

## ARTICLE 4

### GENERAL REGULATIONS

#### Section 4.1 Fences and Screen Walls

##### 4.1.1 General Requirement

Wherever any provision of these regulations requires the construction and maintenance of a fence or screen wall as a condition for initiating and subsequently continuing any use, such fence or screen wall shall be constructed and maintained on the zoning lot containing or proposed to contain such use, in accordance with the provisions of this section. Where a fence or screen is required between two different uses, the second use proposed is responsible for the screen or fence.

##### 4.1.2 Fence Required

The fence required by Subsection 4.1.1 shall be of the chain link type (barbed wire not permitted), at least six feet high (unless a different height is required elsewhere in these regulations), constructed of good, substantial material, of first class workmanship, and so erected as to resist wind pressure, ensure public safety, and present a neat, attractive and uniform appearance. Supporting uprights shall be erected on the inside of such fence.

##### 4.1.3 Screen Wall

The screen wall required by Subsection 4.1.1 shall be a solid fence of the stockade type or a masonry wall not less than six feet in height unless a different height is provided elsewhere in these regulations. The fence or wall shall be so constructed that all bracing, supports, or posts, except those provided expressly for aesthetic purposes, shall be on the same side of the fence or wall as the use which is to be screened. The fence, wall, or hedge shall be designed and constructed in such a way as to (1) facilitate maintenance and (2) not modify natural drainage in such a way as to endanger property other than on which such use is located.

##### 4.1.4 Required Maintenance of Fence or Screen Wall

The required fence, wall, or hedge and trees, shrubs and grass, if provided, shall be properly cared for and maintained by the owner of the zoning lot containing the use required to provide the fence or wall. Any dead trees or shrubs shall be replaced by such owner at the next appropriate planting season. No sign shall be erected on the outer side of the wall or fence.

#### Section 4.2 Enclosure of Uses

Except as provided subsequent, no raw materials, waste materials, products, goods, machinery, or equipment shall be stored, displayed, operated or processed out-of-doors within two hundred feet of a major street or highway or within two hundred feet of any property in an R, P, O or CI or II District even though such activities

may be permitted uses in such districts, unless such materials or articles are so screened as not to be visible to an observer driving on such street or highway or standing on the ground in such district.

The requirements above shall not apply to the following:

- Animals
- Boats
- Construction equipment in use on construction projects
- Electric substations or similar facility, unless granted by the Board of Adjustment
- Farm and garden equipment, in use in fields and gardens
- Gasoline pumps and similar service station equipment customarily not enclosed
- Household articles customarily stored or used out-of-doors
- Monuments and tombstones
- Motor vehicles
- Oil derricks or pumps and similar equipment at oil wells
- Pressure regulator station or similar facility, unless required by the Board of Adjustment
- Plants, living, including trees and shrubs
- Signs
- Sports, play, and similar equipment, customarily used outdoors
- Structures attached to the ground or a building
- Transit vehicles
- Transportation equipment in operation of goods being transported
- Trucks and trailers
- Utility facilities, not elsewhere classified.

#### Section 4.3 Height Exceptions

Any building may exceed the height limits set forth in the district provisions provided that the portions of the building whose height exceeds such limits shall be set back in accordance with the pertinent tables of the district provisions. Such setbacks shall be measured from lines parallel to and inside the side lot lines and the rear lot line and distant therefrom the width of the narrowest required side yard for such building.

Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limits set forth in the district provisions without additional setback being required, provided that the sum of the horizontal cross-sectional areas of all such projections on any lot does not exceed five percent of the area of the lot.

#### Section 4.4 Open Space, Other Than Yards

An open space or lot area required for an existing building or structure shall not be counted as open space for any other building or structure. No dwelling shall be erected on a lot which does not abut on at least one street, at least fifty feet in width, for at least thirty-five feet. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress. A garage apartment may be built to the rear of a main dwelling, if there is compliance with all other provisions of these regulations.

On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any plant growth which obstructs the line of sight at elevations between two feet six inches and six feet above any portion of the crown of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of 25 feet along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection.

#### Section 4.5 Planned Developments

##### 4.5.1 Approval

On recommendation by the Planning Commission, after public hearing, the governing body may approve a plan for a planned development for a tract of land which lies in one or more of an R or O Zoning District.

##### 4.5.2 Modification of Requirements

The plan for a planned development may depart from the dwelling type, lot area, lot area per dwelling unit, lot width, yard, and coverage requirements of the district or districts in which it is located provided that:

The total number of dwelling units to be built on the tract shall not exceed the number which could be built on the tract under the district provisions, counting one-fifth of the tract area for streets, regardless of the area actually used for streets.

The total area of the tract covered by structures shall not exceed the sum of the areas that would be permitted under the district provisions, counting one-fifth of the tract area for streets.

All lots in the tract contiguous to property in an AG or R District outside the tract shall meet the provisions of the districts in which they are located.

No mobile homes shall be permitted except in mobile home parks.

##### 4.5.3 Assurances for Common Area and Density

No plan for a planned development shall be approved unless the governing body makes a finding that the plan contains adequate provisions to assure that the conditions set forth in Subsection 4.5.1 will be met, and that adequate provisions have been made to provide for the ownership and continued maintenance of any areas provided for common use and/or ownership by residents of the planned development.

#### 4.5.4 Requirement by Plat

Following approval of a plan for a planned development as provided by this section, no structure shall be built in such development, nor shall any permit be issued for any construction therein, until a plat for the planned development has been approved by the Planning Commission and filed for record.

### Section 4.6 Lot Area and Width

#### 4.6.1 Substandard Lot of Record

In any district where dwellings are permitted, if any lot is smaller than the minimum requirements herein contained and all sides of such lot touch lands that were under other ownership at the effective date of these regulations, such lot may be used for the erection of one single family detached dwelling. In such case, the Board of Adjustment may permit appropriate reductions of required yards and increase of permitted lot coverage.

Where a lot has been created for nonresidential purposes under Section 4.6.2 or any other section of these regulations and such lot does not comply with the residential setback and FAR requirements of the district in which it is located, such lot shall not be used for residential purposes.

#### 4.6.2 Lots for Certain Utility Facilities

Where a lot is proposed to be used as the site for a utility substation, pumping station, pressure regulating station, or similar facility whose nature is such that the lot area or width may appropriately be less than the minimum established herein for the district in which the lot is located, the Board of Adjustment may, on application, reduce such minimum for such individual facility and the Planning Commission may approve a plat containing a lot so reduced.

### Section 4.7 Street Access

No dwelling shall be erected on a lot which does not abut on at least one street with right-of-way at least fifty feet in width for at least thirty-five feet, except that a townhouse lot need not abut a street for more than the required width of a townhouse lot. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress.

### Section 4.8 Yards

#### 4.8.1 Projections into Required Yards

Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed two feet. Open uncovered porches or open fire escapes may project into a front or rear yard a distance not to exceed five feet. Fences, walls, and hedges in residential developments may be erected in any required yard, or along the edge of any yard, provided that no fence, wall or

hedge located in front of the front building line shall exceed three feet in height and no other wall or fence shall exceed seven feet in height.

#### 4.8.2 Front Yards On Narrow Streets

Where a lot abuts on a dedicated street right-of-way less than fifty feet wide (or half right-of-way less than twenty-five feet wide), the required front or exterior side yard shall be measured from a line twenty-five feet from the center line of such street.

#### 4.8.3 Coverage of Rear Yard

Accessory buildings which are not a part of the main building may be built in the rear yard, but shall not cover more than thirty percent of the rear yard.

#### 4.8.4 Building Setback Lines

Where building setback lines adopted by proper authority establish deeper building setbacks than the front and exterior yards established by these regulations, such setback lines shall prevail.

## ARTICLE 5

### NONCONFORMING STRUCTURES AND USES

#### Section 5.1 Nonconforming Structures

##### 5.1.1 General Intent

Within the districts established by this Ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which are lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

It is the intent of this Ordinance to permit these nonconforming uses to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance.

##### 5.1.2 Nonconforming Lots of Record

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

##### 5.1.3 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

No such structure may be enlarged or altered in a way which increases its nonconformity.

Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.