.5.9 Installation of and Reimbursement for Oversized and/or On-Site/Off-Site Improvements

Where the Town Council deems it necessary in the interest of the health, safety and general welfare of the residents of the Town, the subdivider shall make certain improvements at sizes in excess of those which would normally be required. Where such oversized improvements are required, the Town shall reimburse the subdivider for the cost of materials incurred over and above those required to serve such subdivider's subdivision. Such reimbursement shall be made in accordance with the policies regarding Town participation in oversized and/or on-site/off-site utility projects as may be amended from time to time.

7.5.10 Ownership of Completed Improvements

All water, natural gas, sanitary sewerage and storm drainage facilities, streets, sidewalks, hydrants, valves, blowoffs, manholes, and all other appurtenances and fixtures associated with such systems which are installed in public rights-of-way and utility and drainage servitudes under the requirements of this article shall become the sole property of the Town upon acceptance. All electric, telecommunications, cable, etc. service facilities installed in public rights-of-way and utility servitudes shall become the sole property of the respective utility provider upon acceptance.

7.5.11 Installation Prerequisite to Approval of Final Plat and Extension of Town Services or Utilities

- A) Prior to approval of a final plat for subdivision, the subdivider shall have installed improvements specified in this chapter or guaranteed their installation as provided in this section.
- B) No municipal services or utilities shall be extended or furnished to any subdivision until the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided.

7.5.12 Performance Guarantee in Lieu of Construction Prior to Acceptance of Final Plat

In lieu of prior construction of the improvements required by this article, the Town may for the purpose of approving a final plat, accept a guarantee from the subdivider that such improvements will be carried out according to the Town's specifications at subdivider's expense. Such guarantee may be in the form of a surety bond enforceable at the sole discretion of the Town, certified check drawn in favor of the Town, or cash deposited with the Town. Such guarantee shall be in an amount of not less than 125 percent of the estimated cost of the construction of the required improvements. The developer shall submit his estimate of this amount subject to review, modification, and approval, which shall be by the Town Engineer.

7.5.13 Defects Guarantee

- A) The subdivider/developer shall guarantee curbs, gutters, street pavements, sidewalks, drainage facilities, water and sewer lines, natural gas lines, and other improvements against defects for two (2) years. All guarantees must remain in force in the Town's favor for a period of no less than two (2) years from the satisfactory completion of the performance inspection. If during the two (2) year defects period substantial corrections to the required improvements are needed, the Developer shall make such repairs as meets the Town Engineer's approval solely at the Developer's cost.

7.5.14 Final Plat Review Contingent on Execution of Guarantees

No final plat will be accepted by the Town Council and the Town Engineer unless such plat is in compliance with Sections 7.5.12 through 7.5.13.

7.5.15 Irrevocable Letter of Credit in Lieu of Surety Bond or Other Guarantee of Performance

Whenever by this section a surety bond, certified check, or cash bond is required to guarantee performance by any person or to guarantee against defects, the security for said guaranty may be in the form of an irrevocable letter of credit from any commercial bank doing business in the state and addressed to the Town in the sum and the terms required by such bond, guaranty, or deposit.

8.1 RESOURCE CONSERVATION**8.1.1 General****A) *Purpose***

Protection of the Town's existing natural and cultural resources is intended to preserve the visual and aesthetic qualities of the Town; to encourage site design techniques that preserve the natural and cultural environment and enhance the developed environment; to control erosion, and sediment run-off into streams and waterways; to increase slope stability; and to protect wildlife habitat.

B) *Applicability*

These resource conservation standards shall apply to all new development in the Town, except for development on lots of record that were approved for single-family residential use prior to the effective date of this UDO.

C) *Structure of this Section*

This Section 8.1 requires applicants for development in the Town to protect a variety of types of sensitive natural and cultural resources. The resource conservation area (RCA) provisions of Sec. 8.1.2 require delineation of a protected area for every development site, and provide a general framework within which other, more specific types of protection must take place. Subsequent sections (8.1.3 through 8.1.5) provide specific rules for protecting specific types of resources.

8.1.2 Resource Conservation Area**A) *Establishment of RCA***

For every development subject to administrative approval, site plan review and/or master subdivision plan review, the applicant shall propose, and the Town Engineer shall establish, a "resource conservation area" (RCA) according to the criteria set forth below. The RCA shall indicate the specific area(s) of a lots, lots, or site to be protected (the RCA).

B) *Criteria for Establishing RCA*

In establishing the RCA, the Town Engineer shall take into account the criteria listed below. The criteria are listed in general relative order of importance, from most important to least important.

- 1) Floodplains and flood hazards.
- 2) Riparian streams, wetland protection and buffering.

- 3) Avoidance of steep slopes in excess of 20 percent (5:1) and other erosion prevention and control measures, including, but not limited to , protection of natural drainage channels.
 - 4) Preservation significant native trees, and other important site vegetation of local significance.
 - 5) Preservation of other significant site elements such as, but not limited to, historic and cultural sites and structures.
- C) ***Designation of RCA on Plans and Plats***
- 1) ***Master Subdivision Plan and Plats.*** The approved RCA shall be shown on the master subdivision plan as a separate lot (or lots) from the individual residential or non-residential building lots. The RCA shall be shown as a private or public conservation servitude on the preliminary plat and recorded as a private or public conservation servitude on a final plat, to be preserved in perpetuity.
 - 2) ***Site Plans and Plats.*** The approved RCA shall be shown on the site plan for each development site. The RCA shall be shown as a private or public conversation servitude on the preliminary plat and recorded as a private or public conversation servitude on the final plat, to be preserved in perpetuity.
- D) ***Standards for Protection During Construction***
The owner of the property, the developer, and contractors shall be responsible for protecting all existing natural resources, including trees, vegetation, streams, wetlands, ponds, wildlife habitats, historic/cultural sites and structures, that are designated as RCA and as approved by the Town Engineer.

8.1.3 Slope Protection Standards

A) ***Development Restrictions on Steep Slopes***

- 1) ***Site Plan Required***
New development proposed to be built on any portion of a site containing a slope of 20 percent or greater shall be subject to review and approval of a site plan pursuant to Section 2.3.6. This provision applies to development that would otherwise be exempt from the site plan review process (e.g., a single-family house is not exempt).

2) *Review Criteria*

The Town Engineer shall review all Site Plans required pursuant to this subsection and evaluate them according to the following standards:

- a) Site disturbance shall be minimized to the maximum extent practicable (see Section 8.1.2, *Resource Conservation Area, above*);
- b) Cuts for utilities and access driveways shall be shared to the maximum extent feasible;
- c) To the maximum extent feasible, new construction shall not take place on any portion of a parcel that shows slope instability, flooding, or other natural or man-made hazards;
- d) The applicant shall demonstrate that the slope's ground surface and subsurface are not unstable, that the proposed development will not cause instability or increase the potential for slope failure, and that the development of the slope will not increase the degree of hazard both on-site and on adjacent properties.

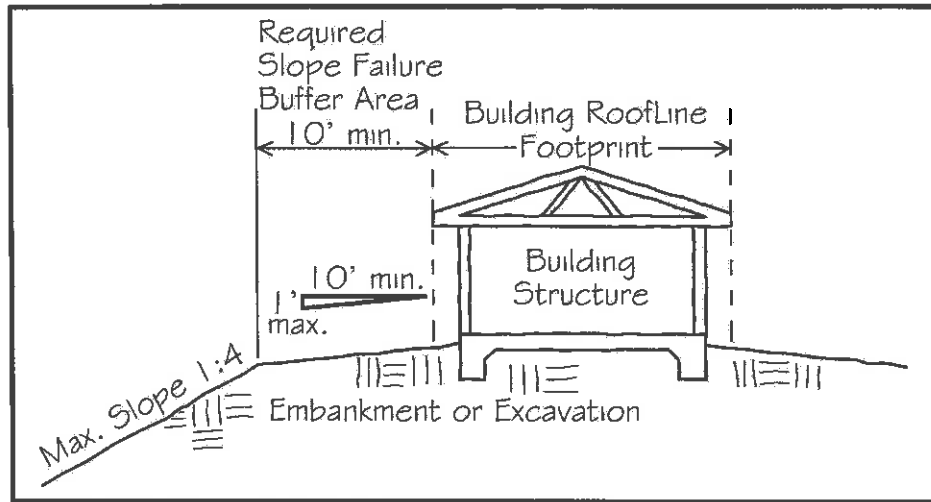
3) *Stabilization Measures*

On all sites containing steep slopes on which development is allowed pursuant to this subsection, the following stabilization measures shall be required:

- a) All slopes of 50 percent (2:1) or steeper shall be stabilized with permanent slope retention devices or a suitable combination of plantings and retention devices. Slopes greater than 33 percent (3:1) shall not be stabilized with turf grasses, but with other permanent ground cover such as monkey grass or other similar covers.

4) *Slope Failure Buffer Adjacent to Structures*

Where excavated by embankment work is performed in close proximity to the building roof line foot print, a slope failure buffer area shall be provided with a generally flat area (e.g. slope no greater than the one (1) foot vertical drop for every ten (10) foot of horizontal coverage) for a minimum distance of ten (10) feet. Excavation or embankment slopes may begin beyond the ten (10) feet buffer.



Sec. 8.1.3 / Slope Failure Buffer Adjacent to Structures

8.1.4 Grading/Topography Conservation

A) *Purpose*

Care shall be taken during grading of residential lots to preserve the natural topography and drainage characteristics of the site.

B) *Applicability*

The original, natural grade of any residential lot shall not be raised or lowered more than 10 feet at any point for construction of any structure or improvement, except:

- a) For foundation walls incorporated into the principal structure to allow for walk-out basements specifically designed by a licensed Architect or Engineer; or
- b) The site's original grade may be raised or lowered a maximum of 12 feet if a retaining wall or terracing is used to reduce the steepness of man-made slopes; which wall or terracing system is designed by a licensed Architect or Engineer.

C) *Mass Lot Grading Discouraged*

The grading of large numbers of residential lots to change the natural topography into a series of level lots shall be discouraged. In general, lots shall be graded on an individual basis so that the building sites follow the natural topography of the overall site. In no case shall large-scale grading of level building pads for entire subdivisions or phases of subdivisions be permitted.

D) *Exceptions*

Certain exceptions to this section may be granted by the Town Council on a case-by-case basis, where individual or small groups of lots may be improved by cut or fill without substantially altering the overall site topography.

8.1.5 Retaining Structures

Retaining structures are permitted as elements of site design and shall meet the following requirements:

- A) Retaining structures over 3' in height must be designed, certified, and inspected by a licensed professional Engineer. Additionally, retaining structures 5' and taller in height must be issued a separate building permit.
- B) All grading and support structures associated with the retaining structure shall be contained entirely on site.
- C) Retaining structures on land developed for single-family and duplex residences shall not exceed 4' in height and shall not exceed to 4' tall terraced sections, unless designed by a licensed Engineer.

8.2 LANDSCAPING, BUFFERING, AND SCREENING

8.2.1 Purpose and Intent

The intent of this section is to establish standards to protect and enhance the Town's appearance by the installation of appropriate landscaping and buffering materials; to encourage the preservation of native plant communities and ecosystems; to maintain and increase the value of land providing for restoration of disturbed areas and by incorporating adequate landscaping into development; to restrict the spread of invasive plant species that disrupt and destroy native ecosystems; to encourage skilled installation and continued maintenance of all plant materials; and to establish procedures and standards for the administration and enforcement of this section.

8.2.2 General Landscaping Design Standards

A) *Aesthetic Enhancement Requirements*

Landscaping shall be utilized in the design to enhance the aesthetic quality of the property by adding color, texture, and visual interest while obscuring view of parking and unsightly areas and uses. In location where new development alters visually attractive and distinctive natural landscapes, the section and arrangement of new plantings shall be designed to compliment and enhance the natural landscape character of the site. All areas not covered by parking, drives, streets, or structures shall be improved with landscape elements in accordance with this section.

B) *Plant Materials*

1) *Use of Native or Adaptive Plant Materials*

In order to assure growth and survival of new plantings, all new landscaping installed pursuant to this chapter shall be comprised entirely of native or adaptive plants that reflect the surrounding plant materials and environment.

2) *Existing Plant Materials*

- a) Healthy, existing trees and shrubs shall be incorporated into the landscape to the maximum extent feasible, and may be used to meet the new landscaping requirements of this section. These existing plants shall be shown on the site plan and labeled as "existing".
- b) Design of the landscape shall take retained, existing trees into consideration with an adequate area provided around each tree that is free of impervious material to allow for infiltration of water and air. This pervious area shall be the canopy edge or root zone, whichever is greater, plus 10%.

- c) Incentives. The following incentives are provided to encourage the preservation of existing vegetation:
 - (i) Existing healthy vegetation may be counted towards meeting the performance criteria for buffers (Section 8.2.4) and parking lots (Section 8.2.5).
 - (ii) A 5 to 20 percent reduction in the number of parking spaces required on the site shall be allowed to the extent that the reduction will preserve existing healthy trees. The amount of reduction will be determined after taking all unique site conditions into account.

3) *Plant Sizes and Standards*

The standards for all trees and shrubs planted within buffers or as part of any landscaping, including the minimum height, root ball size, number of branches, and width shall conform with the American Standard for Nursery Stock published by the American Association of Nurserymen for that type of tree or shrub at the time of installation. The selection and planting of trees and shrubs shall be prepared by a licensed Landscape Architect or licensed Landscaping Contractor. Plants must meet the following sizes:

- a) Large deciduous trees shall be at least 12 feet tall and 2-½ inches caliper at the time of planting, and shall have an expected mature height of at least 30 feet.
- b) Large evergreen trees shall be at least 8 feet tall and 2-½ inches caliper at the time of planting, and shall have an expected mature height of at least 30 feet.
- c) Small ornamental or under-story trees shall be at least 8 feet tall and at least 1-½ inches caliper at the time of planting, and shall have an expected mature height of at least 18 feet.
- d) Large type shrubs shall be at least 30 inches tall at the time of planting and at least 3-gallon container size. Mature height shall reach at least 4 feet. Large shrubs required to meet the standards for *type A buffer* shall be between 5 and 6 feet tall at the time of planting, or at least 7-gallon container, and shall have a mature height of at least 6 feet.

- e) Small type shrubs shall be at least 18 inches tall at the time of planting and at least 3-gallon container, and shall have a mature height of at least 2 feet.
- f) Shrubs used as ground cover shall be at least one-gallon container size.
- g) Grass shall be planted in species normally grown as permanent lawns in the Town and region. In swales or other areas subject to erosion, solid sod, erosion-reducing net, or suitable mulch shall be used. Grass sod shall be free and clean of weeds and noxious pests or diseases.

C) ***Location of Required Landscaping***

- 1) ***On-Site Landscaping Required***
All landscaping shall be located on the property it serves. Landscaping located on adjacent properties or street rights-of-way shall not count toward the landscaping requirements of this section.
- 2) ***Protection of Water, Sewer, and Power Lines***
No trees shall be planted within 5 feet on either side of water or sewer main lines. All plantings shall be set back from overhead power lines or be of a type whose structure will not grow high enough to interfere with the power lines.

D) ***Landscape Installation and Inspection***

- 1) ***Time Limit***
All landscaping, including mulching and seeding, shall be completed in accordance with the approved site plan prior to issuance of a certificate of occupancy for the site.
- 2) ***Extensions and Exceptions***
The Town Clerk may grant exceptions and extensions to the above time limit in the following circumstances and under the following conditions:

- a) Exceptions may be granted due to unusual environmental conditions, such as drought, over-saturated soil (deep mud) or inappropriate planting seasons for the plant species, provided that the developer or property owner provides the Town with a cash bond ensuring the installation of the remaining landscape materials. The bond shall be accompanied by documentation of the estimated cost of the remaining landscaping to be completed. This documentation may be a landscaping contractor's bid or contract, a nurseryman's bill or a similar document. The amount of the bond shall be equal to 150 percent of the cost of the plant material and installation costs yet to be installed, based on the highest estimate received.
- b) Exceptions may be granted due to the substitution or unavailability of plant species or acceptable plant size as specified on the site plan or subdivision plan, provided that the developer or property owner provides the Town with a cash bond to ensure that the unavailable plants will be installed on the property. All such substitutions shall be marked on the landscaping plans submitted to the Town and must be signed, dated and approved by the Town Clerk prior to installation.
- c) Exceptions may be granted due to circumstances beyond the developer's or property owner's control, such as incomplete construction or utility work in a proposed landscaped areas within 30 days after expected site completion, provided that the developer or property owner submits a letter from the utility company stating the expected installation date and provides a cash bond equal to 150 percent of the cost of materials and installation to ensure installation of the required landscaping.

3) *Inspections*

- a) The Town Clerk shall inspect the site landscaping prior to the issuance of a permanent certificate of occupancy as it pertains to the approved landscaping plan.
- b) The Town Clerk or his designee shall inspect the site one year after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscape is properly maintained.

8.2.3 Maintenance Responsibility and Replacement of Damaged Vegetation

A) ***Maintenance Responsibility***

The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features required under this article. Any vegetation that is dead, substandard, unhealthy, of poor structural quality, or missing, shall be removed and replaced in conformance with the standards of this section and to the approved site plan. In the event that any vegetation or physical element functioning to meet the standards of this section is severely damaged due to an unusual weather occurrence or natural catastrophe, the owner shall have one year or one growing season, whichever is sooner, to replace or replant. All plant materials should be allowed to reach their mature size. Plants shall not be cut or severely pruned so that their natural form is impaired. This section shall not apply when a developer has damaged or destroyed vegetation in the buffer, or caused vegetation to be damaged or destroyed. In this case, revegetation according to subsection (c) is required.

B) ***Replacement of Disturbed and Damaged Vegetation***

The disturbance of any landscaped area or vegetation installed pursuant to this article shall constitute a violation of the site plan. All disturbed landscaped areas and vegetation shall be replanted so as to meet the standards of this section as well as the approved site plan.

C) ***Replacement of Existing, Original Vegetation***

Existing trees and vegetation preserved pursuant to this article shall be considered as elements of a development project in the same manner as parking, building materials, and other site details. If such trees or vegetation are damaged during construction or dead within two years of completion of development, they shall be promptly replaced with an equivalent type tree or shrub.

8.2.4 Building Landscaping Requirements

A) ***Applicability***

All multi-family and non-residential land uses install landscaping pursuant to the requirements of this section. This landscaping shall be in addition to any other landscaping required by Article 8 for buffers and vehicle use areas.

1) ***Multi-Family and Non-Residential Uses***

All multi-family and non-residential land uses shall install at least 3 trees and 9 shrubs for every 5,000 square feet of building footprint. All unpaved areas shall be stabilized with grasses, hydroseedings and/or sod.

- 2) *Credit*
Any existing trees and shrubs protected outside of buffers shall be credited against this landscaping requirement, but trees and shrubs within buffers shall not be credited against the requirement. See Sec. 8.2.6 *Buffering*.

B) *Installation Requirement*

- 1) Large trees shall be no closer than 20 feet from any structure with at least 144 square feet of non-paved area around the trunk, and small trees shall be no closer than 10 feet from any structure with at least 100 square feet of non-paved area around the trunk.
- 2) Planting beds may contain a combination of living plant materials and mulch. However, living plant materials shall comprise no less than 50 percent of the planting beds.
- 3) Plant materials shall be located in close proximity to the building and shall enhance views from public streets and sidewalks.

8.2.5 Vehicle Use Area Landscaping

A) *Purpose*

Vehicle use area landscaping is intended to improve the views from adjacent properties and public use areas, alter the microclimate of vehicle use areas by providing shade and reducing reflected heat, and break up large areas of impermeable surface allowing areas for water infiltration.

B) *Vehicle Use Area (VUA) Screening*

- 1) *Applicability*
All vehicle use areas shall provide landscaping pursuant to the General Requirements below.
- 2) *General Requirement*
 - a) All vehicle use areas and access drives shall be separated from side and rear property lines by a planting area at least 5 feet wide that meets type B buffer standards (see Sec. 8.2.6(B)).
 - b) Perimeter plantings shall be arranged and maintained to protect visibility at any driveways, with a sight triangle of a least 10' x 70' (See figure 8.2.5.B).

C) ***Vehicle Use Area Shading***

1) ***Applicability***

All vehicle use areas shall comply with these landscaping requirements. Perimeter buffer trees may be used to meet the vehicle use area landscaping requirements.

2) ***Minimum Requirement***

No portion of the vehicle use area shall be further than 65 feet from the trunk of a tree, except for areas that cannot reasonably be landscaped in the interior (as determined by the Town Clerk), including, but not limited to, truck loading and unloading spaces and vehicle storage yards. Shrubs can be substituted for a deciduous tree in cases where the health of the large-type deciduous tree may be compromised or where other circumstances so warrant, including, but not limited to, utility lines and/or servitudes located too close to the vehicle use area to allow the planting of a deciduous tree or building location that does not provide a large enough planting bed for a deciduous tree.

D) ***Additional Vehicle Use Area Requirements***

1) ***Landscaped Islands***

- a) Individual landscaped islands shall be provided for every 15 parking spaces for greenspace.
- b) Individual landscaped islands shall include a minimum of 1 small ornamental or understory tree with ground cover in raised concrete curbs to prevent damage by automobile or pedestrian traffic.
- c) The smallest dimension of a landscaped island shall be 5 feet in any direction to allow for adequate root aeration and expansion.
- d) Plantings shall be specified and arranged so as not to interfere with driver vision, vehicle circulation, or pedestrian circulation in consideration of mature size of planting.

8.2.6 Buffering

A) *Purpose*

Landscaped buffers to separate adjacent land uses shall be provided in accordance with this section in order to fulfill the following purposes:

- 1) To shield adjacent properties from any adverse external effects of the development, so as to render incompatible adjacent uses more compatible;
- 2) To shield development from the negative impacts of adjacent land uses, so as to render incompatible adjacent uses more compatible;
- 3) To preserve open space and existing vegetation, using supplemental plantings only when necessary; and
- 4) To prevent adverse grade changes between properties and to provide adequate land area for transition of proposed grades.

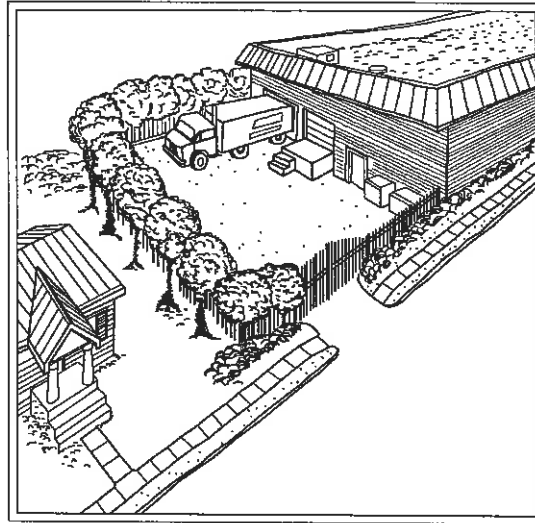
B) *Landscape Buffers Between Land Uses*

1) *Applicability*

- a) All commercial, multi-family and mobile home parks, shall provide a landscape buffer to separate that use from differing land uses pursuant to the requirements of this section.
- b) Reserved.

2) *Type and Width of Buffer Required*

Table 1:8.2.6 below determines the type of landscape buffer that must be installed. Depending on the land use classifications of the proposed use and the zoning of the adjacent property. Table 1:8.2.6 specifies a landscaped buffer of a particular type and a particular minimum width. Subsection (3) below identifies the land uses that fall within each land use classification shown on Table 1:8.2.6. Subsection (4) below identifies the width and type of vegetation required for each type of buffer.



**Figure 8.2.6(B): Illustration of
Landscaped Buffer**

Table 1 - 8.2.6: Buffer Dimensional Requirements and Types

Required Buffer	Adjacent Property Zoning or Land Use Class		
	Proposed Land Use Class	All Residential	GB LI
1	0	7.5' Type C	15' Type B
2	0	7.5' Type A	15' Type A
3	7.5' Type B	7.5' Type B	15' Type A
4	7.5' Type B	5' Type C	15' Type B
5	15' Type A	5' Type C	5' Type C
6	15' Type A	5' Type C	5' Type C

To use table (e.g., to determine buffers along adjacent properties):

1. Locate land use class of proposed in left-hand column. Required buffer is at intersection of row and column. Buffer class is indicated by letter; width in feet indicated by number.

3) *Land Use Classes*

The 6 land use classes appearing in Table 1:8.2.6 include the following uses:

- a) *Class 1:*
 - Active farm
 - Botanical gardens
 - Campgrounds
 - Cemeteries
 - Golf course
 - Greenways
 - Horse boarding and riding stables
 - Parks, active and passive
 - Water reservoir
- b) *Class 2:*
 - Bed and breakfast
 - Single family-detached
- c) *Class 3:*
 - Condominium
 - Duplex
 - Manufactured home
 - Multi-family or apartment
 - Townhouse
 - Triplex
 - Zero lot line
- d) *Class 4:*
 - Assembly, nonprofit
 - Barber/beauty shops
 - Bookstore
 - Church or place of worship
 - Congregate living
 - Day care facility
 - Dispatching office
 - Farmers market
 - Financial institutions without drive thru
 - Floral shop
 - Funeral home
 - Government service
 - Health/fitness centers/spas
 - Indoor animal kennel
 - Laundromat
 - Medical, dental offices and clinics
 - Medical, dental laboratory

Mobile home park
Monument sales, retail
Newsstand or gift shop
Nursing or convalescent facility
Office, business or professional
Parking, parking lot, parking garage-commercial or residential
Personal services
Pharmacy
Printing and copying services
Produce stand
Real estate sales
Restaurant, general
Retail sales, general
RV Park
School, public or private
Studios for arts
Tailor shops
Veterinary clinic or hospital
Vocational schools

- e) *Class 5:*
- All drive through facilities
 - Automotive parts
 - Automotive service stations
 - Bars and nightclubs
 - Bingo Hall
 - Broadcasting stations (radio and television)
 - Building supplies, retail
 - Carwash or auto detailing
 - Convenience store
 - Convenience store with gas pumps
 - Dry cleaners and laundry services
 - Game rooms and devices
 - Gas and fuel, retail
 - Greenhouse or nursery, retail
 - Grocery, general
 - Grocery, specialty
 - Hotel/motel
 - Publishing office
 - Radio and television recording studios
 - Retail sales, bulky goods
 - Retail sales, general
 - Shopping center
 - Theater
 - Transportation facilities
 - Upholstery shop
 - Vehicle inspection center
 - Vehicle repair and service

- f) *Class 6:*
- Adult establishment
 - Airplane landing strip
 - Airport
 - Animal kennel, outdoors
 - Arena, auditorium or stadium
 - Asphalt or concrete plant
 - Automotive paint or body shop
 - Building supplies, wholesale
 - Chipping and mulching
 - Communication tower, commercial
 - Contractor offices and storage yards
 - Dry-cleaning and dyeing plants
 - Electrical power facility
 - Entertainment, outdoor
 - Fish hatcheries and fish ponds
 - Gas and fuel, wholesale
 - Glass sales
 - Greenhouse or nursery, wholesale
 - Heliport or helipad
 - Hospital
 - Incinerator
 - Laboratory, industrial research
 - Landscape maintenance service
 - Laundry plants
 - Machine or welding shop
 - Manufacturing and processing
 - Railroad facilities
 - Railroad tracks
 - Recycling center
 - Recycling plant
 - Repair and maintenance, general
 - Repair services, limited
 - Research facilities
 - Sanitary landfill
 - Self-service storage
 - Towing services and storage
 - Truck terminals
 - Vehicle sales and rental, heavy
 - Vehicle sales and rental, light
 - Warehousing
 - Water or wastewater plant
 - Wholesaling, general
 - Wood or lumber processing
 - Woodworking or cabinetmaking

4) *Types of Buffers*

The three (3) types of landscaped buffers appearing in Table 1:8.2.6 are defined as follows and shall meet the following performance requirements:

a) *Type A: Opaque*

This buffer functions as an opaque screen from the ground to a height of at least six (6) feet. Plantings of deciduous and evergreen trees shall obtain a height at maturity of between 15 and 60 feet and have no unobstructed openings between tree canopies at maturity. Large trees shall be spaced no wider than 30 feet at time of planting. Screening plants for the type A buffer shall be evergreen and between 5 and 6 feet tall at the time of installation (see Plant Standards Sec. 8.2.2.3.b. At least 50 percent of the required trees and 100 percent of the shrubs must be evergreen species. In addition, opaque fences (8.2.7) are required abutting all residential.

b) *Type B: Semi-Opaque*

This buffer serves as a semi-opaque screen from the ground to a height between 3 and 6 feet with openings no greater than 10 feet. Trees shall obtain a height of between 18 and 40 feet at maturity and have no unobstructed openings greater than 20 feet between canopies at maturity. Large trees shall be spaced no wider than 50 feet at time of planting, and small trees shall be spaced no more than 20 feet. At least 50 percent of the required shrubs must be evergreen species. In addition, opaque fences (8.2.7) are required abutting all residential.

c) *Type C: Spatial Definition*

This buffer is intended to provide a sense of separation between adjoining properties without significantly obstructing the view from one to the other. Generally, it will be less opaque than the Type B buffer, and more oriented towards aesthetic enhancement rather than screening. It shall include a combination of trees and shrubs that provide intermittent visual obstruction from the ground to a height of at least 20 feet. Large trees shall be spaced no wider than 50 feet at time of planting, and small trees shall be spaced no wider than 30 feet. At least 25 percent of the trees or shrubs must be evergreen species.

C) **General Buffering Requirements**

1) *Location of Buffers*

The buffers required by this section shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line. The required buffer width does not just determine a simple setback but is to be totally planted (green space) to meet the requirements for the applicable buffer type. Therefore, the plants comprising the buffer shall be spread across the entire width of the buffer and not just planted in a row or rows.

2) *Existing Vegetation*

Existing significant vegetation with the required buffer shall be preserved and credited toward standards for the type of buffer required at the time of site plan approval or subdivision approval.

3) *Installation of New Vegetation and Other Features*

If existing significant vegetation and other site features do not fully meet the standards for the type of buffer required, then additional vegetation and/or site features (including fences) shall be planted or installed within the required buffer area.

4) *No Development Within the Required Buffer*

The required buffer shall not contain any development, built-upon area, or site features that do not function to meet the standards of this section or that require removal of existing vegetation. No grading, development or land-disturbing activities shall occur within the buffer unless approved by the Town Council at the time of site plan or subdivision plan review.

Typical Structures Permitted in Buffer Areas	Not Allowed
Water valves, fire hydrants, utility pads, transformers, manholes, telephone boxes, pedestals, fences, backflow preventers, etc.	Power poles, light poles, signs, pavement, dumpsters, sheds, animal shelters, buildings, auxillary structures, etc.

5) *Critical Root Zone Encroachment*

If a specimen tree critical root zone encroaches one-third or more onto an adjacent parcel and has been saved, the second developing site must also protect the critical root zone to protect the health and vigor of the tree.

6) *Zoning Change*

If the classification changes for an existing use or parcel, then the parcel shall comply with the buffer requirements of this section. The owner or developer may need to install additional plant material on the parcel in order to meet the intent of this section, especially on developed sites, or to bring the parcel up to the standards for the type of buffer which would be required under this section.

7) *Slopes*

All slopes steeper than two to one (2:1) shall be stabilized with permanent slope retention devices or a suitable combination of plantings and retention devices (see Sec. 8.1.3 *Slope Protection Standards*).

8.2.7 Fences, Walls, and Berms

Fences, walls, and berms are permitted as elements of site design and in some locations, may be used to conceal storage or other unsightly or conflicting land uses. All fences, walls, and berms shall meet the following requirements:

A) ***Materials***

- 1) Fences or walls shall be constructed of wood, stone, brick, decorative concrete block, wrought iron, (or products created to resemble these materials), or a combination of any of these materials. Chain link fencing is allowed provided it meets the standards in Section 8.2.7(A)(4).
- 2) All fencing shall be finished on the side facing a public right-of-way or adjacent properties.
- 3) Materials such as, but not limited to, plywood, particleboard, sheet metals, concrete slabs, concrete barriers shall not be used for fencing for walls.
- 4) Chain link fencing in general business or industrial classification shall be coated in black, brown or dark green vinyl or equivalent and shall not utilize slats. In residential zoning districts, chain link fencing is only allowed in the side and/or rear yards of individual lots.
- 5) Barbed-wire and similar fence materials may only be used in conjunction with a permitted agricultural use or in conjunction with the permitted keeping of horses or livestock. Up to 2' of barbed wire can be erected on top of another fence type for safety purposes for industrial and utility uses.

B) ***Fence/Wall Height***

- 1) No freestanding fence or wall shall exceed eight feet (8') in height. Non-residential fences or walls may be higher for security and/or screening purposes with approval by the Mayor, after taking into account topography, unique site conditions, and unique safety, security, and screening requirements of the property owner.
- 2) Fences in front yards shall not exceed 42 inches in height.
- 3) Commercial districts shall have opaque fences abutting all residential. The first 30 feet of fences in side yards shall not exceed 42 inches in height. Minimum height of fences abutting residential shall be 6 feet.

8.3 OFF-STREET PARKING AND LOADING

8.3.1 Applicability

A) ***New Development***

The off-street parking and loading standards of this section shall apply to the erection of any building, and to any new use established.

B) ***Reserved.***

C) ***Expansions and Alterations***

The off-site parking and loading standards of this section shall apply when an existing structure or use is expanded or enlarged. Additional off-street parking and loading spaces shall be required to serve only the enlarged or expanded area, provided that in all cases the number of off-site parking and loading spaces provided for the entire use (pre-existing plus expansion) must equal at least 75 percent of the minimum ratio established in the Off-Street Parking Schedules of this section.

D) ***Change of Use***

Off-street parking and loading must be provided for any change of use or manner of operation that would, based on the Off-Street Parking Schedules of this section, result in a requirement for more parking or loading spaces than the existing use.

8.3.2 Off-Street Parking Requirements

A) ***Off-Street Parking Schedule "A"***

Unless otherwise expressly stated in this Code, off-street parking spaces shall be provided in accordance with Table 8.3-1.

Table 8.3-1: Off-Street Parking Schedule “A”

Use	Minimum Number of Spaces Required
Residential Uses	
Single-family dwelling	2 per dwelling unit
All other uses	2 per dwelling unit
Public and Civic Uses	
Church or place of worship	1 per 4 seats in principal assembly area
Government services center	1 per 300 square feet, excluding vehicle storage areas
Hospital	1 per 2 beds plus 1 per employee
School, public or private: Elementary or Junior	2 per classroom, or 1 per 3 seats in auditorium or principal place of assembly, whichever is greater
School, public or private: Senior	10 per classroom, or 1 per 3 seats in auditorium or principal place of assembly, whichever is greater
All other	Schedule C
Utilities	
All uses	Schedule C
Recreational Uses	
All uses	Schedule C
Commercial Uses	
Adult establishment	1 per 60 square feet
Automotive paint or body shop	Schedule B
Automotive parts	1 per 200 square feet
Automotive service station	5 spaces per each grease rack, wash rack, or service bay
Bars and Nightclubs	1 per 50 square feet of floor space devoted to public use
Bench bingo	1 per 50 square feet of floor space devoted to public use
Bed and breakfast	1 per guest room
Barber and beauty shops	3 per chair
Book stores	1 per 200 square feet
Broadcasting stations (radio and television)	1 per 200 square feet of office or administrative area
Building supplies, retail	Schedule B
Building supplies, wholesale	Schedule B
Car wash or auto detailing	2 spaces per bay
Contractor’s offices and storage yards	Schedule B

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Sec. 8.3.2/ Off-Street Parking Requirements

Use	Minimum Number of Spaces Required
Convenience store	1 per 200 square feet
Convenience store with gas sales	1 per 200 square feet of convenience store/food sales area, plus 1 per service bay, plus vehicle stacking spaces
Day care	1 per 6-person capacity
Dispatching office	1 per 300 square feet
Dry cleaners and laundry service	1 per 300 square feet
Farmers market	Schedule B
Financial institution	1 per 150 square feet
Financial institution, with drive-through service	1 per 150 square feet, plus vehicle stacking spaces
Floral shop	1 per 200 square feet
Funereal home	1 per 5 seats in chapel., plus 1 per each hearse, ambulance, or related vehicle
Game rooms	1 per 100 square feet
Gas and fuel, retail	1 per 200 square feet
Gas and fuel, wholesale	2 per 3 employees
Glass sales	1 per 200 square feet
Greenhouse or nursery, retail	1 per 800 square feet of lot area used for open air sales or display plus additional spaces for retail sales (compacted per Schedule B)
Greenhouse or nursery, wholesale	2 per 3 employees
Grocery, general	1 per 200 square feet
Grocery, specialty	1 per 200 square feet
Health/fitness centers and spas	1 per 200 square feet
Horse boarding and riding stables	1 per 3 stalls
Hotel or motel	3 spaces plus 1 space per guest room
Insurance offices	1 per 300 square feet
Kennel, indoor	1 per 300 square feet
Kennel, outdoor	Schedule B
Landscape maintenance service	Schedule B
Laundromat	1 per 3 washing machines
Laundry plants	1 per 300 square feet
Medical office or dental clinic or offices	1 per 200 square feet of gross floor space
Medical or dental laboratory	1 per 200 square feet

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Sec. 8.3 / OFF-STREET PARKING AND LOADING
Sec. 8.3.2/ Off-Street Parking Requirements

Use	Minimum Number of Spaces Required
Monument sales, retail	Schedule B
Newsstand or gift shop	1 per 200 square feet
Office, business or professional	1 per 300 square feet
Parking garage, commercial	None
Parking lot, commercial	None
Personal services	1 per 300 feet
Pharmacy	1 per 200 square feet
Pilot plants	Schedule C
Printing and copying services	1 per 300 square feet
Publishing office	1 per 300 square feet
Radio, television and recording studios	2 per 3 employees plus 1 per 4 seats in studio with greatest seating capacity
Real estate sales	1 per 300 square feet
Repair and maintenance, general	Schedule B
Repair services, limited	Schedule B
Restaurant, drive-through	1 per 50 square feet of floor space devoted to public use, plus vehicle stacking spaces
Restaurant, general	1 per 50 square feet of floor space devoted to public use
Research facilities	Schedule B
Retail sales, bulky goods	Schedule B
Retail sales, general	1 per 300 square feet
Research facilities	Schedule B
Self-service storage	1 per 2 employees
Studio for arts	1 per working artist
Tailor shops	1 per 200 square feet
Theaters	1 per 5 seats
Towing service	Schedule B
Towing storage	Schedule B
Truck terminals	Schedule B
Upholstery shop	1 per 200 square feet
Vehicle inspection center	1 per service bay plus 1 per 2 employees
Vehicle sales and rental, heavy	2 spaces plus 1 per 800 square feet of floor area over 1600 square feet

Use	Minimum Number of Spaces Required
Vehicle sales and rental, light	2 spaces plus 1 per 800 square feet of floor area over 1600 square feet
Veterinary clinic or hospital	Schedule B
Vocational school	Schedule C
Wholesaling, general	Schedule B
Industrial Uses	
All uses	Schedule B
Agricultural Uses	
All uses	Schedule C

B) Off-Street Parking Schedule “B”

Uses subject to off-street parking schedule “B” shall provide the following minimum number of off-street parking spaces.

Table 8.3.2: Off-Street Parking Schedule “B”

Activity	Minimum Number of Spaces Required
Office or administrative area	1 per 300 square feet
Indoor sales area	1 per 200 square feet
Outdoor sales or display area (3,000 square feet or less)	1 per 750 square feet
Outdoor sales or display area (over 3,000 square feet)	
Motor vehicles/equipment sales	1 per 2,000 square feet.
Other sales/display	1 per 1,000 square feet
Indoor storage/warehouse/vehicle service/manufacturing area	
1-3,000 square feet	1 per 250 square feet
3,001-5,000 square feet	1 per 500 square feet
5,001-10,000 square feet	1 per 750 square feet
10,001-50,000 square feet	1 per 1,250 square feet
50,-001 square feet+	1 per 2,000 square feet

C) Off-Street Parking Schedule “C”

Uses that referenced Schedule “C” have widely varying parking and loading demand characteristics, making it impossible to specify an single off-street parking or loading standard. Upon receiving a development application for a use subject to “Schedule C” standards, the Town Engineer shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use, or shall establish minimum off-street parking requirements on the basis of a parking and loading study prepared by the applicant. Such a study must include estimates or parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Town Engineer, and should include other reliable data collected from uses or combinations of uses that are the same as, or comparable with, the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study must document the source of data used to develop the recommendations.

8.3.3 Rules for Computing Requirements

- A) ***Multiple Uses***
Unless otherwise approved, lots containing more than one use must provide parking and loading in an amount equal to the total of the requirements for all uses.
- B) ***Fractions***
When measurements of the number of required spaces result in a fractional number, any fraction of one-half or less shall be rounded down to the next lower whole number and any fraction of more than one-half shall be rounded up to the next higher whole number.
- C) ***Area Measurement***
Unless otherwise specifically noted, all square footage-based parking and loading standards must be completed on the basis of gross floor area.
- D) ***Occupancy- or Capacity-Based Standards***
For the purpose of computing parking requirements based on employees, students, residents or occupants, calculations shall be based on the largest number of persons working on any single shift, the maximum enrollment, or the maximum fire-rated capacity, whichever is applicable and whichever results in the greater number of spaces.
- E) ***Unlisted Uses***
Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the Town Engineer shall apply the off-street parking standard specified for the listed use that is deemed most similar to the proposed use.

8.3.4 Location

- A) ***General***
Except as otherwise expressly provided in this section, required off-street parking spaces shall be located on the same lot as the principal use.
- B) ***Setbacks***
 - 1) Required off-street parking spaces and driveways must be located at least 5 feet from any required buffer except driveways crossing perpendicularly through buffers.
 - 2) Off-street parking or storage of vehicles, travel trailers, or motor homes shall not be permitted within any front or street side setback area, provided that off-street parking may be permitted within that portion of any setback used for driveway access to required off-street parking areas. Storage of mobile homes is not permitted. Recreational vehicles (RV's) parking shall be restricted to rear yards and out of buffer areas.

8.3.5 Off-Street Loading Requirements

A) ***Off-Street Loading Schedule***

Off-street loading spaces shall be required for industrial, major institutional, or business uses that can be expected to regularly receive or deliver goods, pursuant to the following Off-Street Loading Schedule. A loading space requirement may be modified or waived by Town Council in the site plan approval process for a church, place of assembly office use, or any other use that can demonstrate a similar limited loading space requirements.

Table 8.3-3: Off-Street Loading Schedule

Gross Floor Area (square feet)	Required Number of Spaces
0-40,000	1
40,-1-100,000	2
100,001-160,000	3
160,000-240,000	4
240,001-320,000	5
320,001-400,000	6
Each 90,000 over 400,000	1

B) ***Dimensions***

Required loading spaces shall have the following minimum dimensions: 12-foot minimum width, 25-foot minimum length, and 14-foot minimum vertical clearance.

C) ***Location***

- 1) Required off-street loading spaces shall not be located within a building, but shall be on the site of the use served or on an adjoining site.
- 2) Required off-street loading spaces shall be located to the sides and/or rear of the lot to maximize the street exposure of the primary structure.
- 3) A loading area shall not be located in a required setback. In addition, street-side loading docks shall be set back at least 70 feet from the street property line or 110 feet from the street center line, whichever is greater.
- 4) No loading bay may intrude into any portion of a required parking aisle or access dimension.
- 5) Loading area visible from a street sign shall be screened on three sides by a solid, decorative fence, wall, or hedge at least six feet in height.

D) *Access*

- 1) A required loading space shall be accessible without backing a truck across a street property line unless the Town Engineer determines that provision of turn-around space is infeasible and approves alternative access.
- 2) An occupied loading space shall not prevent access to a required off-street parking space.

8.3.6 Parking Lot Design Standards

A) *Purpose*

Because parking areas frequently predominate the visual impact of a development, this section is intended to beautify and enhance these spaces without compromising vehicular and pedestrian safety. The Town does not desire parking areas which dominate a site and advocates de-emphasized parking in favor of architectural design, landscape buffers, and pedestrian amenities. Site development shall also address the safety and comfort of the pedestrian in walking within and between areas of automobile movement.

B) *Site Layout*

- 1) Any parking areas containing more than 50 spaces shall be visually subdivided through the use of buildings, planting areas, or landscaped islands.
- 2) Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building. On smaller lots, this shall be achieved by providing a sidewalk at the perimeter of the lot. On larger parking lots, corridors within the parking area should channel pedestrians from the car to all customer entrances.
- 3) Driveways to parking areas shall be no wider than 25 feet wide.

C) *Markings*

- 1) Each required off-street parking space and off-street parking facility shall be identified by surface markings and shall be maintained in a manner so as to be readily visible and accessible. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles.

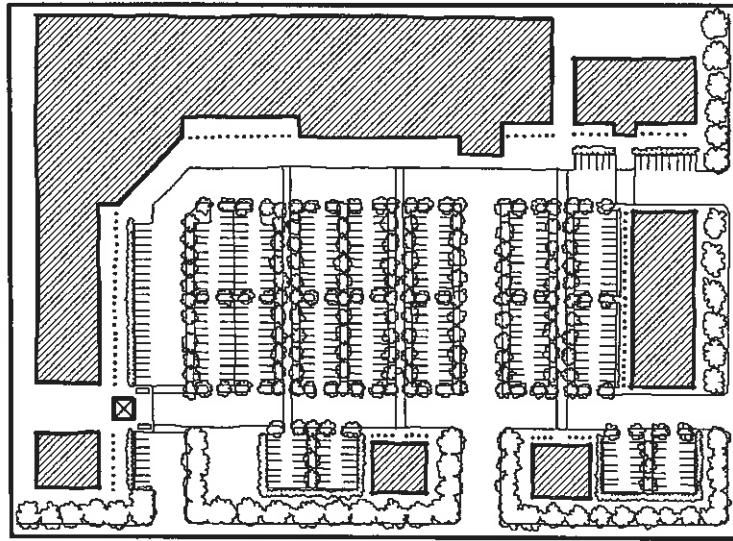


Figure 8.3.6(A): Illustration of Landscaped Parking Area

Markings required to be maintained in a highly visible condition include striping, directional arrows, lettering on signs, and handicapped-area designations.

- 2) One-way and two-way accesses into required parking facilities shall be identified by directional arrows. Any two-way access located at any angle other than 90 degrees to a street shall be marked with a traffic separation strip the length of the access. The requirement does not apply to aisles.
- D) ***Surfacing and Maintenance***
All off-street parking areas shall be paved and kept in a dust-free condition at all times.
- E) ***Dimensions***
 - 1) ***General***
Required off-street parking spaces shall comply with the following dimensional standards:

**Table 8.3.6: General Dimensional Standards for
Required Off-Street Parking Spaces**

Use	Type of Space	Dimensions (feet)
Residential	Spaces in Garage or Carport	10 x 20
	Uncovered	9 x 18
Nonresidential	Angle Spaces	9 x 18
All	Parallel	9 x 20

2) *Vertical Clearance*

Vertical clearance for off-street spaces shall be 7 feet.

3) *Spaces Near Obstructions*

Each parking space adjoining a wall, column, or other obstruction higher than 0.5 feet shall be increased by two feet on the obstructed side.

F) *Access to Parking Areas*

- 1) All off-street parking spaces shall be accessible without backing into or otherwise re-entering a public right-of-way, unless it is physically impossible to provide for such access.
- 2) When an off-street parking area does not abut a public street, there shall be provided an access drive not less than 25 feet in width for two-way traffic, connecting the off-street parking area with a public street. The access drive shall be paved in the manner required for off-street parking lots. Where an access or service drive is such that satisfactory turn-around is not possible, a minimal turn-around area shall be provided as dictated by the Fire Department.

G) *Off-Site Parking Area Landscaping, Buffering, and Screening*

Off-street parking areas shall be landscaped, buffered, and screened in accordance with the standards of Section 8.2.

8.3.7 Use of Off-Street Parking Areas

Required off-street parking areas are to be used solely for the parking of licensed, motor vehicles in operating condition. Required spaces may not be used for the display of goods for sale or lease or for long-term storage of vehicles, boats, motor homes, campers, mobile homes, or building materials.

A) *Vehicle Stacking Areas*

The vehicle stacking standards of this subsection shall apply unless otherwise expressly approved by the Town Engineer.

- 1) *Minimum Number of Spaces*
Off-street stacking spaces shall be provided as follows:

Table 8.3.5: Minimum Required Vehicle Stacking Spaces

Activity Type	Minimum Stacking	Measured From
Bank teller lane	4	Teller or Window
Restaurant drive-through	6	Order Box
Restaurant drive-through	4	Order Box to Pick-Up Window
Car wash stall, automatic	6	Entrance
Car wash stall, self-service	3	Entrance
Gasoline pump island	2	Pump Island

- 2) *Design and Layout*
Required stacking spaces are subject to the following design and layout standards.
- 3) *Size*
Stacking spaces shall be a minimum of 8 feet by 20 feet in size.
- 4) *Location*
Stacking spaces shall not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.
- 5) *Design*
Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the Town Engineer for traffic movement and safety.

8.3.8 Accessible Parking for Physically Handicapped Persons

A portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located, and reserved for use by persons with physical disabilities.

- A) *Number of Spaces*
The minimum number of accessible spaces to be provided shall be a portion of the total number of off-street parking spaces required, as determined from the following schedule. Parking spaces reserved for persons with disabilities shall be counted toward fulfilling off-street parking standards.

**Table 8.3-6: Required Accessible Parking for
Physically Handicapped Persons**

Total Parking Spaces Required	Minimum Total Number of Accessible Spaces	Minimum Number of Van-Accessible Spaces	Minimum Number of Car-Accessible Spaces
1-25	1	1	0
26-50	2	1	1
51-75	3	1	2
76-100	4	1	3
101-150	5	1	4
151-200	6	1	5
201-300	7	1	6
301-400	8	1	7
401-500	9	2	7
501-1,000	2% of total spaces	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
Over 1,000	20 = 1 per each 100 spaces over 1,000		

B) *Minimum Dimensions*

All parking spaces reserved for persons with disabilities shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:

1) Car-Accessible Spaces

Car-accessible spaces shall have at least a 5-foot-wide access aisle abutting the designated parking space.

2) Van-Accessible Spaces

Van-accessible spaces shall have at least an 8-foot-wide access aisle abutting the designated parking space.

C) *Location of Spaces*

Required spaces for persons with disabilities shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the building entrance on an unobstructed path.

D) ***Signs and Marking***

Required spaces for persons with disabilities shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities. Signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level.

8.3.9 Off-Street Parking Alternatives

The Town Engineer shall be authorized to approve alternatives to providing the number of off-street parking spaces required by the Off-Street Parking Schedules in accordance with this subsection.

A) ***General***

1) ***Procedure***

Alternative parking plans shall be reviewed and approved by the Town Engineer prior to site plan approval.

2) ***Violations***

Violations of approved alternative parking plans constitute a violation of this Code and will be subject to the enforcement and penalty provisions of Article 11: *Enforcement*.

B) ***Off-Site Parking***

The Town Engineer may approve the location of required off-street parking spaces on a separate lot from the lot on which the principal use is located if the off-site parking complies with all of the following standards.

1) ***Ineligible Activities***

Off-site parking may not be used to satisfy the off-street parking standards for residential uses (except for guest parking), restaurants, convenience stores, or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities may not be located off-site.

2) ***Location***

No off-site parking space may be located more than 400 feet from the primary entrance of the use served (measured along the shortest legal pedestrian route). Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than 80 feet.

3) ***Zoning Classification***

Off-site parking areas require the same or a more intensive zoning classification than required for the use served.

4) ***Agreement for Off-Site Parking***

In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement between the record owners will be required. The agreement must guarantee the use of the off-site parking area for at least 10 years.

C) ***Shared Parking***

The Town Engineer may approve shared parking facilities for developments or uses with different operating hours or different peak business periods if the shared parking complies with all of the following standards.

1) ***Location***

Shared parking areas require the same or a more intensive zoning classification than required for the use served.

2) ***Zoning Classification***

Shared parking areas require the same or a more intensive zoning classification than required for the use served.

3) ***Shared Parking Study***

Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit a shared parking analysis to the Town Engineer that clearly demonstrates the feasibility of shared parking.

4) ***Agreement for Shared Parking***

A shared parking plan will be enforced through written agreement among all owners of record.

D) ***Other Eligible Alternatives***

The Town Engineer may approve any other alternative to providing off-street parking spaces on site of the subject development if the applicant demonstrates to the satisfaction of the Town Engineer that the proposed plan will do at least as good of job protecting surrounding neighborhoods, maintaining traffic circulation patterns and promoting quality urban design than would strict compliance with otherwise applicable off-street parking standards.

The following factors are to be considered when determining whether alternatives to off-street parking are acceptable:

- 1) Existing topography;
- 2) The type, amount and location of existing vegetation;
- 3) The size and configuration of the parcel;
- 4) The location and extent of underground and overhead utilities;
- 5) Natural barriers such as waterways;
- 6) Frequency of use of the parking areas;
- 7) Historic or cultural sites or structures; and
- 8) The interrelationships of the uses and businesses on the parcel.

8.4 COMMUNITY AMENITIES AND PEDESTRIAN FLOW

8.4.1 General

Site development focuses on macro-level issues of the development's relationship to its neighbors and to the community at large. It is the purpose of the Town Council in adopting this section that development contribute to the enhancement of the entire community and that no site be viewed as an island unto itself. Community cohesiveness, rather than fragmentation, is a primary goal of this article.

8.4.2 Applicability

The provisions of this Section 8.4 shall apply to all nonresidential development.

8.4.3 Pedestrian Flows

A) *Continuous Internal Pedestrian Walkway*

Within all developments subject to this Section 8.4, a continuous internal pedestrian walkway shall be provided from the perimeter public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site.

B) *Sidewalks*

In addition, sidewalks at least 5 feet in width shall be provided in the following locations:

- 1) Along the street-facing side(s) of any lot that abuts a public street;
- 2) Along the full length of the building(s) along any facade(s) featuring a customer entrance, and
- 3) Along any facade(s) abutting public parking areas.

C) *Driving Surfaces*

All internal pedestrian walkways shall be distinguishable from driving surfaces through the use of special pavers, bricks, or scored concrete to enhance pedestrian safety and the attractiveness of the walkways.

8.5 OPERATIONAL COMPATIBILITY STANDARDS

8.5.1 Glare

Glare from arc welding, acetylene torch cutting, or similar processes shall be contained within a completely enclosed and vented building.

8.5.2 Heat and Humidity

Uses, activities, and processes shall produce any unreasonable, disturbing, or unnecessary emissions of heat or humidity at the property line of the site on which they are situated, which cause material distress, discomfort, or injury to a reasonable person.

8.5.3 Noise

No activity or operation subject to this Ordinance shall exceed the maximum permitted sound levels as set forth in Section 8.8

8.5.4 Vibration

No use, activity, or process shall produce vibrations that are perceptible without instruments at the property line for more than three minutes in any one hour of the day between the hours of 7:00 a.m. and 10:00 p.m. Or for more than 30 seconds in any one hour between the hours of 10:00 p.m. and 7:00 a.m.

8.5.5 Operational/Physical Compatibility

The following conditions may be imposed upon the approval of any development to ensure that it is compatible with existing uses, including but not limited to, restrictions on:

- A) Hours of operation and deliveries;
- B) Location on a site of activities that generate potential adverse impacts on adjacent uses, such as noise and glare;
- C) Placement of trash receptacles;
- D) Location of loading and delivery areas;
- E) Location, intensity, and hours of illumination;
- F) Placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;
- G) Additional landscaping and buffering;
- H) Height restrictions to preserve light and privacy and views of significant features from public property and rights-of-way;
- I) Preservation of natural lighting and solar access;
- J) Ventilation and control of odors and fumes; and
- K) Dust-control paving.

8.5.6 Evidence of Compliance

The Town Engineer shall require such evidence of ability to comply with appropriate performance standards, mitigation measures, and conditions as set forth in this section, as he deems necessary.

8.6 EXTERIOR LIGHTING

8.6.1 Purpose and Intent

The Town Engineer shall require such evidence of ability to comply with appropriate performance standards, mitigation measures, and conditions as set forth in this section, as he deems necessary prior to issuance of a certificate of zoning compliance.

8.6.2 Lighting Plan

Any proposed development requiring a site plan or subdivision plan shall include, as part of site plan or subdivision plan submission, a detailed exterior lighting plan. This plan shall include:

- A) Specifications for the lighting fixtures such as: type of unit (cutoff, non-cutoff, glare shields, etc.), lamps (wattage, etc.), electrical load requirements, utility company involved, method of wiring, routing/location of lines, location of lights, and mounting heights.
- B) An isofootcandle plan that shows typical foot-candle contours and a point photometric grid that indicates foot-candle levels measured at grade across the site. Other information such as: maximum average, and minimum site foot-candles, uniformity ratio (average/minimum), and depreciation factors should also be included.
- C) Plan certification by a licensed lighting engineer and/or lighting manufacturer verifying that the plans meet the Town's design requirements and illumination standards.

8.6.3 Illumination Standards

The tables below set forth standards for lighting intensity based upon the land use or activity involved. Values are presented in maintained foot-candles measured at grade. In general, site lighting should not exceed these average foot-candle levels.

Table 8.6-1: Lighting Standards for General Parking and Pedestrian Areas

Level of Activity	Horizontal Illuminance			Uniformity Ratio (maintained foot-candles) (avg/min)
	Max	Avg	Min	
HIGH - Major athletic, cultural, and civic facilities - Regional retail - Retail with drive-thru	9.00	(3.1-4.1)	0.21	4/1
MEDIUM - Cultural, civic, and recreational facilities - Residential complex - Commercial, general	6.0	(1.9-2.9)	0.2	4/1
LOW - Neighborhood retail - Industrial facilities - Educational facilities - Churches	2.0	(1.3 - 0.3)	0.2	4/1

Table 8.6-2: Other Exterior Lighting Standards

Location	Horizontal Illuminance Avg	Uniformity Ratio (initial foot-candles)
Active entrances and vital locations (security)	5.0	4/1
Inactive entrances	1.0	4/1
Private sidewalks (residential)	0.3	4/1
Private sidewalks (non-residential)	0.8	6/1
Vehicular use area (service areas, approach	1.0	4/1
Storage yards, active	5.0	6/1
Storage yards, inactive	1.0	6/1
Loading/unloading docks and platforms	15.0	2/1
Auto sales/display	15.0	2/1
Recreational areas (fields, playgrounds, courts)	10.0	4/1

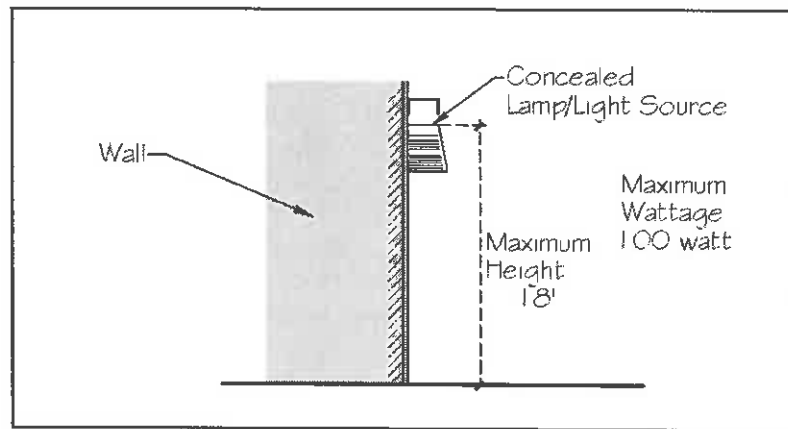
8.6.4 Design Requirements

Exterior lighting, such as that used in and around buildings, recreation areas, parking lots, and signs, shall be designed to prevent the excessive spillover of light onto adjacent properties. It shall also be designed to protect against glare onto public rights-of-way thereby impairing the vision of motorists and adversely impacting adjoining properties. All exterior lighting shall be shielded from adjacent properties by existing vegetation, fences, and/or the use of directional lighting, lighting shields, special fixtures, timing devices, appropriate light intensities, luminaries, and mountings at appropriate heights. All outdoor lighting shall conform to the following design standards:

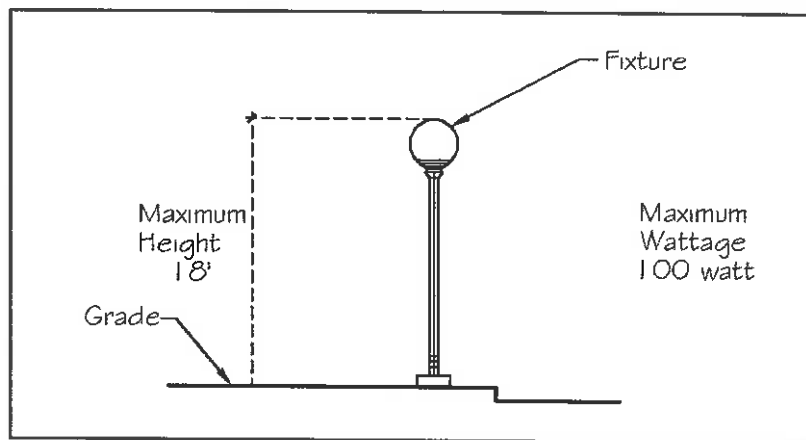
A) *Mounting Heights*

Outdoor lighting fixtures shall be designed, located and mounted at heights no greater than:

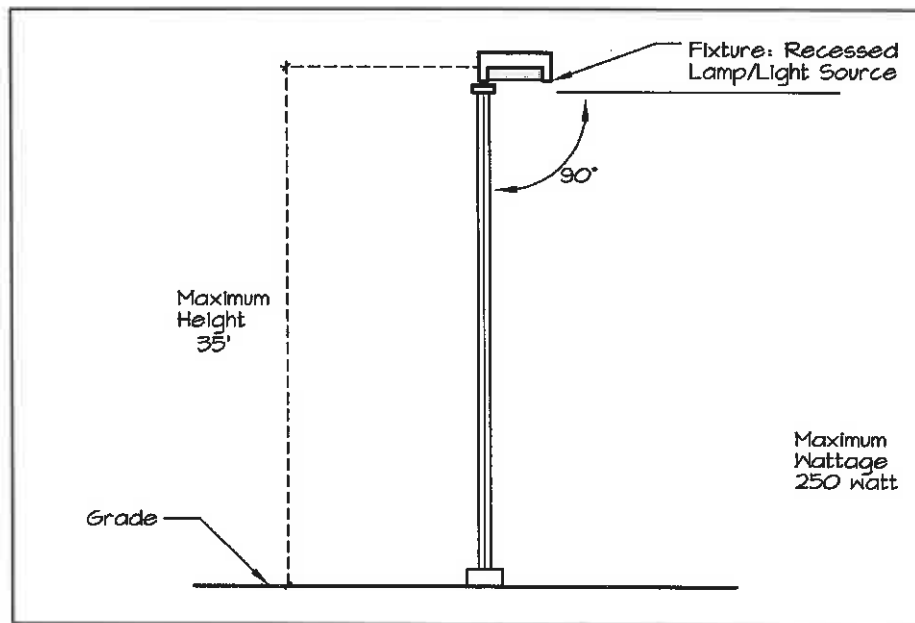
- 1) 18-feet above grade for *non-cutoff* lights and wall-pack units;
- 2) 35-feet above grade for *cutoff* lights;
- 3) Mounting height is measured from the finished grade or surface and includes the total height of the fixture, pole, and any base or other supporting structure required to mount the light(s).



WALL-PACK LIGHT FIXTURES



NON-CUTOFF LIGHT FIXTURE

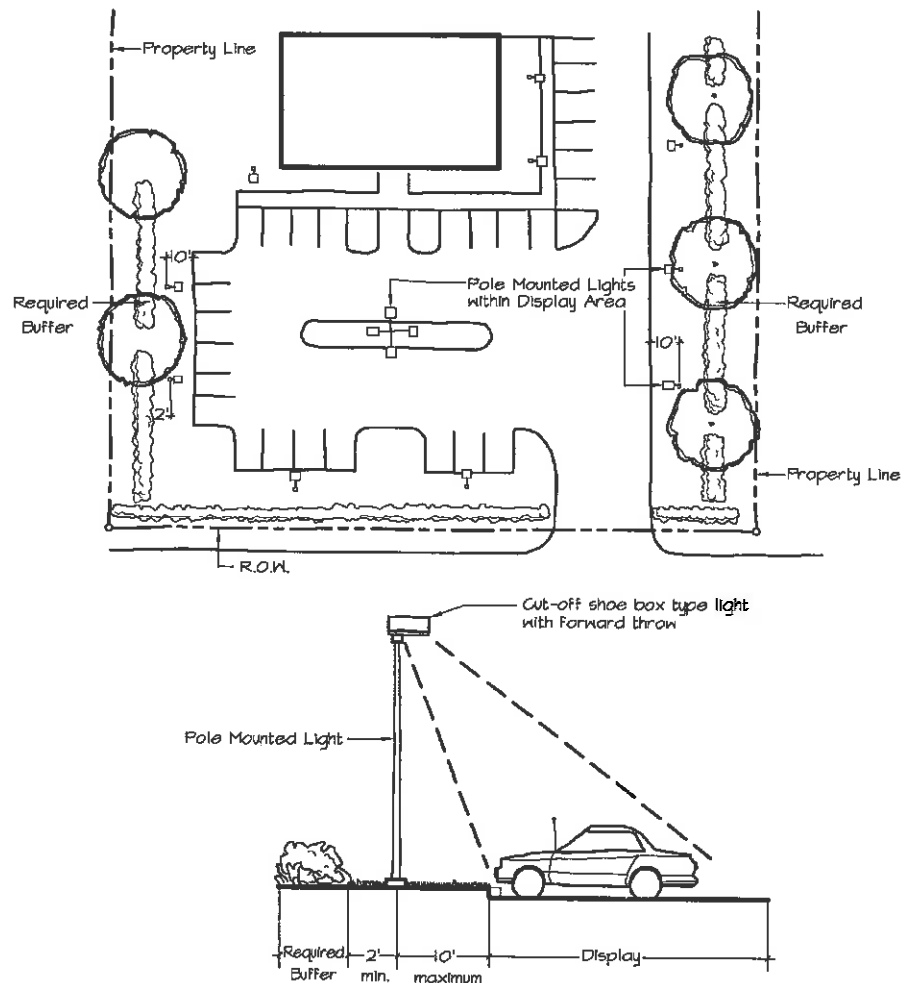


CUTOFF LIGHT FIXTURE

B) Location

- 1) All outdoor lighting fixtures shall be located a minimum of ten (10) feet from a property or right-of-way line, and should be kept out of and at least two (2) feet away from any required perimeter or streetscape buffer.
- 2) Lighting for outdoor display areas, such as auto dealerships, must be located inside the illuminated area or no more than ten (10) feet away from the outside edge of the illuminated area so that the amount of direct glare and the visual field of view does not present a safety hazard to the passing motorist.

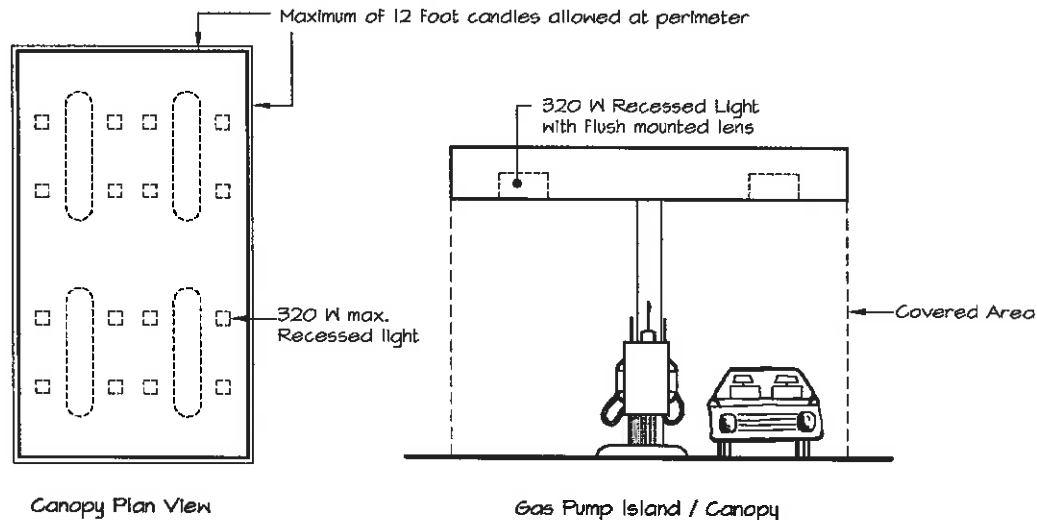
8.7.4 B Location/ Lighting for Outdoor Display



- C) **Architectural/Site Compatibility**
Lighting fixtures shall be of a design and size compatible with the principal building of a development and adjacent areas, and shall be designed to be an integral part of the entire development site.
- D) **Spillover Light**
All outdoor lighting shall be designed and located such that the maximum illumination measured in foot-candles at the property line shall not exceed 0.3 onto adjacent residential sites and 1.0 onto adjacent commercial sites and public rights-of-way.
- E) **Wattage**
Lamps for non-cutoff fixtures shall not exceed 100 watts. Lamps for cut-off fixtures shall not exceed 500 watts unless the Town Engineer gives special permission and the overall lighting plan is approved during the development review process.

- F) ***Wall-pack Fixtures***
Wall packs on buildings may be used at entrances to a building to light unsafe areas. They should not be intended to draw attention to the building or provide general building or site lighting. Wall packs shall be fully shielded, true cutoff type fixtures (concealed lamp/light source). The lighting must be directed downward, and the wattage must not exceed 100 watts.
- G) ***Floodlights***
Floodlights or other types of lighting attached to light poles that illuminate the site and/or building(s) are prohibited unless the Town Engineer give special permission and approval is given through the development review process.
- H) ***Building Facade Lighting***
Floodlights, spotlights, or any other similar lighting shall not be used to illuminate buildings or other site features unless approved as an integral architectural element on the development plan. On-site lighting may be used to accent architectural elements but not used to illuminate entire portions of building(s) or sign(s). Where accent lighting is used, the maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 average maintained foot-candles. Building facade and accent lighting will not be approved unless the light fixtures are carefully selected, located, aimed, and shielded so that light is directed only onto the building facade and spillover light is minimized.
- I) ***Awning and Canopy Lighting***
Awnings and canopies used for building accents over doors, windows, and etc. shall be internally lit (i.e. from underneath or behind).
- J) ***Flashing Lights***
Lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation are prohibited.
- K) ***Lighting for Gas Station/Convenience Store Canopies***
Lighting for canopies for service stations and similar uses shall be restricted to no more than two 320 watt recessed lighting fixtures (including lenses) mounted flush with the bottom of the canopy on each side of a gasoline pump island, or any other design that meets the standards of this ordinance. Lighting for canopies for service stations and other similar uses shall not exceed a maintained average of 12 foot-candles as measured at ground level at the inside of the outside edge of the canopy.

8.7.4 K Exterior Lighting Design Requirements - Lighting for Gas Stations & Convenience Store Canopies



L) *Sports and Athletic Field Lighting*

Lighting for ball fields may need to exceed illumination standards for general recreational needs in order to meet higher standards required for tournament play. The Town Engineer must approve any deviations from the illumination standards; however, before any changes will be considered the sports lighting must meet these minimum standards:

- 1) Fixtures must not exceed eighty (80) feet in mounting height (this includes bases and/or other mounting structures).
- 2) Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.
- 3) Fixtures must be designed and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted (spillover levels at the property line must not exceed 0.3 foot-candles).
- 4) Lighting shall be extinguished no later than one hour after the event ends.

8.6.5 Exemptions

The standards of this section shall not apply to:

- A) Individual residential lighting that is not part of a site plan or subdivision plan.

- B) Lighting associated with temporary uses that have been permitted.
- C) Seasonal lighting that is part of customary holiday decorations and annual civic events, provided that it meets all the requirements of Sec. 8.7.1(A)(8).
- D) Lighting associated with sign illumination as set forth in Section 8.7.
- E) Municipal lighting installed for the benefit of public health, safety, and welfare.

8.6.6 Reserved

8.7 SIGNS

8.7.1 Signs Permitted in All Zoning Districts

A) *Signs Not Requiring a Permit Unless Noted*

- 1) Municipal, parish, state and federal traffic signs.
- 2) Historical markers, monuments or signs erected by public authority.
- 3) Official notices or advertisements posted or displayed by or under the direction of a public official in the performance of the duties.
- 4) Signs denoting the location of underground utilities.
- 5) Signs posted by or under the authority of municipal, parish, state or federal authorities for crime prevention, public safety, health, zoning, and identifications.
- 6) Private unofficial traffic signs indicating onsite directions, entrances, exists, or hazards, provided, however, that no such signs shall include any advertising message or logos. The size of such signs shall be subject to administrative review.
- 7) A governmental or non-profit organization flag shall be subject to the following standards:
 - a) No more than one (1) flag each type (e.g. – state, national, non-profit organization, etc.) may be displayed on any lot unless the lot has more than one road frontage, in which case there may be one flag of each type at each entrance, or addressing each road frontage.
 - b) Flag poles erected after the effective date of this section shall not exceed thirty (30) feet in height nor shall flags on these poles exceed a size of five (5) feet by eight (8) feet.

- c) Existing flag poles exceeding thirty (30) feet in height may remain, however, flags flown on taller poles shall not exceed a size proportionate to a five (5) foot by eight (8) foot flag on a thirty (30) foot pole.
- 8) Emblems or insignias customarily displayed off premise by a government or government agency or by a charitable, civic, fraternal, patriotic, religious, or similar organization subject to a permit and the following standards. The emblem or insignia must be:
 - a) Located a minimum of fifteen (15) feet from any public right-of-way.
 - b) A maximum of four (4) square feet in size.
 - c) A maximum of four (4) feet in height.
 - d) Limited to three (3) signs per charitable, civic, fraternal, patriotic, religious, or similar organization.
 - e) Not displayed in connection with a commercial promotion or as an advertising device.
- 9) Temporary signs, banners, lighting, and displays as a part of customary holiday decorations and annual civic events, provided, said signs, lighting and displays are not placed in a public right-of-way. If such signs, lighting, and displays are placed in a public right-of-way, a permit shall be required. There shall be no charge for the permit. No temporary signs, lighting, or display shall be on display for more than 90 days.
- 10) Signs or plates on structures or premises giving the name or address of the occupant, mailboxes, paper tubes and similar uses customarily associated with structures.
- 11) Signs posted upon private property relating to private parking or warning the public against trespassing, against danger from animals or other dangers or dangerous conditions so long as such signs are of a size and description reasonably adapted to accomplish the stated purpose.
- 12) A sign advertising the sale of products from a home garden, orchard, or vineyard displayed on the premises where the produce is being produced and sold. The sign may not exceed ten (10) square feet and four (4) feet in height.

- 13) Temporary political, religious signs or non-commercial signs, provided:
- a) No signs shall be placed within a public right-of-way, including on utility poles or within street medians, or on any town-owned property;
 - b) No sign shall exceed eight (8) square feet or a height of four (4) feet;
 - c) Signs of political candidates or parties or groups supporting the candidacy of an individual for office shall be limited to no more than one (1) political sign per candidate on any tract or parcel of land.

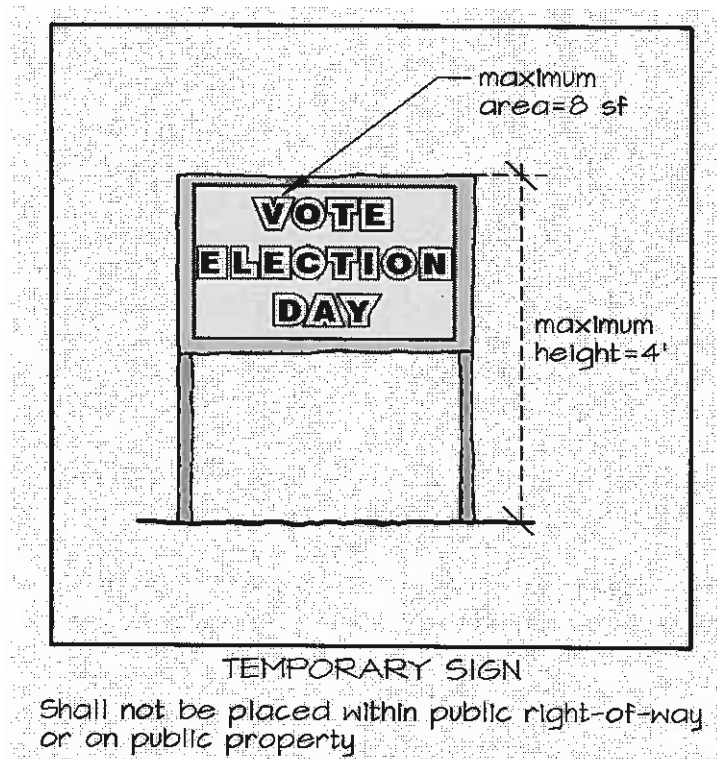


Figure 8.7.1(A)(12): Temporary Sign

- 14) Off-site church directional signs erected out-side of public street rights-of-way and not exceeding two (2) square feet or four (4) feet in height.

- 15) Ground signs sponsored by municipal, school, recreational, and civic clubs. Schedule of events, rules or regulations signs at a maximum height of five (5) feet with a maximum size of thirty-two (32) square feet. All such signs shall be located a minimum of fifteen (15) feet from any public right-of-way. A permit is required but there shall be no change for the permit.

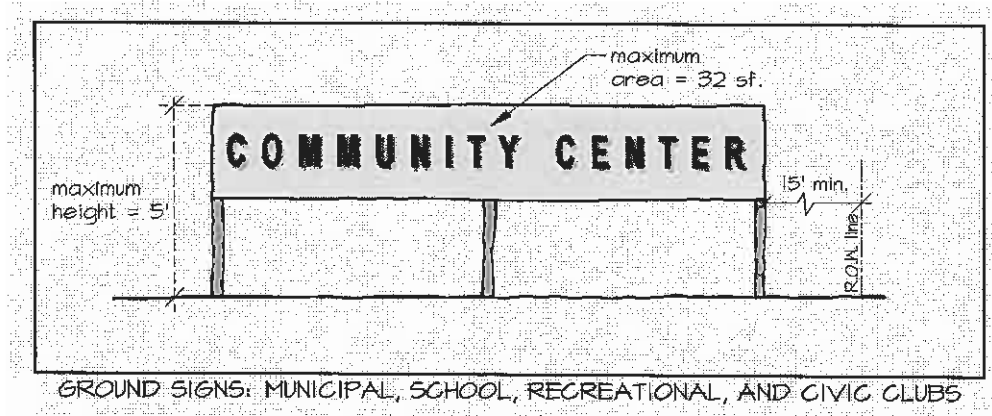


Figure 8.7.1(a)(15): Ground Sign

B) General Sign Regulations for All Zoning Districts

- 1) *Signs Within Public Rights-of-Way*
No signs shall be permitted with the public right-of-way for private purposes.
- 2) *Number of Sides*
Freestanding signs shall have no more than two (2) sides. Signs attached to a building shall have only one (1) side and may not extend over the roofline or parapet wall, whichever is highest.
- 3) *Content*
In order to increase readability and to decrease confusion, the number of items of information per sign should be kept to a minimum. No signage shall contain working that is offensive, lewd, or sexually suggestive.
- 4) *Electric Signs*
All electric signs, permanent or temporary, with internal wiring or lighting equipment, and all external lighting equipment used to direct light on signs shall bear the seal of approval of an electrical testing laboratory that is nationally recognized as having the facilities for testing and requires proper installation in accordance with the National Electric Code. All wiring to freestanding signs or to lighting equipment erected after the effective date of this division must be underground.

- 5) *Self-supporting Structures*
All freestanding permanent sign structures shall be self-supporting structured erected on or set into and permanently attached to concrete foundations so as not to create a public safety hazard.
- 6) *Architectural Compatibility*
All signs shall complement the architectural style, scale, and materials of the principal building of a development, and shall be designed to be an integral architectural element of the entire development site.

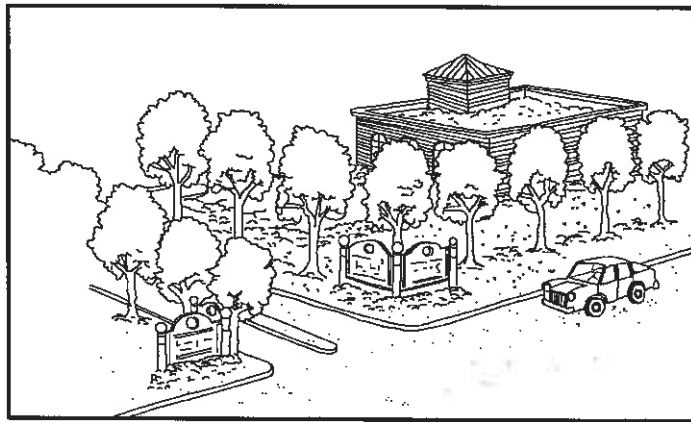


Figure 8.7.1(B)(6): Illustration of Architectural Compatibility

- 7) *Uniform Color Scheme*
Sign colors shall be limited to no more than three (3) colors per sign, one of which must be white or black. The colors (and materials) chosen for use on a single use lot, or for a master signage plan for a lot with multiple uses, or for a master signage plan for a non-residential subdivision shall blend with or compliment the colors (and materials) of the principal building(s) on the lot or within the development. It is not the intent of this requirement to restrict the use of, or to in any way alter, the color composition of a federally registered trademark. However, if the color content of a federally registered trademark is not consistent, with the 3-color limitations of this sub-section, or otherwise is in conflict with the uniform color scheme of the master signage plan for a single use lot, multi-use lot, or a non-residential subdivision, then the Town Clerk, at his discretion, shall:
- a) Restrict the use of the federally registered trademark to no more than 10% of the surface area of any sign or signs, individually or collectively, being proposed on the lot or within the development, or

- b) Prohibit the use of the federally registered trademark altogether from any sign or signs, individually or collectively, if the presence of the federally registered trademark in its standard federally registered colors are determined by the Town Clerk to be detrimental to the aesthetic integrity of the overall development, or
- c) Allow the applicant for the sign permit to voluntarily alter the color composition of the federally registered trademark in such a manner as to be in harmony with the uniform color scheme of the development.

C) *Reserved*

8.7.2 Determining Signs for All Zoning Districts

A) *Determination of Number of Signs*

For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a sign. A two-sided sign shall be regarded as one (1) sign.

B) *Computation of Sign Surface Area*

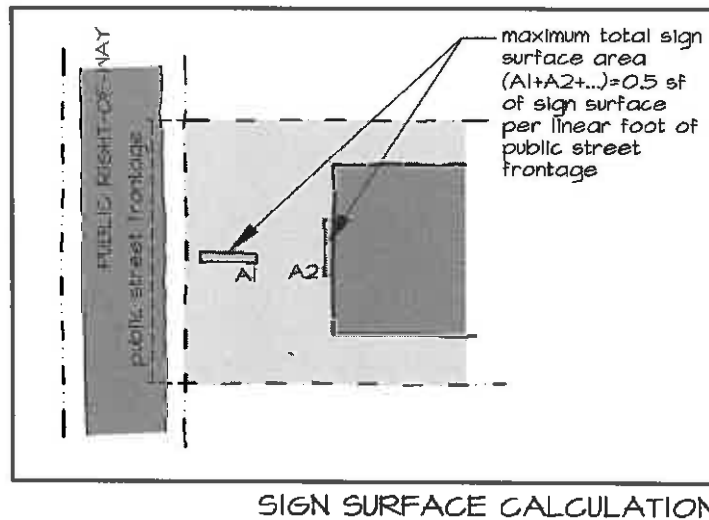
The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines, or a circle or an eclipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

- 1) *Signs consisting of more than one (1) section.* If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.
- 2) *Double faced signs.* The sign surface area of a double faced, back-to-back sign shall be calculated by using the area of only one (1) side of such sign.

C) *Total Sign Surface Area Per Development*

- 1) *Computation of total sign surface area.* Unless otherwise provided in this division, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section, and all signs except temporary signs shall be included in this calculation.

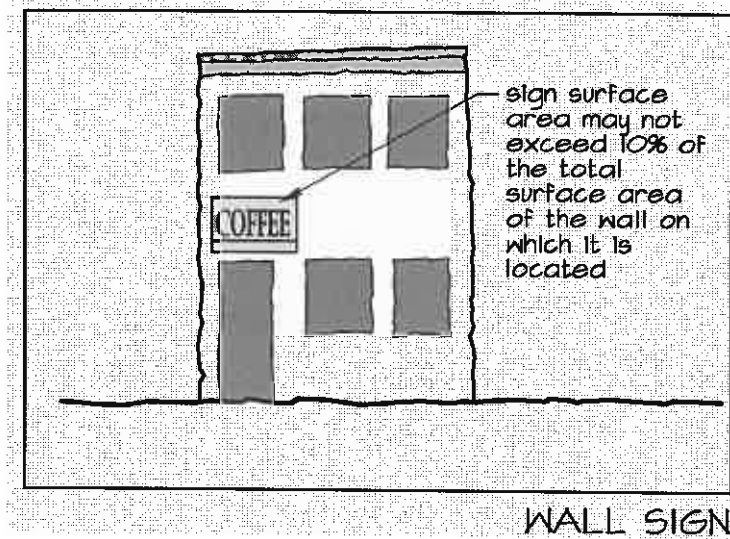
- 2) *Maximum sign surface area.* Subject to the other provisions of this section, the maximum total sign surface area permitted on a lot shall be determined at the rate of 0.5 square feet of sign surface area per linear foot of public street frontage.



**Figure 8.7.2(C)(2):
Sign Surface Calculation**

- 3) *Lots with more than one (1) frontage.* If a lot has frontage on more than one (1) street, then the total sign surface area permitted on that lot shall be the sum of the sign surface area allotments for each street on which the lot has frontage. The total sign surface area that is oriented toward a particular street may not exceed the portion of the total sign surface area allocation that is derived from frontage on that street.
- 4) *Lots without street frontage.* Whenever a lot is situated such that it has no street frontage on any lot boundary (i.e. an out lot) and an applicant desires to install on such lot a sign that is oriented toward a street, then the total sign surface area permitted on that lot shall be the sign surface area that would be allowed if the lot boundary closed to the street toward such sign is to be oriented fronted on such street. The applicant shall be restricted to using only one (1) street and the closest lot boundary to this street for determining the total permitted sign surface area. The applicant shall be given the opportunity to determine the one (1) street used in the calculations.

- 5) *Computation of wall sign maximum surface area.* The sign surface area of a sign located on a wall of a structure may not exceed ten (10) percent of the total surface area of the wall on which the sign is located.



**Figure 8.7.2(C)(5):
Wall Sign Surface Calculation**

8.7.3 Freestanding Signs

A) *Surface Area and Heights*

A freestanding sign may not exceed the following limits in size and height:

Table 8.7.3-1: Surface Area and Heights

Sign Type	Street Frontage	Maximum Size (sq. ft.)	Maximum Height
Ground	< 200 feet	20	4
	≥ 200 feet < 400 feet	30	5
	≥ 400 feet	40	6



**Figure 8.7.3(A):
Freestanding Ground Sign Surface Calculation**

B) *Number of Freestanding Signs*

Except as authorized by this section, no development may have more than one (1) freestanding sign.

- 1) *Corner lots.* If a development is located on a corner lot that has at least 150 feet of frontage on each of the two (2) intersecting public streets, then the development may have one (1) freestanding sign along each side of the development bordered by such streets.
- 2) *Double frontage lots.* If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's boundaries (double frontage lot), then the development may have one (1) free-standing sign on each side of the development bordered by such street; provided, however, that such streets are located at least 200 feet apart measured from the nearest point.

C) *Subdivision and Multi-Family Development Entrance Signs*

- 1) *Residential entrance signs.* A residential subdivision or multi-family development of ten (10) units or more shall be permitted a maximum of two (2) ground identification signs to be located at each major entrance. Such sign(s) may not exceed 20 square feet for a total of 40 square feet per entrance. A residential entrance sign may be mounted on a fence or wall that does not exceed six (6) feet in height, however, the sign itself may not exceed the size limitations set forth in this subsection and the sign must be only an incidental part of the wall or fence design.

- 2) *Non-residential entrance signs.* In addition to signs allowed under section Sec. 8.7.3 (B), a non-residential subdivision of five (5) or more lots shall be permitted to locate one (1) ground identification sign at each major entrance. The sign may not exceed 40 square feet nor exceed six (6) feet in height.

8.7.4 Signage Plan Required

A) ***Master Signage Plan for Single Use Lots***

Prior to the issuance of a sign permit for a permanent sign on a lot, a master signage plan shall be filed by the property owner and approved by the Town Clerk. The master signage plan shall indicate the location, size, color scheme (including signs otherwise exempt from regulations), lettering or graphic style, materials, and lighting for all signs to be located on the lot. The purpose of the master signage plan is to ensure that all signs on the lot are in harmony with the structures on the lot and consistent with each other, as well as to ensure that they comply with any applicable requirements of this ordinance.

B) ***Master Signage Plan for Multiple Use lots and Non-Residential Subdivisions***

When more than one use or business is located on a lot, the owner, or their authorized agent, shall develop a master signage plan which shall provide for consistency among signs on the premises with regard to location of a freestanding sign(s), location of each sign on the building(s), size of the signage allotted per use, business or out parcel, color scheme (including signs otherwise exempt from regulation), lettering or graphic style, materials and lighting. The allocation of signage among the various uses, businesses, or out parcels shall be determined by the owner of the lot or building, or their authorized agent, but shall in no case exceed the limitations established in this Article. The master signage plan shall be approved by the Town Clerk prior to the issuance of any sign permits on the lot(s). The master signage plan may be modified by the owner of the property, or their authorized agent, so long as any nonconformities thereby created are brought into compliance with the revised master signage plan and the current requirements of this Article within ninety (90) days of its approval.

8.7.5 Location and Installation Requirements

A) ***Procedure for Obtaining a Sign Permit***

Application for a sign permit, where required by this division, shall be made to the Town Clerk. No permanent sign permit for a lot shall be issued until an overall signage plan or master signage plan has been submitted and approved. A sign permit shall become null and void if the sign is not erected within twelve (12) months from the date of issuance of the permit. A permit fee shall be charged according to the current fee schedule adopted by the Town Council. If the sign or signs proposed in an application meet the requirements of this division, then a permit shall be issued. If the sign or signs proposed in an application fail to meet one (1) or more of the requirements of this division, then the permit shall be denied.

B) Location

- 1) *Freestanding signs.* Signs or sign structures shall be located outside the right-of-way of public streets. No sign or sign supporting structure may be located in or over any public right-of-way.
- 2) *Roof signs.* No sign may extend above a parapet or be placed upon a roof surface except that for purposes of this section, roof surfaces constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space.
- 3) *Wall signs.* No sign attached to a building may project more than 12 inches from the building wall.

C) Sign Illumination

Unless otherwise prohibited by this division, signs may be illuminated if such illumination is in accordance with this section.

- 1) *Signs near residential premises.* No sign within 150 feet of a residential premise may be illuminated between the hours of midnight and 6 a.m. unless there is no spillage of lighting or glare to the residential area beyond the boundaries of the lot where the lighting is located.
- 2) *Shielding of lights.* External lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into or cause glare onto a public right-of-way or residential premises.
- 3) *Internally illuminated signs.* Except as herein provided, internally illuminated signs are not permitted in residential zoning districts. Where permitted, internally illuminated freestanding signs may not be illuminated during hours that the business or enterprise advertised by such sign is not open for business or operation. This subsection shall not apply to the following types of signs:
 - a) Signs that constitute an integral part of a vending machine, telephone booth, device that indicates the time, date, or weather conditions, or similar devices whose principal function is not to convey an advertising message.
 - b) Signs that do not exceed 2 square feet and that convey the message that a business enterprise is open or closed or whether a place of lodging does or does not have a vacancy.
- 4) *Tubings or strings of lights.* Subject to subsection (6), illuminated tubings or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.

- 5) *Flashing or intermittent lights.* Subject to subsection (6), no sign may contain or be illuminated by flashing or intermittent light or lights of changing degrees of intensity.
- 6) *Lighting of temporary signs.* Subsections (4) and (5) do not apply to temporary signs erected in connection with the observance of holidays.

D) ***Sign Maintenance and Materials***

- 1) *Maintenance of signs.* All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment, existing and adjacent site features, architecture and construction materials or shall be painted a neutral color to blend with the natural environment. Supporting structures treated with visible creosote are prohibited.
- 2) *Abandonment of signs.* If a sign advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within ninety (90) days after such abandonment, be removed by the sign owner, owner of the property where the sign is located or other party having control over the sign.

E) ***Landscaping***

A freestanding permanent sign erected after the effective date of this division shall include a minimum of 50 square feet of landscaping at the base of the sign. The required landscaping shall be well-maintained.

F) ***Unlawful Cutting of Vegetation***

No person may, for the purpose of increasing or enhancing the visibility of a sign, damage, trim, destroy, or remove trees, shrubs, or other vegetation located:

- 1) Within the right-of-way of any public street, unless the work is done pursuant to the express written authorization of the Town or the Louisiana Department of Transportation.
- 2) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

8.7.6 Nonconforming Signs

Provisions governing nonconforming signs are set forth in Chapter 10, Nonconformities.

8.7.7 Miscellaneous

The following signs are allowed without a permit, unless noted, provided that they conform to the regulations of this division in regards to size, location, and type of construction:

A) *Temporary Signs Permitted in All Districts*

- 1) Temporary signs denoting or advertising contractors, architects, developers, real estate agents or owners connected with the construction of nonresidential structures, provided that no such sign shall exceed 32 square feet or a maximum height of five (5) feet. Permits for such temporary signs shall be limited to six (6) months with renewable option upon written request for an additional six (6) month period.
- 2) Signs advertising the place and date of fairs, carnivals, horse shows, and similar events. Such signs shall not exceed 16 square feet or a 4 feet in height. Permits for such temporary signs shall be limited to a maximum of thirty (30) days or the length of the event, provided, however, that signs shall not be permitted to remain longer than thirty (30) days in any 1 calendar year.
- 3) Temporary signs and windblown signs as pennants, spinners, flags, and streamers for special events to be observed or advertising the initial opening or closing of a business establishment may be permitted on private property. Such signs may be ground mounted or attached to the building wall, provided that the total signage shall not exceed 16 square feet for lots of 100 frontage feet or less or 32 square feet for lots with greater than 100 frontage feet and provided the sign shall meet all other requirements of this division. Permits for such temporary signs shall be limited to thirty (30) days or the length of the event, whichever is less.
- 4) A yard sale shall be allowed one (1) sign on the lot of the yard sale and two (2) additional signs located off-premise with the permission of the landowners, provided, such signs do not exceed four (4) square feet and four (4) feet in height. The use of signs for yard sales shall be limited to a maximum of 36 hours.
- 5) A temporary sign for church functions is allowed provided such sign does not exceed 16 square feet and four (4) feet in height. Display of such signs shall be limited to thirty (30) days.
- 6) A maximum of one (1) real estate sign per residential or nonresidential subdivision entrance to advertise lots for sale. Such sign shall not exceed 32 square feet and five (5) feet in height and shall be removed no later than the time at which 90 percent of the lots within the subdivision have been sold. One "sales center" sign, not to exceed 16 square feet or four (4) feet in height, is permitted on the lot on which the center is located.

- 7) A maximum of one (1) real estate sign per lot frontage advertising for rent, sales, or lease a residential lot or dwelling. Such sign shall not exceed five (5) square feet and four (4) feet in height and shall be located on the property to which the advertisement is referring. The sign shall be removed when the rented or leased property is occupied by the new tenant or when the property is sold by the transfer of title to the same. Signs are not allowed off-premise.
- 8) A maximum of one (1) real estate sign per lot frontage advertising the rent, sale or lease of a nonresidential lot or structure including tenant spaces located within a structure. Such sign shall not exceed eight (8) square feet and four (4) feet in height and shall be located on the property to which the advertisement is referring. The sign shall be removed when the rented or leased property is occupied by the new tenant or when the property is sold by the transfer of title to the new owner. Signs are not allowed off-premise.

B) ***Additional Signs for Service Stations***

Service stations are allowed additional signs as listed below:

- 1) Gasoline price or self-service sign located at and secured to each pump island and not exceeding nine (9) square feet. One additional gasoline price/self-service changeable copy sign, not to exceed nine (9) square feet, may be permanently located on the site separately or in conjunction with (but not in addition to) a freestanding identification sign.
- 2) An official Louisiana vehicle inspections sign shall be permitted on the business site, provided said sign does not exceed four (4) square feet and four (4) feet in height.
- 3) Signage or logos on pump island canopies are restricted to no greater than ten (10) percent of the face of the canopy.

C) ***Signs on Interior Window Glass***

Signs on interior window glass are permitted provided that they denote only special events or special sales. Such signs shall not exceed a maximum coverage of fifty (50) percent of the gross glass area on any one (1) side of the building.

D) ***Permanent Changeable Copy Signs***

Permanent changeable copy signs are permitted for gasoline price signs, theaters, and restaurants with drive through windows utilizing menu boards.

E) ***Special and Historic Signs***

Special and historic signs including but not limited to water towers, or of historic significance are permitted. Property owners shall make application to the Town Council for such designation of special or historic signs.

8.7.8 Prohibited Signs

The following signs are expressly prohibited within all zoning districts:

- A) A sign located in any manner or place so as to constitute a hazard to vehicular or pedestrian traffic using any public or private street, private driveway, or approach to a street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device or signal.
- B) A moving sign or device, except as permitted under Sec. 8.7.7(A)(3), designed to attract attention, or any part of which moves by any means, including fluttering, rotating, or otherwise moving devices, set in motion by movement of the atmosphere or by mechanical, electrical or any other means including but not limited to, pennants and flags.
- C) A permanent or temporary flashing sign or device displaying flashing or intermittent lights or lights of changing degrees of intensity; except a sign indicating time and temperature, with changes alternating on not less than a five-second cycle.
- D) An illuminated tubing or strings of lights outlining property lines or open sales area, rooflines, or wall edges of a building, provided, that perimeter down lighting may be used if shielded to illuminate open sales area only.
- E) A sign that obstructs or substantially interferes with a window, door, fire escape, stairway, ladders, or opening intended to provide visibility, light, air, ingress or egress for a building.
- F) Portable signs, including signs painted on or displayed on vehicles or trailers usually parked in public places or a private parking lot and used primarily for the purpose of such display. Sign displayed on or attached to commercial vehicles shall not be prohibited. However, these portable signs shall not be permitted in front yards of commercial parking lots except during normal working hours. Commercial vehicles or movables containing advertisement related material must be removed from front yards of businesses after working hours.
- G) Series signs. A message, copy, or announcement, which uses a series of two (2) or more signs placed in a line generally parallel to a street, highway, or expressway carrying a single message, copy, or announcement a part of which is contained on each sign.
- H) Off-premise signs. No sign shall be permitted which directs attention to a business, profession, service, entertainment, product, or other commercial activity located on a premise other than the premise where the sign is located.
- I) Bill Board Signs as defined in Article 12.

8.8 Noise and Offenses Against Peace and Quiet

8.8.1 Purpose and Intent

Noise can be intrusive, distracting and even uncomfortable in certain situations. This ordinance is to protect, preserve and promote the health, safety, welfare, peace and quiet for the Town through reduction, control and prevention of noise. The intent of this ordinance is to establish standards which will eliminate and reduce unnecessary noises which are physically harmful or otherwise detrimental to the enjoyment of life, property and maintenance of business. This ordinance shall not apply to commercial or industrial land uses regulated by the Unified Development Ordinance.

8.8.2 Definitions

"A" weighting scale means the sound pressure level, in decibels, as measured with the sound level meter using the "A" weighted network (scale). The standard unit notation is dB(A).

Ambient base noise level means the average sound pressure level in dB(A) during a reasonable period of time, as determined by employing a sound level meter as described in 8.8.3 and excluding impulsive sounds.

ANSI means the American National Standards Institute or its successor bodies.

Daytime hours mean from 7:00 a.m. until 10:00 p.m., local time.

dB(A) means the sound level in decibels, determined by the "A" weighting scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI, § 1.4-1983, for a Type 2 instrument.

Decibel (dB) means a unit of measure, on a logarithmic scale, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which shall be 0.0002 microbars.

Emergency work means work made necessary to restore property to a safe condition, work required to protect, provide or prevent persons or property from danger or potential danger; or work by private or public utilities when restoring utility service.

Nighttime hours means after 10:00 p.m. and until before 7:00 a.m., local time.

Sound level means, in decibels, a weighted sound pressure level determined by the use of a sound level meter whose characteristics and frequency weightings are specified in ANSI standards.

Sound level meter means any instrument which meets the requirements for an ANSI Type I or Type II sound level meter.

Sound-magnifying device means any device or machine for the magnification of a human voice, music or any other sound. "Sound-magnifying device" shall not include emergency warning devices on police, fire, ambulance or other emergency vehicles, nor shall it include horns or steam whistles which are used for purposes authorized by this section.

Sound pressure level means, in decibels, 20 times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 0.0002 microbars.

8.8.3 Measurement Techniques

- A) Except for noise within multi-family or multi-tenanted structures, noise measurements shall be made ten (10') feet away from the boundary line at the point where the highest noise levels appear to be; but when the measurements in these locations are not practical, noise measurements may be at the boundary of the public right-of-way which adjoins the complaining property. Such noise measurements shall be made at a height of at least four (4') feet above the ground and at a point approximately ten (10') feet away from walls, barriers, obstructions, (trees, bushes, etc.) on a sound level meter operated on the "A" weighting network (scale). In the case of noises within multi-family or multi-tenanted structures, noise measurements shall be made in the complaining unit at a height of at least four (4') feet above the floor and at a point approximately, equidistance from all walls on a sound level meter operated on the "A" weighting network (scale).
- B) No individual other than the operators shall be within ten (10') feet of the sound level meter during the sample period.
- C) Sound measurements shall be conducted at that time of day or night when the suspect noise source is emitting sound.
- D) The sound level measurement shall be determined as follows:
 - 1. Set the sound level meter on the "A" weighted network.
 - 2. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response (reading) observed at consecutive ten-second intervals until 100 readings are obtained.
- E) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.
- F) If the operator uses an integrating sound level meter for at least ten (10) minutes, in accordance with its specifications, the results shall also be admissible.

8.8.4 Sound Emission Standards and Limitations

- A) Unless otherwise specifically indicated, it shall be unlawful during the daytime or nighttime hours for any person to cause or allow the emission of sound from any source or sources which when measured, exceed the maximum decibel limits specified in Table I more than ten (10%) percent of any measuring period, which shall be the length of time to take 100 readings at consecutive ten-second intervals.

Table I. Maximum Noise Limitations dB(A)

Zoning Districts/Conditional Use Zoning Districts	Daytime (7:00 a.m. to 10:00 p.m.)	Nighttime (10:00 p.m. to 7:00 a.m.)
Residential	55	45
Commercial	60	55
Industrial	70	65

- B) When a source can be identified and its noise measured in more than one zoning district or conditional use zoning district, the limits of the more restrictive district shall apply at the boundaries between different zoning districts or conditional use zoning districts.
- C) For any source of sound, the maximum sound level shall not exceed the sound level in Table I by 10 dB(A), except as enumerated in Section below.
- D) Notwithstanding the location of hospitals, rest homes, family care homes, group care facilities, public or private or parochial school or day care facilities, it shall be unlawful for any person to cause or allow the emission of sound onto the structures of such uses which exceeds the maximum noise limitations for residential zoning districts.

8.8.5 Exemptions

The following situations are exempt from noise ordinance regulations:

1. Emergency work necessary to restore property to a safe condition or to protect a person and property from eminent danger;
2. Emergency vehicles;
3. Alarm systems;
4. Trash and waste pickup operations;
5. Aircraft or railroads;
6. Noise resulting from the activities of a temporary duration planned by school/university, governmental or community groups;
7. Air conditioners and lawn care equipment;
8. Construction operations;

9. Church bells and campanile chimes; and
10. Parades, fairs, circuses, other similar public entertainment events, sporting events, or activities, or any activities normally associated with any of the above.

8.8.6 On Streets By Creating Noise

No person shall advertise any article of any kind for sale by crying out on the street or sidewalk. No person shall advertise any article of any kind or any event of any kind by crying out the same or by using therefor any megaphone, bell, horn or other noise making device on any street or sidewalk, except with permission of the Town Council.

8.8.7 Other Prohibited Noises

The following acts are specifically declared to be unreasonably loud, annoying, frightening, loud or disturbing noise, the emission of which shall be unlawful:

- 1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device of such device for any unnecessary and unreasonable period of time.
- 2) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.
- 3) The playing of any radio, phonograph, amplifier, television, tape deck, tape recorder, or musical instrument in such a manner or with such volume during the nighttime hours as to annoy or disturb the quiet, comfort or repose of any person or persons in any dwelling, hotel, motel or other type of residence.
- 4) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise. This shall include motorized muffler modifications or devices causing excessively loud disturbance.
- 5) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to being or stop work or as warning of danger.
- 6) The discharge into the open air of the exhaust of any stationary internal combustion or steam engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- 7) The erection (including excavating), demolition, alteration or repair of any building or other structure in a residential or commercial district other than between the hours of 7:00 a.m. and 8:30 p.m., except by permit from the Town when, in his opinion, such work will not create objectionable noise. The Town may permit emergency work in the preservation of public health or safety at any time.

- 8) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same are in session, or within 150 feet of any hospital, which unreasonable interferes with the work of such institution or which disturbs or unduly annoys patients in the hospital.
- 9) The creation of loud and excessive noise in connection with loading or unloading any vehicles or the opening and destruction of bales, boxes, crates and containers.
- 10) The outdoor use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise, except by permit from the Town Council.
- 11) The conducting, operating or maintaining of any garage or filling stations, or the repair, rebuilding or testing of any motor vehicle in any residential district, so as to cause loud or offensive noises to be emitted therefrom during the nighttime hours.
- 12) The firing or discharging of firearms, fireworks, gun powder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Town Council.
- 13) The keeping of any animal or bird which by causing frequent or long continued noises shall disturb the comfort and repose of any person in the vicinity.
- 14) The use of any mechanical device operated by compressed air unless the noise created is effectively muffled and reduced.

8.8.8 Penalties for Violation of Noise Restrictions

A) Civil Penalties

- 1) Any person violating any of the provisions of this Section shall be subject to a civil penalty of not more than \$100.00 for the first through fifth day of a violation, and shall be subject to a civil penalty of not more than \$500.00 per day for the sixth and any subsequent days. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation under this subsection.
- 2) The Town Council shall determine the amount of the civil penalty to be assessed under this subsection, shall make written demand for payment upon the person responsible for the violation, and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received within sixty (60) days after demand for payment is made, the matter shall be referred to the Town Attorney for institution of a civil action in the name of the Town in the appropriate division of the General Court of Justice of Allen Parish for recovery of the penalty.

- 3) As an additional remedy, whenever the Town Council has reasonable cause to believe that any person causes or allows the operation or maintenance of any noise source, in violation of any provisions of this Section or which causes any unreasonably loud, annoying, frightening, loud and disturbing noise, it may, either before or after the institution of any other action or proceeding authorized by this subsection, institute injunctive relief to restrain the violation. The action shall be brought in the appropriate division of the General Court of Justice of Allen Parish. The institution of an action for injunctive relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Chapter.

B) Criminal Penalties

Any person who violates any provision of this Chapter shall be deemed guilty of a misdemeanor punishable by imprisonment not to exceed thirty (30) days or by fine not to exceed \$50.00. Each day of a continuing violation shall constitute a separate violation under this subsection.

ARTICLE 9 RESERVED

9.1 RESERVED

9.1.1 General

ARTICLE 10 NONCONFORMITIES

10.1 PURPOSE AND INTENT

10.1.1 General

- A) Within the provisions established by this Ordinance, there exist uses of land, structures, lots and signs that were lawfully established before this Ordinance was adopted or amended, that now do not conform to the terms and requirements of this Ordinance. The purpose and intent of this article is to regulate and limit the continued existence of those uses, structures, lots and signs that do not conform to the provisions of this Ordinance or any amendments thereto.
- B) It is the intent of this Ordinance to permit these nonconformities to continue, until they are removed, but not to encourage their survival except under the limited circumstances established in this article. It is further the intent of this Ordinance that changes in nonconformities shall not be permitted. The provisions of this article are designed to curtail substantial investment in nonconformities to preserve the integrity of this Ordinance.

10.2 NONCONFORMING USES

Nonconforming uses of land are declared generally incompatible with this Ordinance. Nonconforming uses of land may continue in accordance with the provisions of this Section.

10.2.1 Normal Maintenance or Repair

Normal maintenance or repair of structures where nonconforming uses are located may be performed in any period of 12 consecutive months, to an extent not exceeding 15 percent of the current assessed value of the structure, provided that the cubic content of the structure existing after the date it became nonconforming shall not be increased, except pursuant to the standards of this Section.

10.2.2 Enlargement or Expansion

A nonconforming use shall not be enlarged or expanded in area occupied, except a nonconforming use may be enlarged in any area of the same structure in which is manifestly designed for such use prior to the date of the use became a nonconformity.

10.2.3 Relocation

A structure housing a nonconforming use shall not be moved in whole, or in part, to another location on or off the parcel of land on which it is located, unless the relocation of the nonconforming use decreases the nonconformity.

10.2.4 Damage and Restoration of Structure Housing Nonconforming Use

Any conforming structure housing a nonconforming use that is damaged by any means to an extent exceeding a percentage of its then reproducible value equal to 100 percent minus two percent per year of age of the structure, or 60 percent, whichever is greater, shall comply with the use standards of this Ordinance when it is re-constructed. Any conforming structure housing a nonconforming use that is damaged by any means to a lesser extent may continue the nonconforming use if it is reconstructed and used as before within two years of the damage.

10.2.5 Change in Use

A nonconforming use shall not be changed to any other use, unless any new or additional use conforms to the provisions in this Ordinance for the zone district in which the use is located.

10.2.6 Discontinue or Abandonment

If a nonconforming use is discontinued or abandoned for a period of more than six consecutive months, whether or not the equipment or furniture are removed, then such use may not be reestablished or resumed, and any subsequent use shall conform to the provisions specified by this Ordinance. When government action can be documented as the reason for discontinuance or abandonment, the time of delay by government shall not be calculated for the purpose of this Section.

10.2.7 Unsafe Because of Maintenance

If a nonconforming structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs or maintenance, and is declared to be an unsafe structure, it shall thereafter be rebuilt and repaired in conformance with the standards of this Ordinance.

10.3 NONCONFORMING STRUCTURES

A nonconforming structure devoted to a use permitted in the zone district in which it is located at the time of its construction, may be continued in accordance with the provisions in this Section.

10.3.1 Normal Maintenance

Normal maintenance or repair to permit continuation of a nonconforming structure may be performed in any period of 12 consecutive months, to an extent not exceeding 15 percent of the current assessed value of the structure, provided that the cubic content of the structure existing after the date it became nonconforming shall not be increased, except pursuant to the standards of this Section.

10.3.2 Enlargement or Expansion

A nonconforming structure shall not be enlarged or expanded in area occupied.

10.3.3 Relocation

A nonconforming structure shall not be used, in whole or in part, to another location on or off the parcel of land on which it is located, unless it conforms to the standards and requirements of the zone district in which it is located.

10.3.4 Damage and Restoration of Nonconforming Structure

No nonconforming structure which has been damaged by any means to an extent exceeding a percentage of its then reproducible value equal to 100 percent minus two percent per year of age of the structure, or 60 percent, whichever is greater, shall comply with the use standards of this Ordinance when it is reconstructed. Any nonconforming structure that is damaged by any means to a lesser extent may continue if it is reconstructed within two years of the damage.

10.3.5 Unsafe Because of Maintenance

If a nonconforming structure, or portion thereof, or any structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs or maintenance, and is declared to be an unsafe structure, it shall thereafter be rebuilt and repaid in conformance with the standards of this Ordinance and the Building Code.

10.4 NONCONFORMING LOTS OF RECORD

Where a lot or parcel of land has an area or frontage which does not conform to the standards of this Ordinance, but it was a lot of record on the effective date of this Ordinance, such lot or parcel of land may be developed for a single family home, provided it complies with the regulations in existence at the time of its approval, and the terms and conditions of its approval.

10.5 RESERVED

10.6 NONCONFORMING SIGNS

10.6.1 Notification of Nonconformities

When a nonconforming sign is reported, the Town Clerk shall contact in writing the person responsible for each such sign (as well as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person (1) that the sign is nonconforming, (ii) how it is nonconforming, (iii) what must be done to correct it and by what date, and (iv) the consequences of failure to make the necessary corrections. The Town Clerk shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

10.6.2 Removal of Nonconforming Signs

Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Ordinance may be continued.

10.6.3 Nonconforming Signs Not Altered

No person may cause an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Illumination may not be added to a nonconforming sign.

10.6.4 Moving or Replacing Nonconforming Signs

A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance.

10.6.5 Damage to Nonconforming Signs

If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former condition or replacing it with an equivalent sign equals or exceeds the value of the sign so damaged.

10.6.6 Changing Message of Nonconforming Signs

The message of a nonconforming sign may be changed so long as this does not create a new nonconformity (for example, by creating an off-premise sign), and so long as a change of use has not occurred. If there is a change of use, then the sign must be brought into conformity with this Ordinance.

10.6.7 Repair and Renovation of Nonconforming Signs

Subject to the other provisions of this Section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed, within a 12 month period, 50 percent of the value of such sign. Proof of value is required. A permit is required.

10.6.8 Discontinuation of Business

If a nonconforming sign, other than a billboard, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 90 days after such abandonment by the sign owner, owner of the property where the sign is located, or other person having control over such sign.

10.6.9 Nonconforming Billboards Left Blank

If a nonconforming billboard remains blank for a continuous period of 90 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Section, a sign is "blank" if.

A) *Advertises Business or Commodity*

It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or

B) *Advertising Message Becomes Illegible*

The advertising message it displays becomes illegible in whole or substantial part; or

C) *Advertising Copy Removed*

The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

ARTICLE 11 ENFORCEMENT

11.1 GENERAL

11.1.1 Authority

The provisions of this Ordinance shall be enforced by the Town Council and the Mayor through their authority to abate any violations, enjoin, restrain, and prosecute any person violating this Ordinance pursuant to Louisiana law.

11.1.2 Purpose

The purpose of this article is to establish the procedures by which the Town seeks corrections of violations of this Ordinance. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

11.1.3 Unlawful to Violate this Ordinance

It shall be unlawful for any person to develop or use any building or structure within the Town in violation of this Ordinance. Any failure to comply with a requirement, prohibition, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development approval or authorization granted pursuant to this Ordinance shall constitute a violation of this Ordinance.

11.1.4 Responsible Person

For the purpose of this article, person shall include but not be limited to:

A) ***Person Maintaining Condition that Results that Constitutes Violation***

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this Ordinance.

B) ***Responsibility for Use or Development***

The owner of the land on which the violation occurs, any tenant or occupant of the property, or any person, who has control over, or responsibility for, its use or development.

11.2 INSPECTION

Under the powers of this article, the Town Clerk, Town Engineer, and the Chief of Police shall have the authority to enter onto land within the Town to inspect for violations of this Ordinance.

11.3 PERFORMANCE BOND

As a condition for granting a special use permit, site plan, variance, final plat for subdivision or minor subdivision, the applicant may be required to post a performance bond in an amount sufficient to insure completion of the development or required improvements, or any required off-site improvements. In such case, the applicant shall file with the Town Clerk a surety or cash bond, letter of credit, or other collateral suitable to the Town Attorney, in an amount specified by the Town Engineer to insure the actual construction of such development or required improvements within such period of time as may be determined by the Town Council. Upon completion of the required improvements, the applicant shall obtain certification from a professional Engineer certified by the State of Louisiana that the improvements have been constructed in accordance with the development approval. Upon receipt of this certification, the Town Clerk shall release the security within seven calendar days. If the security provided by the applicant is not released, refusal to release and the reasons therefore shall be given to the applicant in writing by the Town Clerk.

11.4 REMEDIES AND PENALTIES

The Town may use any combination of the following actions and penalties to prevent, correct, stop, abate, or penalize a violation of this Ordinance:

11.4.1 Permit Revocation

If a person fails to comply with the terms and conditions of a permit or development approval granted under this Ordinance, the Town Clerk may revoke the permit or development approval.

11.4.2 Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this Ordinance continues and remains uncorrected, the Town Clerk may withhold, and the Town Engineer and the Town Council may disapprove, any request for permit or development approval or authorization provided for by this Ordinance.

11.4.3 Injunction and Abatement Order

The Town Clerk, with the written authorization of the Mayor, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance.

11.4.4 Civil Penalties

The following civil penalties may be imposed on a person who violates this Ordinance:

A) *Individual Violation*

A civil penalty of \$100.00 for each violation.

B) Continuing Violation

If a violation is not corrected within 10 days of receipt of a notice of violation and correction order pursuant to Sec. 11.4.3, *Notice of Violation and Correction Order*, then civil penalties accrue starting on the 11th day and accrue through and until the violation is corrected. A person receiving a notice of violation and correction order shall pay all accrued civil penalties to the Town within 30 days of receipt of the notice. If the person fails to pay the accrued civil penalties within 30 days of receipt of the notice, then the civil penalties, including all further accruing penalties for a continuing violation, shall be collectible for the Town through a civil action in the nature of debt. Each day that any violation continues shall constitute a separate violation for the purpose of assessing civil penalties. A notice of violation and correction order need only be given once for a continuing violation.

11.4.5 Criminal Penalty

Violation of this Ordinance shall constitute a misdemeanor and is punishable by a fine of up to \$500.00, and imprisonment of up to 60 days, or both. Notwithstanding the provisions of this article related to warnings, notices, and time periods, any crime for the purposes of a criminal penalty occurs and accrues at the time a person violates this Ordinance, whether or not a warning or notice is given. Each day that any violation continues shall constitute a separate offense for the purpose of assessing criminal penalties.

11.4.6 Other Relief

In addition to all other remedies and penalties outlined in this Article, the Town Clerk may, with the written authorization of the Mayor, institute any other appropriate action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this Ordinance.

11.5 PROCEDURES

The following procedures shall apply to the enforcement of this Ordinance by the Town.

11.5.1 Investigation

Upon the receipt of complaints or other information suggesting a violation of this Ordinance, the Town Clerk shall investigate the allegations and suggestions and determine whether a violation exists.

11.5.2 Prosecution

The results of the investigation shall be turned over to the Town Attorney for prosecution either criminally or civil, or both, if deemed warranted through a Court of competent jurisdiction.

ARTICLE 12 DEFINITIONS

12.1 GENERAL

This article includes definitions for many words and terms used in this UDO. All words and terms not defined in this article shall be given their common, ordinary meanings, as the context may reasonably suggest. All use classifications are defined in Section 4.3

12.2 TERMS DEFINED

Addition (to an existing building)

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed additional that is connected by a fire wall or is separated by independent perimeter load-bearing walls in new construction.

Alley

A public or private vehicular way providing secondary service access along rear or side property lines of lots which are also served by one of the previously listed higher order street types.

Architectural compatibility

Quality of visual agreement, complement and/or balance based on elements of proportion, scale, use of materials and siting between structures or parts of the same structure.

Area of shallow flooding

A designated AO or VO zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard

The land in the floodplain within the town subject to a one percent or greater chance of being equaled or exceeded in any given year.

Arithmetic difference

The net value of two or more numbers taking into account their positive or negative signs.

Awning

A non-rigid material such as fabric or vinyl that is supported by or attracted to a frame and that extends from the exterior wall of a building.

Banner

A sign that is made of a non-grid material with no enclosing framework such as, but not limited to vinyl, fabric, or paper.

Beneficial Use Determination

A non-judicial procedure established in Sec. 2.3.13, beneficial use determination, that allows any landowner who believes the application of this Ordinance results in a “taking” of their property to seek administrative relief from the Town Council. The procedure is based on United States Supreme Court decisions that provides for local governments to establish procedures by which they can assess takings claims before they go to court and offer relief if the regulations are found to amount to a taking – that is, they deny all reasonable economic use of a property.

Berm

An undulating mound of soil, designed to provide visual interest, screen undesirable views, and/or reduce noise. The berm must be replanted with sufficient vegetation to meet the opacity desired.

Billboard

An off-premise sign owned by a person, corporation, or other entity that engages in the business of selling the advertising or communicative space on that sign.

Buffer

A combination of physical space and vertical elements such as plants, berms, fences, or walls, the purpose of which is to separate and screen land uses from each other.

Building

Any structure built for support, shelter, or enclosure for any occupancy or storage.

Building setback line

A line extending through a lot which is parallel to the property line and between which line and such property line no building including overhangs, shall be erected. For the purposes of this UDO, building setback lines are identical with the rearward of the yard of the lot required by the zoning regulations.

Caliper

The diameter of a tree trunk measured in inches to determine the graded size. The caliper of the trunk is measured 6 inches above the ground, up to and including four-inch caliper trees, and 12 inches above ground for trees larger than four-inch caliper.

Canopy

A structure constructed of rigid materials, including but not limited to, metal, wood, concrete, canvas or glass, which is attached to and supported by a building, or which is free-standing and supported by column, poles, or braces extended to the ground.

Change of occupancy or use

A change of occupancy or use from that which was previously permitted.

Compatible uses

Land uses that are not substantially different and are to be used for activities that are not extremely dissimilar in nature.

Corner lot

A lot that abuts the right-of-way of 2 streets at their intersection.

Copy, area of

The smallest square or rectangular area that fully encloses the extreme limits of the message, copy, announcement, or decoration on a sign.

Copy (permanent and temporary)

The wording or pictorial graphics on a sign surface either in permanent or removable form.

Cul-de-sac

A short local street having one end open to traffic and the other permanently terminated by a vehicular turn-around.

Cultural amenities

Historic or culturally significant buildings or structures.

Cut-off light fixture

An artificial outdoor lighting fixture designed to ensure that no light is emitted above a horizontal line parallel to the ground.

Dedication

A gift or donation by the owner of a right to use land as in the case of servitudes, or true fee simple transfer as in the case of public road right-of-ways. Because a transfer of property rights is entailed, dedication must be made by written instrument, which transfer is completed with an acceptance. Acceptance by the town for land dedicated as a street right-of-way does not obligate the town to open such street.

Development (for the purposes of the sign regulations in Section 8)

Single-use lots, multiple-use lots, shopping centers with or without out parcels connected thereto as shown on an approved master subdivision plan, or any other group of nonresidential projects planned as a total entity.

Development

The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any excavation, landfill or land disturbance.

Diameter at breast height (DBH)

Diameter of a tree measured 4.5 feet from the ground.

Double frontage lot

A continuous (through) lot accessible from both of the parallel streets upon which it fronts.

Dwelling unit

A building or portion thereof providing complete living facilities for one family.

Engineered storm water control structure

Storm water control structures designed by an engineer to control storm water runoff.

Exterior lighting

Lighting such as that used in and around buildings, recreation areas, parking lots and signs designed to illuminate certain areas for visibility.

Facade area

The overall width times the overall height of a structure's front, side or rear facade or wall.

Family

One (1) or more persons occupying a premises and living as a single housekeeping unit; provided, that no housekeeping unit shall contain more than five (5) persons unless they are related by blood, marriage, adoption, guardianship, or foster care.

Fence

An artificially constructed barrier intending protection, screening or boundary.

Flag lot

An irregularly shaped lot where the buildable portion (flag) of the lot is connected to a public street by a narrow nonbuildable strip (pole). The front setback line will be measured from that lot line more or less lying parallel to the public street.

Flood or flooding

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood, base

The flood having a one percent chance of being equaled or exceeded in any given year.

Flood hazard boundaries map (FHBM)

An official map of the Town, issued by the Federal Emergency Management Agency, where boundaries of the areas of special flood hazard have been defined as Zone A.

Flood insurance rate map (FIRM)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study

The official flood insurance report provided by the Federal Emergency Management Agency. The report contains flood profile, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodplain

Land that is within a 100-year floodplain as defined by FEMA, or designated with a 100-year floodplain by a qualified consultant.

Floor

The top surface of an enclosed area in a building, i.e., top of slab in concrete slab construction or top of wood flooring in wood-frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Frontage

Frontage shall mean the width of the building lot measured along the street right-of-way on which the lot faces and has vehicular access. If the lot has more than 1 street frontage (e.g. corner lots and double frontage lots), the second street frontage shall be included in the calculations for free-standing sign purposes only if the frontage on each of the 2 streets exceeds 150 feet.

Frontage road

A local street parallel and adjacent to a major thoroughfare or railroad, which provides access to abutting properties, protection from through traffic and control of access to the major thoroughfare.

Highest adjacent grade

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Homeowners association

An incorporated, non-profit organization established by a developer or an association of property owners whose membership shall consist of individual property owners within a subdivision and operating under recorded legal agreements.

Hydric soils

Those soils that, due to periods of wetness during the growing season, develop anaerobic (reducing) conditions in the upper part. These soils shall include all soils in the list developed by the National Technical Committee for Hydric Soils and all soils that when classified in accordance with USDA Soil Taxonomy, have 'aqu' as a formative element of the Suborder name or 'hydr' as a formative element of the Great Group Name.

Impervious surface

Materials that allow little or no infiltration of precipitation into the soil. Impervious surfaces include, but are not limited to, public and private streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including gravel surfaces within the development. Swimming pools and wooden decks shall not be considered impervious surfaces and shall not be included in the calculation of the built-upon area.

Interconnectivity

Design and development patterns that connects residences, businesses, shopping and recreation uses in a pedestrian friendly way. Interconnectivity may occur through the use of sidewalks, and other similar features that are designed to encourage pedestrian travel.

Internal illumination

A light source concealed or contained within the sign itself, such as fluorescent or neon tubing, which becomes visible in darkness by shining through a translucent surface.

Land use classification

The class or description of how land is to be used or occupied.

Landscape area

The portion of the development plan that is submitted to show existing vegetation and proposed location of plant material utilized to conform to site plan application requirements.

Levee

A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Lighting plan

A portion of the development plan conforming with the applicable requirements of this UDO, and showing the location, height above grade, fixture type, isolux diagram, foot-candles at grade and bulb wattage for each light source proposed.

Logo

The graphic or pictorial presentation of a message and shall include, but not be limited to, the use of shapes, designs, decorations, emblems, symbols or illustrations, or the superimposition of letters or numbers or other use of graphics or images other than the sequential use of graphics or images other than the sequential use of letters and numbers.

Lot

A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership or for development or both.

Lowest floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this UDO.

Natural drain

An area of natural topography where drainage runoff accumulates and runs downslope; often known as an ephemeral stream.

Manufactured home subdivision, Existing

A manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the Flood Damage Prevention Overlay District.

Manufactured home subdivision, Expansion of existing

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

Manufactured home subdivision, New

A manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs is completed on or after the effective date of this UDO.

Mean sea level

The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this UDO, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Mechanical movement

Animation, revolution, rotation or other movement of any or all parts of a sign.

Minor subdivision

For the purposes of this UDO, a land division (minor subdivision) is a subdivision (as defined by this UDO) which also:

- 1) Is a division of a tract or parcel of land into not more than four lots, each of which has at least 30 feet of frontage on a public street, and;
- 2) Does not dedicate or offer for dedication any new street or require construction of any private road for access to any of the lots, and;
- 3) Allows reasonable access to the remainder of the tract from which the lot or lots are conveyed of at least 60 feet in width, and;
- 4) Does not require extension of sanitary sewer mains or storm sewer mains or water mains to service the lots, and;
- 5) Creates no residual parcels which themselves do not conform to the requirements of this UDO.

Mobile home park

A lot containing, or designed for the location of , two or more mobile homes in the MHP Mobile Home Park District.

Modular home

Any single-family home constructed on-site and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly that complies with the requirements of Section 4.4.1(E).

National Geodetic Vertical Datum (NGVD)

A vertical control used as a reference for establishing varying elevations within the floodplain.

Natural amenities

Environmentally sensitive areas, wildlife habitats, stands of trees, ponds, streams, or other unique natural features.

New construction

Structures for which the start of construction commenced on or after the effective date of the Flood Damage Prevention Overlay District and includes any subsequent improvements to such structures

Non-cutoff light fixture

An outdoor lighting fixture designed to allow light to be directly emitted above a horizontal line parallel to the ground.

Parapet wall

That portion of a building wall that extends above the level of the roofline

Pennant

A lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string or pole, usually in series, designed to move in the wind.

Person

Any individual, corporation, company, partnership, association, or entity of any kind.

Plat

A map or plan of a parcel of land which is to be, or which has been, subdivided.

Produce stand

Produce stand means a temporary structure that is no greater than 20 feet in size that is located on a lot for the purpose of the sale of agricultural products on a seasonal basis.

Projection

The distance by which a sign extends beyond the building or structure wall.

Protest petition

A written petition opposing a proposed amendment to this Ordinance or the Official Zone District Map submitted to the Town Clerk and signed by surrounding landowners.

Real estate

Land, portions thereof, and improvements thereon.

Recreational vehicle

A vehicle that is built on a single chassis; four hundred square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

Resource conversation area (RCA)

The area(s) of a site, as established pursuant to Sec. 8.1.2 of this UDO, that may not be disturbed by earth movement (grading) or cleared of vegetation, excluding disturbance or clearance to provide space for crossing of public roads and/or other utilities.

Screen

A method of reducing the impact of noise, visual intrusions, and invasion of privacy with such elements as plants, berms, fences, walls or any appropriate combination thereof.

Seasonal outdoor sales

The display and sale of products and services primarily outside of a building or structure, occurring during certain seasons or at regular times during the year, but not on a continuing, regular basis.

Secured

Placed in a concrete footing, holes with compacted earth or gravel, or other approved support, so as to be adequately affixed to the ground as a permanent structure.

Shopping center

A commercial establishment planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access.

Sight triangle

A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign

An identification, description, animation, illustration, or device, illuminated or non-illuminated, which is visible from a public right-of-way and which directs attention to a realty, product, service, place, activity, person, institution, performance, commodity, firm, business or solicitation, including a permanently installed or situated merchandise or an emblem, painting, banner, poster, bulletin board, pennant, placard or temporary sign designed to identify or convey information, with the exception of state, municipal, national and religious flags.

Sign, construction

A temporary sign erected during construction which may indicate the project name and the names of architects, engineers, landscape architects, contractors, subcontractors, developers, rental agencies, financial institutions, or other principals involved in the sponsorship, design, or construction of a structure or project.

Sign, directory

A sign that lists the name of activities, businesses, firms, or tenants located on the premises.

Sign, face of

The entire surface area of a sign upon, against, or through which copy is placed.

Sign, freestanding

A sign that is attached to, erected on, or supported by some structure (such as a base or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign.

Sign, ground

A sign that is not attached to a building structure, is 5 feet or less in height, and 12 feet or less in length. Such signs shall be permanently secured to the ground by means of a base or frame.

Sign, height

The vertical distance measured from the mean curb level at the curb adjacent to the sign to the highest point of the sign, or in the case of excavation for the placement of a sign to the highest point at the midpoint of the top edge of the sign. In the case of a sign not adjoining a street or highway, the vertical distance between the mean elevation of the ground immediately adjoining the sign and the level of the highest point of the sign or in the case of excavation for the placement of a sign, to the highest point at the midpoint of the top edge of the sign. Provided however, no filling, berming, or mounding solely for the purpose of locating the sign will be considered a part of the mean elevation.

Sign, illegal

A sign erected or maintained in violation of a prior sign ordinance or erected, altered, or replaced in violation of this UDO.

Sign, illuminated

A sign that is illuminated by electric or other devices mainly for clear visibility at night.

Sign, information

An on-premise sign that does not contain a message, copy, announcement, or decoration, but only instructs or directs the public. Such signs include, but are not limited to, the following: signs identifying restrooms, public telephones, walkways, entrance and exist drives, freight entrances, and traffic direction.

Sign, interior

Signs on the interior of a window glass.

Sign, nonconforming

A sign erected prior to the adoption of this UDO that met all legal requirements when erected but that does not comply with this division or a subsequent amendment hereto. An "illegal sign" is not a "nonconforming sign."

Sign, off-premise

A sign or structure, pictorial or otherwise, regardless of size or shape which directs attention to a business, commodity, attraction, profession, service or entertainment conducted, sold, offered, manufactured, existing, or provided at a location other than the premises where the sign is located or to which it is affixed; often a billboard.

Sign, pole

A sign that is not attached to a building, but is supported by a pole or mast which has as its principal function the support of the sign. Pole signs are prohibited in all zoning districts.

Sign, political, religious or noncommercial

A temporary sign of a candidate, party, or group supporting the candidacy of an individual for office or expressing or soliciting public support of, or opposition to, any public issues or a sign conveying a religious message or any other noncommercial message.

Sign, portable

A sign that is not permanently affixed to a building, structure or the ground or designed to be permanently affixed to a building, structure or ground. Portable signs include, but are not limited to, trailer signs, sandwich board signs, sidewalk signs or curb signs. All portable signs must meet UL and National Electrical Code standards.

Sign, projecting

A sign, other than a flat wall sign, which is erected on a building wall or structure and extends beyond the building wall more than 12 inches.

Sign, real estate

A sign pertaining to the sale, rental, lease or development of real estate that is located on the real estate to which the sign pertains.

Sign, roof

A sign attached to an extending above a roof of a building or other structure, but shall not include emblems of religious orders or institutions.

Sign, surface area

The entire area of a sign shall be the smallest square, rectangle, circle, semicircle, or parallelogram that enclosed the entire sign inclusive of any border or trim and all the elements of the matter displayed, but excluding the base or apron, supports, and other structural members. In the case of three-dimensional or painted letters located directly on a wall surface, the surface area shall be defined as that area compassing the individual letters themselves including any trim or harder and excluding the background that supports the three-dimensional or painted letters.

Sign, temporary

A sign that (I) used in connection with a circumstance, situation or event that is designed, intended, or expected to take place or to be completed within a definite period of time after the erection of such sign, and (ii) is intended to remain on the location where it is erected or placed for a period of not more than 30 days. Temporary signs shall not exceed the maximum size allowed within the zoning district and shall not exceed 32 square feet. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Sign, wall

A sign located in or on a wall elevation of a structure.

Sign, windblown

A sign that is a banner, flag, pennant, spinner, streamer, moored blimp or gas balloon.

Significant vegetation

Existing vegetation 8 inches in diameter and greater, measured DBH.

Site plan

A portion of the development plan that shows the existing and proposed conditions of the lot including: topography, building placement, and all other pertinent site features.

Slope

The deviation of a surface from the horizontal, usually expressed in percent or degrees.

Slope calculation

For purposes of this UDO, slope shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting percentage into a percentage value. For purposes of regulation and measurement, steepness of slope shall be measured from the points with the highest and lowest elevation within 20 feet of any portion of the proposed structure.

Small vegetation

Existing vegetation from 2.5 inches in caliper to significant vegetation size of 8 inches in diameter.

Special event

An activity or circumstance of a business or organization that is not part of its daily activities. Such activities may include, but are not limited to, grand openings, closeout sales and fund raising, membership drives or events of civic, philanthropic, educational or religious organizations.

Specimen tree

Any tree other than a pine with a caliper of 18 inches or more.

Standard Specifications and Construction Details

The Town's minimum standards for all subdivision, site plan and utility construction projects within the jurisdiction of the Town.

Start of construction

Includes substantial improvements, and is the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvements was within 90 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundation, or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Stream, Ephemeral

A stream that flows briefly and only in direct response to local precipitation, and whose channel is always above the water table; often locally known as a natural drain. Ephemeral streams are not indicated, on the most recent version of either the USGS 1:24,000 (7.5 minute) scale topographic maps, or the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.

Stream, Intermittent

A stream, or reach of a stream, that does not flow year-round. Intermittent streams are indicated as “intermittent” on the most recent version of either the USGS 1:24,000 (7.5 minute) scale topographic maps, or the soil survey map prepared by the National Resources Conservation Service of the United States Department of Agriculture.

Stream, Perennial

A stream that flows continuously throughout the year. Perennial streams are indicated as “perennial” on the most recent version of either the USGS 1:24,000 (7.5 minute) scale topographic maps, or the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.

Stream buffer

A natural or vegetated area through which storm water runoff flows in a diffuse manners so that the runoff does not become channeled and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the bank of each side of the stream or in the case of a natural drain from the centerline or thalweg.

Street, private

A street that has not been accepted by the municipality or other governmental entity. No private streets shall be allowed to be built within developments or subdivisions within the corporate limits.

Street, public

Any vehicular way that: (1) is an existing state, parish, or municipal roadway; (2) is shown upon a plat approved pursuant to law; or (3) is approved by other official action.

Structure, for floodplain management purposes

A walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other manmade facilities or infrastructures that are principally above ground.

Subdivider

A person who subdivides or develops any land deemed to be a subdivision within the meaning of that term as defined herein.

Subdivision

Any division of a tract or parcel of land into 2 or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include any division of land involving the dedication of a new street or a change in an existing street; but the following shall not be included within this definition or be subject to the regulations established herein:

- 1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations.
- 2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- 3) The public acquisition by purchase or condemnation of strips of land for the widening or opening of streets;
- 4) The division of a parcel of land by a new boundary line conterminous with a public street right-of-way line in circumstances where the street prevents the use of the parcel as one lot, so long as the boundaries of the parcel that are not on or within the street right-of-way are not changed; and
- 5) The division of a tract in single ownership, the entire area of which is no greater than 2 acres, into not more than 3 lots where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality.

Substantial damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement."

Substantial improvement

Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term, however, does not include either: (1) Any project of improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

Substantially improved existing manufactured home park or subdivision

Where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads in a manufactured home park or subdivision equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

Temporary Use

A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Tree canopy

The diameter or variable radius from the tree trunk to the outermost reaches of tree branches.

Tree line

Imaginary or visual line separating cleared area from forested area.

Vehicular use area

An off-street ground level area used for temporary storage of motor vehicles or parking. Also includes drive entries, loading areas and/or other built-upon areas used for transportation.

Vested right

The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan.

Wall

An artificially constructed barrier intending protection, screening or boundary, but which does not include a retaining wall.

Wetlands

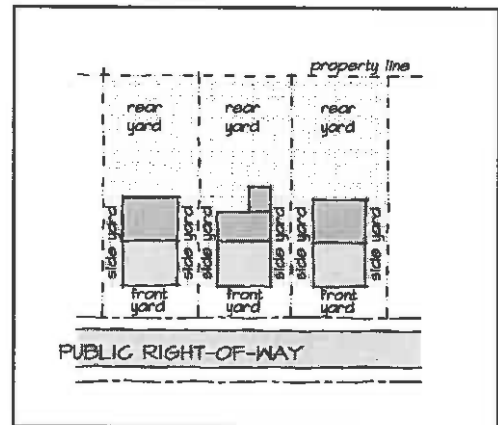
Land that is in an area defined as wetlands by the U.S. Army Corps of Engineers, or a qualified consultant.

Yard

An open, unoccupied space on the same lot with a principal building or structure, unobstructed from the ground upward, except for hedges, bird baths, swimming pools, walkways, curbs, driveways, unenclosed patios, well houses and other similar appurtenances associated with the principal structure.

Yard, front

The yard between the front lot line and the front building line and extending to the side lot lines, and measured perpendicular to the building at its closest point to the front lot line.



YARD AREAS

Yard or garage sale

The casual sale of household articles in a private yard or garage.

Yard, rear

The yard extending the full width of the lot between the rear lot line and rear building line and measured perpendicular to the building at its closest point to the rear lot line.

Yard, side

The yard between the side lot line and the building, extending from the front yard to the rear yard, and measured perpendicular from the side lot line of the closest point of the building.

Zoning regulations

The zoning regulations as set out in this UDO.

