

## Town of Greenwood

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AN ORDINANCE TO REPEAL ORDINANCE A-1 ("ZONING ORDINANCE OF THE TOWN OF GREENWOOD") AND TO REPLACE IT WITH A NEW ORDINANCE A-1 WITH THE SAME TITLE TO ESTABLISH NEW COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF GREENWOOD AND TO PROVIDE PROVISIONS FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF IN ACCORDANCE WITH THE PROVISIONS OF 22 DEL. C. CHAPTER 3, AND TO REPEAL ALL ORDINANCES, OR PARTS THEREOF WHICH ARE IN CONFLICT THEREWITH

BE IT HEREBY ENACTED by the Town Council of the Town of Greenwood, a majority thereof concurring in council duly met, that Ordinance A-1, being the "Zoning Ordinance of the Town of Greenwood" be, and hereby is, repealed and that a new Ordinance A-1, also entitled "Zoning Ordinance of the Town of Greenwood" be and hereby is enacted, effective January 6th, 2009, as follows, to wit:

## **ARTICLE 1**

### **Title & Map**

#### **Section 1.1 Title**

This Ordinance shall be known as and may be cited as "The Town of Greenwood Zoning Ordinance", and abbreviated as "GWZO."

#### **Section 1.2 Map**

The map attached hereto and made a part hereof as though fully set out herein shall be known and cited as "The Town of Greenwood Zoning Map."

## **ARTICLE 2**

### **General Provisions**

#### **Section 2.1 - Purpose.**

This ordinance is adopted pursuant to and consistent with the Comprehensive Plan of the Town of Greenwood as certified by the Governor of the State of Delaware on January 8<sup>th</sup>, 2008. The purpose of this ordinance is to classify, regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of lots, yards, courts and other open spaces, the density of population and the location, use and extent of use of buildings, structures and land for residence, trade, industry and other purposes; to create districts for said purpose, and to impose penalties for violations, all so as to lessen congestion in the streets; secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent

undue concentration of population and overcrowding of land on the one hand and excessive and wasteful scattering of population on the other; to facilitate the adequate provision of transportation, water, sewage, drainage, soil conservation, sanitation, schools and educational opportunities, recreation, park and other public requirements by promoting appropriate distribution of land development and utilization; to conserve the value of buildings and encourage the most appropriate use of land; to protect the tax base; to secure economy in governmental expenditures; to foster the state's agricultural and other industries; to protect both urban and non-urban developments; and to promote the health, safety, morals and general welfare of the Town of Greenwood.

**Section 2.2 Scope.** From and after the effective date of this Ordinance, the use of all land and every building or structure or portion of a building or structure erected, altered with respect to height or area, added to, or relocated, and every use within a building or structure or use accessory thereto, in the Town of Greenwood, shall be in conformity with the provisions of this Ordinance. Any existing building or structure and any existing use of a building, structure or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming but may be continued, extended or changed subject to the special regulations herein provided with respect to nonconforming buildings, structures, or uses.

**Section 2.3 Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any law, other ordinance or regulation, the provisions of this Ordinance shall be controlling.

**Section 2.4 Severability.** In the event that any section, subsection, paragraph, sentence or clause of this Ordinance is finally determined or declared to be illegal, unconstitutional, or unenforceable, by any Court of competent jurisdiction, the balance hereof shall remain in full force and effect.

## **ARTICLE 3**

### **DEFINITIONS**

Definitions. For the purpose of this ordinance, certain words and phrases shall be interpreted or defined as follows:

#### **3.1. Specific Definitions**

**ACCESSORY USE OR STRUCTURE** — A use, building, or structure subordinate to and located on the same lot as the principal use or building and serving a purpose customarily incidental to the use of the principal building or principal use.

**ALLEY** — A public or private way affording only secondary means of access to abutting property. This definition is not intended to include utility alleys, which are easements not open to public traffic and intended solely for the placement and maintenance of utilities.



**ART OR SPECIALTY SHOP/GALLERY** – A retail establishment, not exceeding 2,000 square feet of floor area and open to the public only between the hours of 10 a.m. and 8 p.m., which displays and offers for sale works of art, handcrafted items (e.g. jewelry, pottery, “knick-knacks”) and similar specialty items, with or without offering the sale of supplies or equipment associated with the making of such items.

**BASEMENT** — A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes, other than a game or recreation room.

**BEDROOM** — A room not less than 80 square feet containing a closet with a minimum size of twenty four (24) inches deep by thirty six (36) inches wide which, because of limited access and separation from the living areas, is intended or may be used for sleeping.

**BERTH (LOADING)** — A space for an automotive vehicle or truck to load or unload its cargo.

**BOARDING HOUSE** -- A building, typically designed and constructed as a single family dwelling, occupied by the owner or an agent thereof, which offers sleeping rooms with bathrooms or shared access thereto for let to the public, sometimes offering shared access to other portions of the building, and providing one or more meals served at a common table for the occupants.

**BUILDING** — Any structure having a roof supported by columns or walls used for the shelter, housing or enclosure of persons, animals or property.

**BUILDING, ACCESSORY** — A building subordinate to the principal building on the same lot as the principal building and used for purposes customarily incidental to those of the principal building.

**BUILDING, PRINCIPAL** — A building in which is conducted the main or principal use of the lot on which it is situated.

**CELLAR** — A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

**CERTIFICATE OF OCCUPANCY** – A certificate, signed by the Code Enforcement Official, certifying that the use of a lot, building, or structure is in compliance with the use regulations of this ordinance, and as to buildings or structures, certifying that upon inspection performed after completion of all authorized construction for which a Zoning Compliance Certificate was required, that the building(s) and/or structure(s), as built or erected, are in compliance with all of the dimensional and other provisions of this ordinance applicable to buildings or structures.

**CODE ENFORCEMENT OFFICIAL** – A person or persons appointed and/or

employed by the Town to administer and enforce the provisions of this ordinance. The Code Enforcement Official shall be and have all the powers of a "Code Enforcement Official" under 10 Del.C. Chapter 29. The Code Enforcement Official may sometimes be referred to in this ordinance or in other Town ordinances as the "Code Enforcement Official", "Code Official", or "Zoning Compliance Official," or "Building Inspector." All such references shall be to the same official, that being the "Code Enforcement Official."

COMMISSION — The Planning Commission of the Town of Greenwood, Delaware.

COMMUNITY RESIDENTIAL TREATMENT PROGRAM — A planned program of care consisting of full-time or part-time programmatic supervision, counseling and/or therapy; such residence program is provided to persons who are physically disabled, developmentally disabled, psychiatrically disabled, have drug or alcohol problems, are under the legal custody of the state, or are minors with social and/or behavioral problems; or are persons who have disabilities with aging. A community residential program does not include skilled nursing care.

CONDITIONAL USE — A use which is not appropriate in a particular zoning district as a matter of right but which may be suitable in certain locations within the district only when specific conditions or requirements prescribed for such cases within this ordinance are met. Conditional uses are allowed or denied by the Town Council after review and comment by the Planning Commission.

COUNCIL - Shall mean the Town Council of the Town of Greenwood.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of modular or manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations, but not including routine or on-going maintenance designed to maintain the current condition of the real estate such as mowing operations.

DWELLING — One or more connected rooms designed and used as a single housekeeping unit for human habitation by not more than one family, and containing facilities for sleeping, a kitchen or facilities for the storage and preparation of meals, and one or more bathrooms. The term "dwelling" shall not be deemed to include an automobile court, boarding house, rooming house, tourist home, hotel, hospital, nursing home, dormitory or fraternity or sorority house. "Dwelling" is further classified as:

- (1) APARTMENT — A room or suite of rooms in a single-owner multi-dwelling-unit building which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.
- (2) SINGLE-FAMILY DETACHED DWELLING — A building, designed and used as a single dwelling unit by not more than one family and having no party walls.

- (3) SINGLE-FAMILY SEMIDETACHED DWELLING — A building containing two separate dwelling units attached side by side through the use of only one party wall, each dwelling unit designed and used as a dwelling by not more than one family.
- (4) TWO-FAMILY DETACHED DWELLING — Two dwelling units accommodating two families, which units are located one over the other, and having two side yards.
- (5) TWO-FAMILY SEMIDETACHED DWELLING — Four dwelling units accommodating four families and consisting of two units located directly over the other two units, being a combination of both the single-family semidetached and two-family detached structures.
- (6) MULTIFAMILY DWELLING — A building containing three or more separate dwelling units, attached side by side through the use of one or more party walls in common with other dwelling units in the building or constructed one above another, each unit designed and used as a dwelling by not more than one family. A “Multi-Family Dwelling” may be classified as either a:
  - (a) GARDEN OR LOW-RISE APARTMENT BUILDING – No Garden or Low-Rise Apartment Building may exceed 35 feet in height, nor contain less than six nor more than twelve dwelling units.
  - (b) TOWNHOUSE BUILDING – No Townhouse Building shall: (a) contain less than three nor more than eight dwelling units; (b) exceed 35 feet in height. Each dwelling unit within a Townhouse Building shall have separate access to the outside from both the front and rear of each dwelling unit.

DOG HOUSE – Any detached building or structure designed or used to contain and/or shelter dogs or other domestic pets

EFFICIENCY UNIT — An apartment dwelling unit which features a combination of certain uses in order to lessen total living area required. An efficiency unit shall not include any apartment dwelling unit containing two or more rooms.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, communication, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of

adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings, except telephone central office buildings and telephone booths, which shall also be considered as essential service facilities hereunder.

**FAMILY** — One or more persons related by blood or marriage or adoption, or a group of no more than three unrelated persons living together as a household in a dwelling.

**FLOOR AREA, HABITABLE** — The aggregate of the horizontal floor area of all portions of a dwelling designed or used for habitation and provided with heat and/or air-conditioning facilities ("HVAC") and excluding: garage space, cellars and attics not served by HVAC, and accessory buildings. Habitable floor area shall be measured from the inside face of exterior or party walls. No area designated as habitable floor area shall have a ceiling height of less than seven feet.

**GARAGE, PRIVATE:** A building accessory to a dwelling for the storage of vehicles, tools, or other personal property owned or used by the owner or tenant of the dwelling.

**GARAGE, PUBLIC** – A building available to the general public (with or without charge) for the storage of vehicles.

**GASOLINE SERVICE STATION** — Any area of land, including structures, that is used for the sale of gasoline or other motor vehicle fuel or for lubricating, washing or otherwise servicing motor vehicles but which shall not include painting or body and fender repairs.

**GOVERNING BODY** — The Town Council of the Town of Greenwood.

**HEIGHT, BUILDING OR STRUCTURE:** The vertical measurement from the average finished grade of the lot to the top of the roof surface for flat and mansard roofs and to the vertical midpoint between the base of the roof and its peak for gable, hip, and gambrel roofs; see Section 5.5.1 for exceptions to height regulations.

**HABITABLE ROOM** — A room or enclosed floor space serviced by heating and/or air conditioning facilities and arranged for living, eating or sleeping purposes, not including bath or toilet rooms, laundries, pantries, foyers or communicating corridors.

**HOME OCCUPATION** — A profession or occupation, including a day-care center with up to six children, that is carried on within a dwelling that is incidental and secondary to the residential use. It is carried on only by the residents of the dwelling. There shall be no exterior evidence of the home occupation, except a sign, and adequate off-street parking must be provided as stipulated in this ordinance.

**HOSPITAL** -- Any building containing facilities for the overnight care and habitation of patients, used for the diagnosis, treatment, and on-going care of those patients by doctors, nurses, and other trained medical personnel, including, by way of example, a clinic, sanatorium, preventorium, or mental

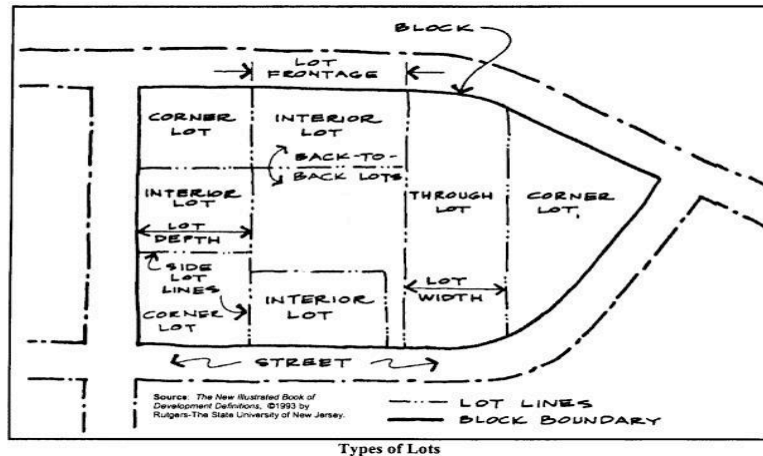
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**JUNK** — Includes all scrap or discarded metals (e.g. iron, tin, brass, copper, lead, zinc, aluminum) and their alloys, as well as bones, rags, and used or discarded cloth, rubber, rope, tinfoil, bottles, vehicles or parts thereof, machinery, tools, appliances, fixtures, utensils, lumber, boxes and crates, pipe or pipe fittings, tires, and other manufactured or processed goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition but subject to being dismantled. Automobiles in operable condition or bearing a current inspection sticker are not included as junk.

**JUNKYARD** — Buildings, structures or premises where junk, waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards but not including the purchase or storage of used furniture and household equipment, or used cars in operable condition or bearing a current inspection sticker; or recycling facilities.

**LOT** — A piece or parcel of land identified in a recorded deed or plot as separate and distinct from any other abutting piece or parcel of land.

- (1) **LOT AREA** -- The total horizontal lot area contained within the lot lines of a lot.
  - (2) **LOT, CORNER** — A lot situated at and abutting the intersection of two streets having an interior angle of intersection not greater than 135°.
  - (3) **LOT COVERAGE MAXIMUM** — The maximum ratio obtained by dividing the ground floor area of all principal and accessory buildings on a lot by the total area of the lot upon which the buildings are located, including covered porches, carports, gazebos, and breezeways but excluding unenclosed steps or ramps, open decks, patios, walkways, boardwalks, driveways, or parking areas (all having a finished surface less than 12 inches above grade), chimneys, air-conditioning compressors, home heating fuel or propane tanks, and overhanging features such as cornices, eaves, and gutters.
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- (4) LOT DEPTH — The mean horizontal distance between the front and rear lot lines.
- (5) LOT LINES — The property lines bounding a lot.
  - (a) LOT LINE, FRONT — The line separating the front of a lot from a street.
  - (b) LOT LINE, REAR — Any lot line running between two side lot lines.
  - (c) LOT LINE, SIDE — Any lot line running from a street to any other lot line.
  - (d) LOT LINE, STREET OR ALLEY — A lot line separating the lot from a street or alley.

**MANUFACTURED HOME** – A transportable single family dwelling unit, contained in one or two units fabricated in an off-site manufacturing facility, with a permanent chassis, designed for installation or assembly into one integral unit at the building site without a permanent foundation, and capable of being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations. A manufactured home should bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act ( 42 U.S.C. Section 5401 (C), effective December 27<sup>th</sup>, 2000,, as amended, or any future corresponding provision of law)

**MODULAR HOME** — A building as defined at 24 C.F.R. 3282.12 (as amended, or as appearing in any future corresponding provision of law), without a permanent chassis, constructed or assembled in sections or modules at some other location and transported to the site to be affixed to a

permanent foundation (also referred to as a “pre-fabricated home”). A building shall be considered as a “modular home” only if it:

(a) is designed only for erection or installation on a site-built permanent foundation

(b) is not designed to be moved once erected or installed on a site-built permanent foundation

(c) is designed and manufactured to comply with a currently effective version of a nationally-recognized building code (e.g. International Building Code, BOCA, ICBO, Southern Building Code),

(d) to the manufacturer’s knowledge, is not intended to be used other than on a site-built permanent foundation, and

(e) does not have a permanent chassis

**MUNICIPALITY** — The municipal corporation known as the "Town of Greenwood, State of Delaware."

**NONCONFORMING LOT** — A lot of record which conformed to the lawful minimum street frontage and minimum area requirements for the zone in which it is located prior to the adoption or amendment of this ordinance but which fails to conform to the requirements of this ordinance for the zone in which it is located by reason of such adoption or amendment.

**NONCONFORMING USE, BUILDING, OR STRUCTURE** — A building, structure or use legally existing at the effective date of this ordinance, or any amendment thereto, or a building, structure or use planned and the construction of which has lawfully begun in compliance with existing laws prior to the effective date of this ordinance, or amendment thereto, and which does not conform to the use or dimensional regulations of the district in which located.

**NURSING HOME** — Any premises containing sleeping rooms used by persons who are lodged and furnished with meals and nursing care.

**OPEN SPACE** - An area of land and/or water (excluding yards and areas less than 8 ft in width) not improved by buildings, structures, streets, roads or parking areas, or containing only such improvements as are complimentary, necessary, or appropriate for the use or enjoyment of the open area or the conservation of natural resources.

**PARKING AREA, PRIVATE** — A permanently reserved temporary storage area for one vehicle that is not located on, but is directly accessible to, a public street right-of-way by a driveway that affords ingress and egress for a motor vehicle.

**PARKING LOT** — An area, other than a street or other public way, which contains more than one parking space and is used for the storage or

parking of automobiles for any period of time.

**PARKING SPACE** — An accommodation used for parking motor vehicles on a public street in conformance with the design standards referenced in Section 9.2.1.

**PERMITTED USE** — Any use of a lot, building, or structure which is authorized as a use permitted as of right (without further administrative approval) for the zoning district in which the lot, building, or structure is located. The term “permitted use” shall not include “non-conforming use”, “conditional use”, or “special exception”.

**PROFESSIONAL OFFICE** — Includes the office of a physician, dentist, optometrist, minister, architect, landscape architect, municipal planner, engineer, insurance agent, realtor, accountant, lawyer, author or similar professional activity.

**PUBLIC USE** — Includes governmental-owned uses such as schools, parks, civic centers, historical properties, fire stations, municipal buildings, essential public services that require enclosure within a building, water supply facilities, wastewater treatment and discharge/disposal facilities, airports, and easements for alleys, bicycle and pedestrian paths, sidewalks, streets and public utility rights-of-way.

**RESIDENTIAL CONVERSION** — A structural alteration and/or internal remodeling of a previously single-family home to one that may accommodate two or more families in independent, self-contained units. Each unit should provide at least 800 square feet of habitable floor area. The change to a two-family or multifamily structure must be done in accordance with special requirements enumerated in this ordinance.

**RESIDENTIAL PLANNED COMMUNITY (“RPC”)** --An area or tract of land that covers at least 10 contiguous acres that is to be developed as a single entity, and providing necessary or appropriate open spaces, recreational and/or community facilities. An RPC may, as approved by the Town Council, provide housing of various densities, lot sizes, lot coverage, and types, and may include those commercial facilities deemed necessary or appropriate to serve the RPC.

**RIGHT-OF-WAY** — Land reserved for use as a street, alley or interior walk or for other public purpose.

**ROOMING HOUSE** — A building, typically designed and constructed as a single family dwelling, occupied by the owner or an agent thereof, which offers sleeping rooms with bathrooms or shared access thereto, for a fee to the public, and sometimes offering shared access to other portions of the building, but not providing meals.

**SANATORIUM** — An institution for the care and treatment of invalids and convalescents.

**SETBACK** – A minimum distance required by zoning to be maintained between two structures or between a structure and property lines.



**SIGN, ADVERTISING/BUSINESS** — A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

**SIGN, GROSS SURFACE AREA OF** — The entire area within a single continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display.

**SINGLE AND SEPARATE OWNERSHIP** – The ownership of a lot by one or more persons or legal entities which ownership is separate and distinct from that of any abutting lot.

**SKEWING** — The design of a lot where a straight lot line is not practical. Therefore, a lot line or lines will run at a slant, and the lot will not be perfectly equal on all sides.

**SPECIAL EXCEPTION** – A use which is not generally appropriate throughout a zoning district but which is specified by this ordinance as a use which may be permitted by the Board of Adjustment upon a finding of specified circumstances and subject to such conditions as imposed by the Board in order to protect the character of the district in which it is located.

**STORAGE FACILITIES, PUBLIC** – Buildings or structures designed and constructed to provide one or more secure and weather-proof enclosures for lease to the public for storage of personal property; sometimes referred to as “mini-storage” facilities.

**STORY** — That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

- (1) **STORY, HALF** — A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.
- (2) **STORY, FIRST** — The lowest story or the ground story of any building, the floor of which is not more than 12 inches below the average contact ground level at the exterior walls of the building.

**STREET FRONTAGE** – That portion of a lot line that is contiguous with a public street.

**STREET, PUBLIC** – A public way intended for purposes of vehicular travel (including not only the traveled way but also the entire area within the right-of-way) which is either: (a) dedicated to and accepted by the Town or (b) is maintained by Sussex County or the State of Delaware.

**STRUCTURAL ALTERATION** — Any change in the structural members of a building, such as walls, columns, beams or girders, or any addition to any

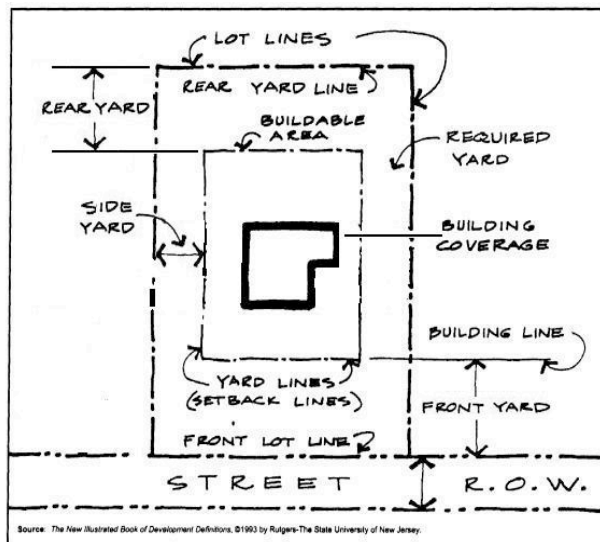
structure.

**STRUCTURE** — Anything constructed or installed, the use of which requires a substantially fixed location on or in the ground or attachment to something having a substantially fixed location on or in the ground. Structures include, by way of example and not in limitation: buildings, porches, gazebos, decks, fences, retaining walls, satellite antennas, swimming pools, tennis courts, stationary barbeque grills, hot-tubs, flagpoles, signs, and carports.

**TRAVEL TRAILER** — A vehicle less than 30 feet in length and used for temporary living or sleeping purposes and standing on wheels.

**VARIANCE** — The Board of Adjustment's authorized departure to a minor degree from the text of this ordinance in direct regard to a hardship or exceptional practical difficulty peculiar to an individual lot, in accordance with the procedures set forth in this ordinance.

**YARD** — The area of a lot located between the property line and the building setback line on any lot measured horizontally from the lot line to the building setback line, and measured vertically from the ground to the sky; except for rain gutters, roof eaves, and soffit, no cornice, overhang, or other architectural feature shall be permitted to extend into or protrude over any required yard space. Roof eaves, rain gutters, and soffit may extend up to 18 inches into the required setback. Additionally, residential heating oil tanks, propane tanks, and heating/cooling units/compressors may extend up to 42 inches into a required side or rear yard setback if: (a) set within six inches of the foundation, (b) not more than six feet in length or five feet in height, and (c) easily removable in the event of emergency. Chimneys may extend up to 24 inches into the required setback provided that they are set against the exterior wall and are less than 6 feet in length (measured parallel to the wall).



- (1) YARD, FRONT -- The required open space located in the front area of a lot.
- (2) YARD, REAR — The required open space located in the rear area of a lot.
- (3) YARD, SIDE — The required open space located in the side area(s) of a lot.

ZONING COMPLIANCE CERTIFICATE. A certificate issued and signed by the Code Enforcement Officer certifying that an existing or proposed use, building, or structure is or will, when erected, constructed, or used, be in compliance with the provisions of this ordinance.

ZONING MAP — The Official Zoning Map of the Town of Greenwood, Delaware.

- 3.2. **Words not defined in Section 3.1.** Words not defined above shall have the meanings given in Webster's Unabridged Dictionary.
- 3.3. **Word usage.** Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "building" includes the word "structure"; the word "occupied" includes the words "designed or intended to be occupied"; and the word "used" includes the words "arranged or intended to be used."

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## **ARTICLE 4**

### **Establishment of Districts; Zoning Map**

#### **Section 4.1.** Establishment of Districts.

The Town of Greenwood is hereby divided into the following 9 zoning districts:

<b>Designation</b>	<b>Characteristic Description</b>
R-1	Low Density Single-Family Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District

D-C	Downtown Commercial
H-C	Highway Commercial District
M/LI	Manufacturing & Light Industrial
RPC	Residential Planned Community
UT	Utility
OS	Open Space

## **Section 4.2 . Official Zoning Map.**

The above districts are bounded and defined as shown on the Official Zoning Map of the Town of Greenwood which shall consist of a scaled map of the Town, and which shall be prepared and adopted contemporaneously with the adoption of this ordinance. The Zoning Map shall be identified by the signature of the Mayor and Town Council members and shall bear the words "Adopted as the Official Zoning Map of the Town of Greenwood on the \_\_\_ day of \_\_\_\_." A copy of the Zoning Map shall be filed in the Town Hall. The Official Zoning Map and all explanatory information that it contains are made a part of this ordinance by reference.

**Section 4.3 Determining District Boundaries.** Where uncertainty exists with respect to the boundaries of any of the districts shown on the Zoning Map, the following rules shall apply:

4.3.1 Where district lines are indicated as being in close proximity to and following the center or right-of-way lines of streets, such center lines or right-of-way lines shall be construed as the district boundary.

4.3.2 Where district lines are in close proximity to and approximately following lot lines, said lot lines shall be construed to be the district boundary.

4.3.3 Where district lines are indicated as being in close proximity to and following the center or edge of a natural feature (such as a creek or pond), the center or edge (as appropriate) of the natural feature shall be construed as the district boundary.

4.3.4. Where district boundaries do not follow the lines of any street, lot, or natural feature, unless dimensioned or otherwise clearly indicated, they shall be determined by use of the scale on the Zoning Map.

4.3.5. All determinations concerning the location of district boundary lines shall be made by the Town Council, applying the foregoing guidelines.

**Section 4.4 Boundary Tolerances.** Where a district boundary line divides a lot held in single and separate ownership at the effective date of this Ordinance, the use of the regulations applicable to the less restricted district shall extend over the portion of the lot in the more restricted district a distance of not more than fifty (50) feet beyond the district boundary line.

**Section 4.5. Zoning Map Amendments** – If, in accordance with the provisions of this ordinance and the laws of the State of Delaware, changes are made in the zoning district boundaries, such changes shall promptly be made on the official Zoning Map by the Town Council.

The amending ordinance shall require that such change or amendment be duly entered on the Official Zoning Map, and shall require that Public Notice of the change shall be published in a newspaper of general circulation in the Town (in compliance with 10 Del.C. Section 8126, as it may be hereafter amended, or in accordance with any future corresponding provision of law) within 30 days of the date of such amendment; provided that inadvertent failure to enter such amendment on the Official Zoning Map or to publish such notice shall not invalidate the amendment.

**Section 4.6 Zoning of Annexed Lands.** In the event that the Town Council hereafter annexes any lands into the Town, the Town Council shall, prior to or contemporaneous with the adoption of any ordinance or resolution effecting such annexation, undertake such proceedings (e.g. public notice and hearing) as required by law as a condition precedent to the adoption of any ordinance or resolution to assign such annexed lands to a zoning district classification under this ordinance. Such zoning designation shall be consistent with the Town's certified Comprehensive Plan and shall conform, as applicable, to 22 Del.C. Section 101 and/or 29 Del.C. Ordinance 92 (as those statutes may hereafter be amended, or in accordance with any future corresponding provisions of law).

#### **Section 4.7 Replacement of Official Zoning Map.**

4.7.1 In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and/or additions thereto, the Town Council may, by resolution, adopt a duplicate of the then-current Official Zoning Map which shall supercede the prior Official Zoning Map.

4.7.2 The new Official Zoning Map shall be identified by the signatures of the Mayor and members of the Town Council and shall bear the following words: "This is to certify that this Official Zoning Map dated [insert date of new zoning map] supercedes and replaces the Official Zoning Map adopted [insert date of adoption of map being replaced] as the Zoning Ordinance of the Town of Greenwood."

### **Article 5 – Use Regulations**

#### **Section 5.1 Classification of Use.**

The principal use of an unimproved lot shall be the use classification of that lot. The principal use within a building or structure shall be the use classification of that building or structure. For the purposes of this ordinance, dwelling units shall be classified as a residential use (whether occupied by the owner or by a tenant). The sale or rental of merchandise, equipment, or services, and the rental of boarding rooms or lodging rooms shall be classified as a commercial use. Rental of dwelling units shall be classified as a residential use.

#### **Section 5.2. One Principal Building Per Lot**

Within residential districts, *unless authorized as a conditional use by the Town Council*, no more than one principal building, with its customary accessory buildings or structures may occupy or be constructed on any lot of record.

### **Section 5.3 Accessory uses, Buildings, and Structures**

- 5.3.1 Accessory uses, buildings, and structures shall be permitted only on the same lot with the building to which they are accessory. All accessory uses shall be such as do not alter the character of the premises on which they are located or impair the neighborhood.
- 5.3.2 No more than two accessory buildings shall be permitted on any lot, including a detached garage.
- 5.3.3. Accessory buildings or structures attached to a principal building shall comply in all respects with the yard requirements for the principal building.
- 5.3.4. No detached accessory building shall be located within the front yard or within the side yards forward of the front-yard setback line. Provided that they are not less than 5 feet from any property line, detached accessory buildings may be constructed in a rear yard or side yard behind of the rear-yard setback line. These restrictions on accessory structures shall not apply to permitted fences under this ordinance.

### **Section 5.4 Fences.**

**5.4.1 Existing Fences.** Any fence lawfully existing as of the effective date of this ordinance may be repaired, reconstructed, or replaced in the exact same location as the existing fence and using substantially the same type of materials as the existing fence, but not exceeding the height limitations for new fences as provided herein. The repair, replacement, or reconstruction of any existing fence under this section shall not require a zoning compliance certificate.

**5.4.2 New Fences.** Any fence erected after the effective date of this ordinance, other than as provided in 5.4.1 above, shall require a zoning compliance certificate and shall be subject to the following restrictions:

(a) Fences may be erected up to or on (but not beyond) the owner's property line.

(b) A fence erected on any property located within any R-1 or R-2 district which is contiguous to another property located within any R-1 or R-2 district shall not exceed four feet in height (excluding the fence posts), measured from the finished grade abutting the fence to the topmost point of the fence, except that fences may be constructed to a height of six feet: (i) along the rear property line and along the side property lines up to the rearyard setback line or (ii) with the written consent of the abutting residential property owner, along the side property line up to the frontyard setback line.

(c) Where any property in a residential district (R-1, R-2, or R-3, or RPC) abuts a property in any Commercial District (DC or HC) or in any Manufacturing & Light Industrial District (M/LI), a fence up to six feet in height may be erected along their common rear and/or side property lines.

(d) At the intersection of two or more streets, no fence or wall over three feet shall be permitted that would interfere with vehicular sight distance as determined by the Code Enforcement Official.

## **Section 5.5 Exceptions to dimensional regulations.**

**5.5.1 Height of buildings; exceptions to height limitations.** In any district the maximum height provisions shall not apply to spires, domes, cupolas, belfries, chimneys, smokestacks, flagpoles, town-owned water tanks or towers, silos, antennas, public utility poles or solar collectors (defined as any device or combination of devices, structures or part of a device or structure that collects solar energy for the purpose of heating water, buildings, or generating electricity); nor shall these provisions apply to elevator enclosures or water tanks on roofs.

### **5.5.2 Building setback lines.**

- (1) In any district, when the average setback of existing buildings within 200 feet of the side lot lines, and within the same block and zoning district as the subject lot, is less than the required distance, such building need not be set back from the front street line any further than such average setback, provided that where any business or industrial building is erected within 50 feet along the same street frontage of a residential district, such building shall be set back a distance of not less than 75% of the setback required for that residential district.
- (2) Exceptions for approved plots recorded prior to adoption of ordinance. In case of a lot on a subdivision plot approved by the Town Council and of public record as of the effective date of this ordinance, no rear yard need have a depth greater than 25% of the depth of the lot.

## **Section 5.6 Reduction in Lot Area.**

Subject to the provisions of this ordinance governing non-conforming lots, no lot of record, whether created by subdivision of an existing lot, or by the subdivision of acreage, shall have an area less than that required for the district in which it exists.

## **Section 5.7 Lots Fronting on Two Or More Streets.**

For purposes of determining whether or not a lot meets minimum street frontage requirements, the street frontage on each side of the lot shall be viewed independently of street frontage on any other side of the lot; a lot shall meet the minimum street frontage requirement on at least one side.

## **Section 5.8 Street Access.**

5.8.1 Subject to the provisions of this Ordinance governing non-conforming lots, no building shall be constructed on any lot which does not have the required minimum street frontage on a public street.

5.8.2 All alleys and private ways shall be connected directly to one or more public streets.

**Section 5.9 Interference With Traffic Control Devices.** No temporary or permanent sign, structure, tree, planting, or vehicle shall protrude from any property, create confusion around, obstruct vision, or otherwise interfere with any traffic control device, sign, or signal.

**Section 5.10 Vision Clearance at Street Intersections.**

No fence, wall, building, structure, sign, hedge, tree, planting, vehicle or other obstruction above a height of three feet shall be permitted within fifteen feet of the intersection of the right-of-way lines of two or more intersecting streets.

**Section 5.11 Prohibited uses.**

The following uses and activities shall be specifically prohibited in any zone in the Town of Greenwood:

- 5.11.1 Automobile wrecking yards, junkyards or the sorting and baling of scrap metal, paper, rags, glass or other scrap material.
- 5.11.2 The parking, storing or keeping of a dismantled, inoperative or discarded motor vehicle or any parts thereof, unless within an enclosed building.
- 5.11.3 Any uses not permitted by this ordinance.
- 5.11.4 All establishments involving the sale of alcoholic beverages either on or off premises which are located within 500 feet of any public or private school, day-care or child care center or church.

**Section 5.12 Multiple permitted uses and mixed uses.**

In any and all zoning districts, multiple permitted uses or mixed use of a property shall be deemed a conditional use subject to such special requirements as reasonably imposed by the Town Council.

**Section 5.13 Community residential treatment programs.**

- 5.13.1. These are minimum requirements, and community residential treatment programs shall be subject to such additional requirements as reasonably imposed by the Planning Commission and/or the Town Council.
  - (1) Prior to occupancy of the facility, the program will obtain any applicable license from the State of Delaware. Town approval is conditional upon the Zoning Office receiving state confirmation that an appropriate license has



been issued or certification that a license is not required by the state. If a license is not required by the State of Delaware, minimum standards may be required by the Town.

- (2) The program will require a planned program of care consisting of full-time programmatic supervision, counseling and/or therapy and assistance in the development of daily skills.
- (3) The program shall include a description of client population, services provided, staffing schedule and client/staff ratio.
- (4) The program will be operated under the authority of a reputable governing board, proprietor or government official to whom staff are responsible and who will be available to Town officials, if necessary, to resolve complaints pertaining to the facility. Each provider shall send complaint procedures to every property owner within 200 feet of the property within 45 days subsequent to Town approval to facilitate good neighbor relations. The operators will have a workable, written plan that includes a method for recording and resolving complaints by neighbors pertaining to the operation of the program. Complaints, efforts to resolve complaints and the results of such efforts shall be recorded.
- (5) The design of the facility will be compatible with the neighborhood within which it is located, including its landscaping and architecture.
- (6) The health and safety of the residents will be protected. Community residential programs shall meet all Town ordinances and regulations, including review by the Office of the State Fire Marshal and the Department of Public Health.
- (7) Community residential programs shall be located a minimum of 1,500 feet from any other community residential program or school.
- (8) The following documentation will be required to be submitted with the application:
  - (a) Site plan, including parking area and landscaping plan.
  - (b) Floor plan, with elevation drawings or photographs of existing building.
  - (c) List of board members, proprietors or governmental officials to whom staff are responsible.
  - (d) Written neighborhood relations plan.
  - (e) Complaint recording and resolution plan.

5.13.2 Off-street parking design standards shall be as follows:

- (1) One per employee during the period of greatest employment.
- (2) One per four clients.

- (3) All spaces reserved for handicapped accessibility shall conform to the requirements set forth by the federal standards provided by the ADA (Americans with Disabilities Act).
- (4) Have a buffer strip at least five feet wide between it and any adjacent residential lot.
- (5) Be attractively landscaped and screened from neighboring residential lots.
- (6) Ground cover, shrubs, trees and landscape screening shall be located and maintained so as not to interfere with vehicular and pedestrian traffic on the property or with sight clearance and exits.
- (7) Not extend into any required front yard area, except for driveways.
- (8) Parking spaces shall be a minimum of 15 feet from any street line.
- (9) Be used solely for the periodic parking of private passenger (noncommercial) vehicles.
- (10) Parking space size shall be a minimum of ten feet by 20 feet.

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#### **Section 5.14 Temporary Buildings or Structures During Construction; Construction Vehicles.**

5.14.1 Temporary buildings or structures (including “construction trailers”) not for habitation used in connection with and during construction, and located on the property upon which construction is taking place shall be permitted, but shall be removed upon completion or cessation of construction.

5.14.2 Construction vehicles may be parked or stored subject to the following conditions:

(a) Non-self-propelled vehicles shall be kept on the property upon which construction is being done at all times.

(b) Self-propelled vehicles shall be kept on the property on which construction is being done except during permitted construction hours at which times such vehicles may be parked on public streets.

#### **Section 5.15 Yard Sales.**

Yard sales may be permitted, with reasonable restrictions concerning traffic safety and nuisance control. No yard sale shall exceed three consecutive days in duration.

#### **Section 5.16 “For Sale By Owner Items”.**

A property owner or resident may be permitted to display not more than two items “for sale by owner” for not more than 30 cumulative days in any calendar year.

#### **Section 5.17 Restoration or Removal of a Damaged or Destroyed Building or Structure.**

Any building or structure which is destroyed or damaged by fire, explosion, natural catastrophe, or Act of God, to the extent that, in the judgment of the Code Enforcement Official, the building or structure is non-habitable or constitutes a hazard to public health, life, or safety shall be removed from the premises, or restoration begun within one hundred and eighty (180) days of the date of destruction or damage.

#### **Section 5.18 Dog Houses.**

Dog houses shall be located on the lot on which a principal building is erected or is being erected and shall be limited in number to one. A dog house may be located in, or project into the rear or side yard. A dog house shall not be less than:

- (a) ten (10) feet from a property line; and,
- (b) twenty-five (25) feet from a street line.

No dog house shall be used to house or contain in excess of two animals unless approved by Town Code Enforcement Official in the exercise of his reasonable discretion based upon the particular circumstances (e.g. type and size of animals, size of lot, location of dog house on lot, proximity to neighboring property, objection or lack of objection from neighboring property owner or occupant).

#### **5.19 Compliance with Federal, State, and Sussex County statutes, ordinances, and regulations.**

All buildings, structures, and uses shall comply with all governing and applicable federal, state, and Sussex County statutes, ordinances, and regulations, provided that where any matter is subject to an ordinance or regulation of both the Town and Sussex County, the Town ordinance or regulation shall control unless the Town ordinance or regulation provides otherwise.

### **ARTICLE 6 DISTRICT Regulations**

#### **Section 6.1. R-1 Single-Family Residential District.**

6.1.1. **Purpose.** The intent of the R-1 Residential District is to preserve the spacious residential atmosphere and quality of living of existing low-density residential development, to provide for the orderly and appropriate development of new low-density housing and to allow related uses that would not be detrimental to the residential character of the district.

6.1.2. **Permitted uses.** Permitted uses for the R-1 District shall be as follows:

- (1) A single-family detached residential dwelling (including modular homes but excluding manufactured homes).
- (2) Farming, agricultural activities and roadside stands for the sale of farm and nursery products produced on the property where offered

for sale.

- 6.1.3
- (3) Municipal and public buildings, including Town Hall or library, and the following municipal and public facilities: water storage towers, water reservoirs, water pumping stations, water treatment plants, sewage pumping stations, sewers (storm and sanitary), street rights-of-way, utility distribution lines, public transportation bus or transit stops.
  - (4) Non-commercial parks, playgrounds, athletic fields, recreation buildings, swimming pools and community recreational centers operated on a noncommercial/ non profit basis for recreation purposes.

**Accessory Uses, Buildings, Structures.,**

The following are permitted provided that they are subordinate and accessory to the principal building or use in existence or under construction on the same lot and incidental thereto:

- (a) Private residential garages not exceeding 750 square feet of ground space.
- (b) Residential storage sheds or related outbuildings shall not exceed 150 square feet of ground space
- (c) Fences and Retaining Walls
- (d) Decks, Boardwalks and Walkways
- (e) Gazebos, Stationary Grills
- (f) Swimming Pools, Tennis Courts, Handball Courts
- (g) Flagpoles, Mailboxes, Birdhouses
- (h) Satellite Antennas
- (i) Residential Playground Equipment (e.g. swingsets, slides, seesaws, climbing apparatus)
- (j) Dog Houses for Up to 2 Animals
- (k) Home Occupation (subject to the following special requirements):
  - (i) All employees are to be of the immediate family residing in the dwelling
  - (ii) the home occupation shall maintain the residential character of the building and shall be clearly incidental and secondary to the use of the

building, and shall be clearly incidental and secondary to the use of the building for residential purposes

- (iii) The area used for the home occupation shall not exceed 30% of the total floor area of the dwelling, unless, as in the case of family day care, the state has final jurisdiction of the area requirements.
- (iv) No storage of products or associated materials shall be allowed in accessory structures/buildings, and no products are to be stored where they are outwardly visible to the public view.
- (v) Family day care shall involve a maximum of six full-time and two after-school children, as specified by state regulations.
- (vi) The occupation will not cause excessive vehicular traffic, parking issues, or noise beyond that customarily associated with a single-family residential use
- (vii) The occupation will not involve animal boarding and/or care.
- (viii) A maximum of one non-illuminated sign (size and setback specified in Article 11 of this Ordinance) may be affixed to the building or placed within the front property line.

6.1.4 **Conditional Uses** subject to special regulations. The following uses may be permitted with the approval of a conditional use permit by the Greenwood Town Council in accordance with the provisions in Article 7 of this ordinance:

- (1) Police, ambulance or paramedic station, and fire stations (with associated parking areas, fund-raising, and community hall activities)
- (2) Churches and other places of worship and cemeteries.
- (3) Public and private elementary, junior or senior high schools.
- (4) Day-care centers.
- (5) Residential conversion of a single-family dwelling into multiple dwelling units, if such dwelling is structurally sound but too large to be in demand for single-family use and if that conversion would not impair the character of the neighborhood, subject to conformance with the following requirements:
  - (a) There shall be at least 2,000 square feet of lot area for each dwelling unit to be accommodated

- (b) There shall be a gross habitable floor area of at least 800 square feet per family to be accommodated.
  - (c) No dwelling shall be converted unless it complies with all applicable housing and building construction codes of the Town.
  - (d) No addition shall extend within the front yard, side yards or rear yard required for the district within which it is located.
  - (e) Fire escapes and outside stairways leading to a second or higher story shall, where practicable, be located on the rear of the building and shall not be located on any building wall facing a street.
  - (f) Two off-street parking spaces shall be provided for each dwelling unit in the converted building.
- (6) Professional occupation restricted to the owner/occupant, subject to conformance with the following requirements:
- (a) There shall be three off-street parking spaces in addition to those otherwise required.
  - (b) No more than two persons shall be employed by the practitioner of the professional occupation to provide secretarial, clerical, technical or similar assistance.
  - (c) No storage of materials or products outside the dwelling shall be permitted unless completely housed.
  - (d) The area used for the practice of a professional occupation shall occupy no more than 50% of the total floor area, including garages or other accessory buildings.
  - (e) The professional use shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
  - (f) No external alterations inconsistent with the primary residential use of the dwelling shall be allowed.
  - (g) No display of products shall be visible from outside the building.
  - (h) A maximum of one non-illuminated sign (size and setback specified in Article 11 of this Ordinance) may be affixed to the building or placed within the front property line.
- (7) Customary home occupation or a studio for artists, designers, photographers, musicians, sculptors and other similar persons, subject to conformance with the following requirements:
- (a) The area used for the practice of the home occupation or studio shall occupy no more than 50% of the total floor area of the dwelling unit in which it is located.

- (b) No storage of materials or products outside the dwelling shall be permitted unless completely housed.
  - (c) The home occupation or studio shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
  - (d) No external alterations inconsistent with the primary residential use of the dwelling shall be allowed.
  - (e) No display of products shall be visible from outside the building.
  - (f) A maximum of one non-illuminated sign (size and setback specified in Article 11 of this Ordinance) may be affixed to the building or placed within the front property line.
  - (g) A maximum of two employees shall be permitted in the operation of the home occupation or studio.
- (8) Art or specialty shops/galleries.
- (i) The residence shall remain as the predominant feature of the site.
  - (ii) The shop or gallery shall occupy only 40% of the residence.
  - (iii) Public parking shall be available, with the determination of said parking requirements being made by the Planning Commission during the site plan review hearing. These determinations and recommendations must be done in conjunction with any state regulations concerning traffic control within the given site area.
  - (iv) The Fire Marshal review must be applied for and recommendations made by the agency must be presented two weeks prior to the hearing date. All requests or recommendations shall be adhered to.
- (9) Social club or fraternal, social service, union or civic organization, provided that: (1) the chief activity shall not be one which is customarily carried on as a business, and (2) the buildings and services shall be for the exclusive use of members and their guests.
- (10) Cultural facilities, including a museum or an art gallery.
- (11) Country club, regulation golf course, including customary accessory uses, provided that all buildings have a minimum setback of 120 feet from all street and property lines.
- (12) Public utility structures and facilities, including: substations for electric, gas and telephone facilities; overhead electric transmission lines and towers

#### **6.1.5. Dimensional Regulations.**

- (1) Minimum lot area. Minimum lot area shall be 10,000 square feet.

- (2) Maximum lot coverage shall be 40% (See definition of "Maximum Lot Coverage").
- (3) Minimum street frontage on at least one street shall be 80 feet.
- (4) Height of principal buildings shall not exceed two & one-half stories or 35 feet, whichever is greater. Accessory buildings, other than private garages, shall not exceed 15 feet in height. Private garages may have a height of 20 feet provided that they have a roof pitch of not less than 8/12.
- (5) Front Yard SetBack: There shall be a front yard setback from each street on which a lot abuts of not less than 30 feet.
- (6) Rear Yard Setback: There shall be a rear yard setback on each lot which shall be not less than 25 feet; provided however, that for corner lots, the rear yard may be reduced 20% in depth to allow for skewing of a residential dwelling on the lot.
- (7) Side Yard Setbacks: There shall be two side yards on each lot, each of which shall be a minimum of 12 feet.

## **6.2. R-2 Residential District.**

6.2.1. **Purpose.** The purpose of the R-2 District is to permit housing at a greater density than in the R-1 District by providing for the orderly development of low- to medium-density residential housing and related uses into those areas where public services are available. Finally, it protects existing developments of this nature and excludes incompatible ones.

6.2.2 **Permitted uses:** all uses permitted in the R-1 District.

6.2.3 **Accessory Uses:** all accessory uses permitted in the R-1 District.

6.2.4 **Conditional uses:** All uses specified as conditional uses in the R-1 District, as well as the following uses, may be permitted with the approval of a conditional use permit by the Greenwood Town Council in accordance with Article 7 of this ordinance:

(a) Single-family semidetached dwelling.

(i) Ownership.

[A] Dwelling units and individual lots of a single-family



individual ownership, shall be maintained in an acceptable manner without expense to the general public.

[ii] Design requirements. No apartment/dwelling units shall be located within a cellar.

[iii] Site requirements.

[A] The structure shall be so located as to provide proper access to the building for fire-fighting equipment, trash collection, and deliveries.

[B] Off-street parking shall be provided at the rate of 2 ½ spaces for every dwelling unit on each lot.

[iv] Facilities.

[A] Outdoor light fixtures shall be provided at locations that will assure the safe and convenient use of walks, steps, parking areas, driveways, streets and other such facilities.

[B] Facilities for temporary trash/refuse storage shall be provided in the rear or side yards in such a manner that is adequate for the dwelling units they must support.

#### **6.2.5. Dimensional Regulations.**

(1) For permitted uses and single-family semidetached dwellings not separately titled:

- (a) Minimum interior lot area shall be 8,000 square feet and minimum corner lot area shall be 13,000 square feet
- (b) Maximum lot coverage shall be 40%.
- (c) Minimum street frontage on at least one street shall be 80 feet.
- (d) Height of principal buildings shall not exceed two & one-half stories or 35 feet, whichever is greater. Accessory buildings shall not exceed 15 feet in height.
- (e) Front Yard SetBack: There shall be a front yard setback from each street on which a lot abuts of not less than 30 feet
- (f) Rear Yard Setback: There shall be a rear yard setback on each lot which shall be not less than 15 feet; provided however, that for corner lots, the rear yard may be reduced 20% in depth to allow for skewing of a residential dwelling on the lot.
- (g) Side Yard Setbacks: There shall be two side yards on each lot each of which shall be a minimum of 8 feet.

(2) For single-family semidetached dwellings separately titled:

- (a) Minimum interior lot area shall be 4,000 square feet and minimum corner lot area shall be 6,500 square feet
- (b) Maximum lot coverage shall be 40%.
- (c) Minimum street frontage on at least one street shall be 40 feet.
- (d) Height of principal buildings shall not exceed three stories or 35 feet, whichever is greater. Accessory buildings, other than private garages, shall not exceed 15 feet in height. Private garages may have a height of 20 feet provided that they have a roof pitch of not less than 8/12.
- (e) Front Yard SetBack: There shall be a front yard setback from each street on which a lot abuts of not less than 30 feet.
- (f) Rear Yard Setback: There shall be a rear yard setback on each lot which shall be not less than 15 feet; provided however, that for corner lots, the rear yard may be reduced 20% in depth to allow for skewing of a residential dwelling on the lot.
- (g) Side Yard Setbacks: There shall be one side yard for each lot of not less than 8 feet.

### **Section 6.3 R-3 Garden Apartment and Townhouse District.**

6.3.1. **Purpose.** The purpose of the R-3 District is to provide for the orderly development of existing and proposed medium- to high-density residential housing and related uses into those areas where adequate public facilities exist. The district will permit development of garden-type apartments as well as townhouses that will yield high densities in selected areas, multifamily dwellings, and a variety of housing types.

6.3.2. **Permitted uses.** Permitted uses for the R-3 District shall be as follows:

- (1) All uses permitted in an R-2 District and subject to its area regulations, unless otherwise indicated in this section as provided below:
  - (a) Single-family, single family semi-detached, and two-family detached dwellings shall be subject to the following dimensional regulations:
    - (1) Minimum interior lot area shall be 7,500 square feet
    - (2) Maximum lot coverage shall be 45%.
    - (3) Minimum street frontage on at least one street shall be 60 feet.
    - (4) Height of principal buildings shall not exceed two & one-half stories or 35 feet, whichever is greater. Accessory buildings, other than private garages, shall not exceed 15 feet in height. Private garages may have a height of 20 feet provided that they

Private garages may have a height of 20 feet provided that they have a roof pitch of not less than 8/12.

- (5) Front Yard SetBack: There shall be a front yard setback from each street on which a lot abuts of not less than 30 feet
  - (6) Rear Yard Setback: There shall be a rear yard setback on each lot which shall be not less than 15 feet; provided however, that for corner lots, the rear yard may be reduced 20% in depth to allow for skewing of a residential dwelling on the lot.
  - (7) Side Yard Setbacks: There shall be two side yards on each lot each of which shall be a minimum of 8 feet, except separately-titled semi-detached structures which shall have at least one side yard per lot, minimum eight feet in width.
- (2) Garden or low-rise apartments and two family semi-detached, subject to site plan review and the following requirements:
- (a) The number of dwelling units per acre shall not exceed 16.
  - (b) Lot coverage shall be a maximum of 60% for any lot developed for garden apartments.
  - (c) The maximum number of dwelling units per building shall be 12.
  - (d) Distance between buildings or groups of buildings shall be as follows: each building or group of buildings shall be at least 30 feet from any other building or group of buildings or any property line.
  - (e) Minimum street frontage on any public street shall be at least 50 feet.
  - (f) Minimum lot size shall be one acre for garden apartment properties or complexes, with a minimum of 2,500 square feet of lot area for each dwelling unit.
  - (g) Front yard setback: There shall be a front yard setback from each street on which a lot abuts of not less than 30 feet.
  - (h) Rear Yard Setback: There shall be a rear yard setback on each lot which shall be not less than 30 feet; provided however, that for corner lots, the rear yard may be reduced 20% in depth to allow for skewing of a residential building on the lot.
  - (i) Side Yard Setbacks: There shall be two side yards on each lot each of which shall be a minimum of 30 feet, except separately-titled semi-detached structures which shall have at least one side yard per lot, minimum thirty feet in width.

- (j) A minimum of 15% of the total area developed for garden apartments shall be designated as open space. The Mayor and Council shall have the option to require all or a portion of the open space to be public open space or dedicated open space, with appropriate conditions for maintenance and use.
  - (k) Height of buildings shall not exceed 2 ½ stories or 35 feet. Accessory buildings, other than private garages, shall not exceed 10 feet in height.
- (3) Townhouses or row dwellings, subject to site plan review and the following requirements:
- (a) The number of dwelling units per group shall not exceed eight nor be fewer than three.
  - (b) The number of dwelling units per acre shall not exceed 12.
  - (c) Maximum lot coverage shall be 60%.
  - (d) Minimum street frontage on any public street shall be at least 50 feet.
  - (e) No group of townhouses shall be closer than 60 feet as to facing walls and 30 feet as to end walls from any other group of such dwellings.
  - (f) There shall be within any contiguous group of townhouses at least three different architectural plans having substantially different designs and building materials. In addition, no more than three continuous townhouses shall have the same front setback, and the variations in front setback shall be at least four feet.
  - (g) The minimum width of any side yard abutting a street, driveway or parking area within the townhouse area shall not be less than 30 feet.
  - (h) Height of buildings shall not exceed two & one-half stories or 35 feet. Accessory buildings, other than private garages, shall not exceed 10 feet in height.
  - (i) Alleys in the rear of townhouse groups are required for access to units by owners and to facilitate Town services, trash collection, meter reading and parking.
  - (j) Minimum lot size shall be one acre for townhouse projects or complexes, with a minimum of 2,000 square feet of lot area for each dwelling unit.
  - (k) A minimum of 15% of the total area developed for townhouses shall be designated as open space. The Mayor and Council shall have the option to require all or a portion of the open space to be public open space or dedicated open space, with appropriate conditions for maintenance and use.
  - (l) Front Yard SetBack: There shall be a front yard setback from each street on which a lot abuts of not less than 30 feet

street on which a lot abuts of not less than 30 feet

- (m) Rear Yard Setback: There shall be a rear yard setback on each lot which shall be not less than 30 feet; provided however, that for corner lots, the rear yard may be reduced 20% in depth to allow for skewing of a residential dwelling on the lot.
- (n) Side Yard Setbacks: Subject to subparagraph (g) above, there shall be a side yard of not less than 15 feet between the end unit of any townhouse building and the abutting side property line.

**6.3.3 Conditional uses subject to special regulations.** The following uses may be permitted with the approval of a conditional use permit by the Greenwood Town Council in accordance with the provisions of Article 7 of this ordinance:

- (a) Rooming or boarding houses.
- (b) Business offices for administrative purposes only.
- (c) Professional offices (nonresident).
- (d) Medical clinics.
- (e) Sanatoriums or nursing homes.
- (f) Art or specialty shops/galleries.
- (g) Studio workshop for artists, designers, photographers, musicians, sculptors, & related uses, including sales
- (h) Police, ambulance, paramedic, or fire station, with associated parking areas

#### **Section 6.4 DOWNTOWN COMMERCIAL DISTRICT (“DC”).**

**6.4.1. Purpose.** The purpose of the DC District is to create an atmosphere that encourages the preservation and revitalization of the Downtown Commercial District. Specifically, the regulations are designed to encourage the development and opening of new businesses that can be compatible in a neighborhood setting to provide goods and services to local residents in those areas where public services are available. The district regulations also recognize the unique circumstances that are peculiar to the downtown area.

**6.4.2. Permitted uses.** Permitted uses for the DC District shall be as follows:

- (1) Single-family and multifamily dwellings.
- (2) Branch offices only of financial institutions; ,Banks, and Loan Companies.
- (3) Barbershops and beauty shops.
- (4) Studio – workshop for artists,designers,photographers,musicians,sculptors and related uses including sales.

- (5) Retail food stores, including bakeries, confectionery, candy or gourmet shops, small convenience grocery shops (without gas pumps) and meat, fish or produce stores.
- (6) Restaurants, excluding fast-food service or franchised food service operated restaurants.
- (7) Retail sales and specialty stores.
- (8) Public parking lot.
- (9) Off-street parking as an accessory use.
- (10) Antique shop or bookstore.
- (11) Municipal and public services and facilities, including Town Hall, water storage towers, water reservoirs, water pumping stations, water treatment plants, sewage pumping stations, sewers (storm and sanitary), street rights-of-way, utility distribution lines, public transportation bus or transit stops, police, ambulance, paramedic, and fire stations (together with their associated parking, fund-raising, and community hall activities).
- (12) Community recreation center, as a nonprofit community service.
- (13) Laundromats.
- (14) Neighborhood shopping centers, to include only those uses permitted in this section, as listed above, and subject to the following special requirements:
  - (a) Maximum lot size for the grouping of stores shall be 1 1/2 acres.
  - (b) Maximum floor area for any single permitted establishment within the neighborhood shopping center shall be 30,000 square feet.
  - (c) Minimum street frontage shall be at least 250 feet.
  - (d) Minimum distance between any building or accessory use, except parking, and any residential district shall be 50 feet.
  - (e) Minimum distance between any access driveway (including ingress or egress points) and any residential district shall be 50 feet.
  - (f) Front yard setback: Minimum of 50 feet
  - (g) Rear yard setback: Minimum of 50 feet
- (15) General merchandise stores, including such uses as department stores, apparel and accessories, hardware, shoes, drugs and variety stores.
- (16) Specialty retail stores, including such uses as gifts, antiques, crafts, newspapers, tobacco, flowers, sporting goods, books, jewelry, leather goods and stationery stores.
- (17) Personal service establishments, including such uses as barbers, beauticians, shoe repair and tailors.
- (18) Taverns and tap rooms.

- (19) Professional services and administrative activities, including such uses as offices of agents, brokers, physicians, dentists, attorneys, architects, engineers, musicians and artists and governmental offices serving the public.
- (20) Libraries, museums, art galleries and public information centers.
- (21) Churches and other places of worship
- (22) Tourist home, boardinghouse, rooming house or lodging house.
- (23) Commercial parking lot, public garage or multilevel parking garage and off-street parking.
- (24) Publishing, printing and reproduction establishments.
- (25) Repair and servicing as an accessory activity of any article for sale in the same establishment.
- (26) Indoor storage facilities as an accessory use to any of the permitted uses in this district.
- (27) The outdoor display of merchandise, if done in a reasonable manner and if the display is kept neat and orderly as determined by the Code Enforcement Official. Furthermore, the outdoor display may not interfere with the safe and efficient flow of pedestrian traffic.
- (28) Family day care, which shall involve a maximum of six full-time and two after-school children, as specified by state regulations.

6.4.3. **Conditional uses subject to special requirements.** The following uses are permitted subject to receiving a conditional use permit by the Town Council as provided in Article 7 of this ordinance.

- (1) Small convenience grocery shops with gas pumps.
- (2) Community residential treatment program
- (3) Commercial indoor recreation activities, including amusement arcades, indoor theaters, social clubs, youth clubs or similar facilities.
- (4) Dry-cleaning establishments.
- (5) Undertakers, Funeral Home/Mortuaries
- (6) Motels and hotels.
- (7) Instructional, business or trade stores.
- (8) Fast-food or franchised food service operated restaurants.
- (9) Day-care centers.
- (10) Charitable and Philanthropic organizations
- (11) Liquor Store

- (12) Residence apartments in conjunction with any nonresidential use.
- (13) Fraternal, social service, union or civic organization; Private social club

**6.4.4. Dimensional regulations.**

- (1) Minimum lot area shall be 3,500 square feet.
- (2) Maximum lot coverage shall be 80%.
- (3) Minimum street frontage shall be 30 feet.
- (4) Height of buildings shall not exceed two and half stories or 35 feet.
- (5) Minimum front building setback shall be 10 feet.
- (6) Side yards may be 0 feet.
- (7) Minimum rear yard shall be 25 feet.

**Section 6.5 HC Highway Commercial District.**

**6.5.1. Purpose.** The purpose of the HC District is to provide for larger-scale commercial uses that may require large amounts of parking space or have a high traffic impact in those areas where public services are available. These uses generally require locations on major arterial routes and serve both local and regional customers.

**6.5.2. Permitted uses.** Permitted uses for the HC District shall be as follows:

- (1) Offices for banking & financial institutions, technical centers, research/data centers, emergency service centers (police, fire, rescue), corporate offices, and other professional offices.
- (2) Dry Cleaning Establishments
- (3) Funeral Home, Mortuary, Crematorium, Undertaker
- (4) Furniture refinishing & furniture restoration shop
- (5) Laundromat
- (6) Professional Services & Administrative Activities including offices for professionals (real estate brokers and agents, physicians, dentists, attorneys, architects, engineers, musicians & artists, and government offices serving the public)
- (7) Sign Fabrication and painting shops
- (8) Veterinary Clinics
- (9) Large Retail Outlets
- (10) Neighborhood Shopping Centers, subject to special requirements
- (11) Community Recreational Center, as non-profit community service
- (12) Athletic Club, including facilities for tennis, handball, racketball, swimming,



fitness

- (13) Indoor storage facilities as an accessory use to any of the permitted uses in this district
- (14) Restaurants, including fast-food or franchised restaurants and drive-in restaurants.
- (15) Warehouses
- (16) Tourist home, boarding house, rooming house, or lodging house
- (17) Roadside produce market.
- (18) Memorial stone shop.
- (19) Bus Station
- (20) Charitable & philanthropic organizations
- (21) Medical Arts Offices & Buildings
- (22) Business machine shops for sales & service
- (23) Professional Schools, Non-industrial
- (24) Publishing, printing, and reproduction establishments
- (25) Central office for telephone or cable television service
- (26) Television and radio studios (without towers)
- (27) Supermarkets
- (28) Public parking lot
- (29) Off – street parking as an accessory use
- (30) Libraries, museums, art galleries and public information centers
- (31) Churches or other places of worship
- (32) Municipal & public buildings including Town Hall or library and the following municipal and public facilities, water storage, water reservoirs, water pumping stations, water treatment plants, sewage pumping stations, sewers (storm and sanitary), street rights of way, utility distribution lines, public transportation bus or transit stops
- (33) Police, ambulance or paramedic station and fire stations with associated parking areas, fund raising and community hall activities
- (34) Building Contractors' Yards

6.5.3. **Conditional uses subject to special requirements.** The following uses are permitted subject to receiving a conditional use permit by the Town Council as provided in Article 7 of this ordinance.

- (1) Motels or hotels with a minimum lot size of three acres.
- (2) Commercial greenhouse.

- (3) Wholesale establishment.
- (4) Newspaper publishing or printing establishment.
- (5) Contractors', craftsmen's or general service shops, including welding and similar shops.
- (6) Research, design, testing and development laboratories.
- (7) Car repair shops.
- (8) Used car lots.
- (9) Service station, automobile sales or rental agency, public garage, parking garage or lot, but not including storage of wrecked cars, subject to the following special requirements:
  - (a) All facilities shall be located and all services shall be conducted on the lot.
  - (b) All repair work shall be conducted within an entirely enclosed building.
  - (c) No equipment for the service of gasoline or oil shall be placed closer to any street or property line than 30 feet.
  - (d) No portion of such structure or its equipment shall be located within 500 feet of the property line of any school, hospital, church or public recreation building.
  - (e) No service station shall be located within 800 feet of another service station on the same side of the street within the same block.
  - (f) Any such use shall be permitted only where it is determined that it will not materially interfere with the main pedestrian movement in conjunction with a compact retail area.
- (10) Shopping center, subject to site plan review and the following site requirements:
  - (a) The total shall not be less than one acre.
  - (b) The site must be served by public water, sewer and electricity.
  - (c) An application for a Shopping Center shall include a proposed tenant mix. Permitted tenant uses shall be limited to those uses permitted in Section 6.5 or such other uses specifically approved as part of the Conditional Use application for a Shopping Center. Any change in the tenant mix which involves a use other than a use permitted under Section 6.5 or previously-approved as part of the Shopping Center Conditional Use approval shall require approval as a Conditional Use.
  - (d) Storm-water drainage. Facilities shall be provided by the developer to handle the increase in storm-water runoff, and the developer shall make a financial contribution towards the cost of any off-site storm-water management facilities necessitated by the shopping center

water management facilities necessitated by the shopping center.

(e) Traffic and parking.

- [1] The internal circulation of traffic shall be separated from the external street system, and pedestrian and vehicular traffic shall be regulated through traffic control devices and appropriate site design.
- [2] Access to state highways shall be controlled by the State Department of Transportation.
- [3] The minimum distance between accessways and a residential district shall be 50 feet or the minimum requirement established by DelDOT, whichever is greater.
- [4] Spacing of accessway.
  - [a] From adjoining property: 50 feet.
  - [b] From minor intersections: 50 feet.
  - [c] From major intersections: 100 to 150 feet.
- [5] Five and one-half parking spaces shall be provided per 1,000 feet of leasable area.
- [6] Parking lots shall be attractively landscaped in accordance with the recommendations of a licensed landscape architect or other qualified landscaper as shown on the general site plan.

(f) Setback.

- [1] From street right-of-way: 30 feet.
- [2] From nonresidential districts: 30 feet.
- [3] From residential districts: 100 feet.

(g) Buffering and landscaping.

- [1] There shall be a minimum of a ten-foot landscaped buffer along all lot lines. The screening shall be not less than six feet high near residential districts.
- [2] Ten percent of the site shall be landscaped and may include features such as pedestrian walking or rest areas and courtyards.
- [3] At least one tree, not less than 3 inches in diameter when measured 36 inches above abutting grade, shall be planted for every seven off-street parking spaces located within the shopping center parking lot.

(11) Day-care centers, with site plan required.

(12) Car wash, all types (staffed, automatic, self-service, etc.).

- (13) Convenience stores with gas pumps.
- (14) Community residential treatment program.
- (15) Liquor Store
- (16) The outdoor display of merchandise, if done in a reasonable manner and kept neat and orderly and does not interfere with the safe and efficient flow of pedestrian traffic
- (17) Commercial parking lot, public garage, or multilevel garage and off street parking
- (18) Outdoor commercial recreation facilities, not motorized vehicles
- (19) Indoor recreation, including amusement arcades, indoor theatres, billiard tables, youth clubs, and similar facilities
- (20) Fraternal, social service, union or civic organization; Private social club
- (21) Civic and or conference centers
- (22) Schools
- (23) Health Center & clinic (medical or dental)
- (24) Medical/ dental laboratories
- (25) Medical and surgical hospitals, subject to site plan review
- (26) Nursing Homes and Sanatoriums
- (27) Warehouses, distribution centers
- (28) Printing, publishing, binding ,packaging, storage, warehousing, distribution
- (29) R-1 & R-2 uses when accessory to a commercial use
- (30) R-3 uses

#### **6.5.4. Dimensional Regulations.**

- (1) Minimum lot area shall be one acre.
- (2) Maximum lot coverage shall be 80%.
- (3) Minimum street frontage shall be as follows: for an interior lot 150 feet and for a corner lot 170 feet.
- (4) Height of buildings shall not exceed two & one-half stories or 35 feet.
- (5) Minimum building setback shall be 30 feet.
- (6) Side yards shall be provided as follows: each lot shall have two side yards a minimum of 20 feet each, with a minimum aggregate width for two side yards of 50 feet.
- (7) Minimum rear yard shall be 50 feet.

## **Section 6.6 MANUFACTURING & LIGHT INDUSTRIAL DISTRICT (“M/LI”).**

6.6.1. **Purpose.** The purpose of the Manufacturing & Light Industrial District shall be to provide locations, in those areas where public services are available, for the development of light to moderate industrial manufacturing, warehousing, wholesale and limited research establishments which, because of their type and nature, would be compatible with adjacent or nearby residential areas. An additional purpose of this district is to provide guidelines and performance standards which will control and confine any offensive features (i.e., noise, vibration, heat, smoke, glare, dust, objectionable odors, toxic wastes or unsightly storage) to the confines of the premises and within enclosed buildings or within a visually enclosed space.

6.6.2. Permitted uses of the M/LI District shall be as follows:

- (1) Building Contractor’s Materials Storage Yards
- (2) Warehouses
- (3) Wholesale storage, warehousing, and distribution facilities
- (4) Research, design, testing and development laboratories.
- (5) Boat Manufacture and Repair (Vessels less than 5 tons); Boat Sales and Service
- (6) Farm Machinery and truck manufacture, sales, storage, service, and repairs
- (7) Light manufacturing, assembling, converting, altering, finishing, baking, cooking or any other type of processing or storage of an industrial nature for the production and/or distribution of any goods, materials, products, instruments, appliances and devices, provided that the fuel or power supply shall be of an approved type. Also included shall be all incidental clinics, offices, cafeterias and recreational facilities for the exclusive use of in-house staff and employees.
- (8) Printing, publishing, binding, packaging, storage, warehousing and distribution.
- (9) Municipal and public services and facilities, such as utility supply areas (i.e. water, sewer, electric), public utility distribution and transmission facilities, and substations.

6.6.3. **Prohibited uses.** The following are expressly prohibited in the M&I District:

- (1) Residences, except those in existence at the time of adoption of this amendment.
- (2) Manufacturing uses involving production of the following products from raw materials: asphalt, bituminous concrete, cement, charcoal and fuel briquettes; chemicals: aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, creosote, hydrogen and oxygen, industrial alcohol, nitrates (both natural and manufactured) of an explosive nature, potash, petro chemical, pyroxylin, rayon yarn and ..

hydrochloric, nitric, picric, phosphoric and sulfuric acids; coal, coke and tar products, including gas manufacturing, explosives, fertilizers, glue and size (animal); linoleum and oil cloth, matches, paint, varnishes and turpentine; rubber (natural and synthetic); and soaps, including fat rendering.

- (3) Dumps, junkyards, automobile salvage and dismantling plants/yards, storage areas or operations for the storage or resale of used automotive or other machine parts.
- (4) Operations involving slaughterhouses, stockyards or slag piles.
- (5) Storage of explosives and bulk or wholesale storage of gasoline above ground.
- (6) Quarries, stone crushers, screening plants and all associated uses.
- (7) The following processes: large-scale reduction, refining, smelting and alloying of metal or metal ores; refining petroleum products, such as gasoline, kerosene, naphtha and lubricating oil; and reduction and processing of wood pulp and fiber, including paper mill operations.

6.6.4. **Conditional uses.** The following uses are permitted in the M/LI District, in accordance with the provisions within Article 7 (conditional use portion) of this ordinance:

- (1) Trucking terminal Operations, tractor-trailer storage, vehicle repair facilities, parking facilities, and trucking schools
- (2) Radio-television facilities, with towers.
- (3) Recycling or Collection Facilities for paper, glass, plastic, and metals
- (4) Trash Compaction, transfer station, and solid waste management system, not to include hazardous wastes

6.6.5 **Design standards and requirements.** These are minimum requirements for all activities that are permitted or permitted as conditional uses. In addition, conditional use activities are subject to such greater restrictions as may be reasonably required by the Planning Commission during site plan review.

- (1) Accessory uses shall not be permitted without a principal use.
- (2) Any uses not permitted, as previously listed, are prohibited.
- (3) All uses shall be conducted within a completely enclosed building. There shall be no open storage of raw, in process or finished products, supplies or waste material, except that these items may be shielded from public view by a landscaped screen, fence or wall.
- (4) In a planned industrial park or any lands designated as an M/LI District, no building/structure, accessory structure or sign shall be located closer than 200 feet to any non industrial district boundary.
- (5) Adequate off-street parking shall be provided for all employees and traffic to the buildings. The minimum requirements are given in Article 9 of this

ordinance and are to be deemed as minimum standards only. Standards in excess of those stated in Article 9 may be stipulated by the Planning Commission during the site plan review.

- (6) All fencing shall be properly maintained.
- (7) All front yard areas and all areas open to public view shall be maintained in a neat and attractive condition.
- (8) All loading operations shall be conducted at the side or rear of the building. In the unloading or loading process, no vehicles participating in these operations shall be allowed to extend into any public or private driveway or street or impede its traffic circulation.
- (9) All odorous fumes or matter emitted into the environment from any/all fuel-burning equipment, open stacks and internal combustion engines must comply with the requirements set forth by the State of Delaware, Department of Natural Resources and Environmental Control, as well as all applicable federal environmental regulations.
- (10) Dust or particulate debris from any processing or production operations will be minimized by the use of appropriate mechanical and/or electrical devices to the extent necessary to ensure that such emissions shall not be offensive at or beyond the property line of the industry/warehouse. All such activities will comply with the requirements of the DNREC, State of Delaware, or in accordance with applicable federal regulations.
- (11) All internal roads, driveways and parking areas (for public, in-house employee or truck/vehicular traffic) shall be paved.
- (12) All dry waste, in dust or particulate form, will be transported in closed or covered vehicles.
- (13) The proposed use shall not endanger the surrounding areas to the possibilities of fire, explosion or contamination. All uses shall comply with state regulations which govern their operations. There shall be no allowance for the storage of radioactive materials or those materials deemed to be toxic or dangerous. All liquid storage shall have an approved containment (area) barricade capable of containing any failure of storage medium.
- 14) The proposed use shall not allow the emission of heat or glare beyond its property line. All lighting shall be directed so as not to cause glare to the surrounding properties. The light source shall be shielded so as not to be visible from adjoining properties or streets.
- (15) All M/LI District projects and proposals are subject to site plan review by the Planning Commission.

#### **6.6.6. Dimensional regulations.**

- (1) Minimum lot area shall be two acres.
- (2) Maximum lot coverage shall be 60%. A minimum area of 10% shall be

- grass and/or landscaped area. Parking areas shall be landscaped.
- (3) Minimum street frontage shall be 150 feet.
  - (4) Maximum building height shall be 35 feet.
  - (5) Minimum front yard setback shall be 75 feet.
  - (6) Minimum side yard setback shall be 40 feet.
  - (7) Minimum rear yard setback shall be 45 feet.
  - (8) Landscape screening. See Article 10 of this ordinance.
  - (9) Accessory structures shall occupy no more than 10% of the lot area.
  - (10) Accessory structures shall be located in the rear yard/lot area.
  - (11) Accessory structures shall be located at least 45 feet from the rear lot line.

## **SECTION 6.7 RESIDENTIAL PLANNED COMMUNITY ("RPC") AND RESIDENTIAL PLANNED COMMUNITY ANNEXED LANDS ("RPC-A") OVERLAY DISTRICTS.**

- 6.7.1 Overlay District.** The RPC District and RPC-A districts are "overlay" districts that may, following those procedures required to amend the zoning map, be superimposed by action of the Town Council, upon any parcel of land in the R-1, R-2, or R-3 zoning districts where such parcel meets the minimum requirements established by this section and where the Town Council determines that the use of that parcel as an "RPC" (or "RPC-A") is appropriate for the development of that parcel as an RPC (or "RPC-A") and will not have an undue negative impact on neighboring properties or the town's infrastructure. Except as modified by this section, all regulations regarding the underlying R-1, R-2, or R-3 district shall apply and govern the use and dimensions of land and buildings in the RPC (or "RPC-A") districts. Whenever the Town Council shall act to designate an area as an RPC (or "RPC-A") Overlay District, the Town zoning map shall be amended to show such designation.
- 6.7.2 Purpose.** The purpose of the RPC and RPC-A Overlay Districts is to provide flexibility in design and use standards in order to accomplish the goals of the Comprehensive Plan, encourage a mix of uses, a variety of lot sizes and residential housing types, provision of common open space and public facilities, all in order to maintain a rural/small town character. Lands within the municipal boundaries of the Town as those boundaries existed as of the adoption of this ordinance (January 6<sup>th</sup>, 2009) may be considered for approval as an RPC; lands annexed into the Town after the adoption of this ordinance may be considered for approval as an RPC-A. Except for minimum area requirements, the RPC and RPC-A overlay districts are identical in all respects.
- 6.7.3 Permitted uses.** Uses, accessory uses and signs permitted in any residential district shall be permitted in accordance with the additional requirements and provisions of this article.
- 6.7.4 Minimum requirements, area and width.** No parcel of land shall be approved as an RPC-A unless it covers at least 10 contiguous acres, and no parcel of land



shall be approved as an RPC unless it covers at least 5 contiguous acres, that are to be developed as a single entity, and providing necessary or appropriate open spaces, recreational and/or community facilities. An RPC (or "RPC-A") may, as approved by the Town Council, provide housing of various densities, lot sizes, lot coverage, and types, and may include those commercial facilities deemed necessary or appropriate to serve the RPC. In a residential planned community, minimum lot area and width may be less than that required by the district regulations, except that no lot intended for a single family dwelling shall be less than 4,000 square feet in area nor less than 40 feet in width. The width of the lot shall be between side lot lines at the front building setback line as determined by the Planning Commission.

**6.7.5 Density.** Generally, and subject to the "density bonus" for the RPC overlay district, a residential planned community is not intended to increase density, but to allow flexibility in the design of the number of dwelling units permitted. If a parcel or parcels have more than one zoning classification, the total permitted density may be located throughout the parcel or parcels. The total permitted density shall be determined by dividing the development area by the minimum lot area per dwelling unit required by the zoning district in which the land is located. Provided however, anything herein to the contrary notwithstanding, the total permitted density for development in the RPC Overlay district shall be 7,500 square feet per dwelling unit. Development area shall not include any wetlands, floodway or similar area not suitable for building as determined by the Planning Commission.

**6.7.6 Other requirements.** Off-street parking, parking beneath buildings, front, side and rear setbacks, landscaping and buffering, lot coverage, number of units per building and building separation shall be as determined by the Planning Commission. Maximum height shall not exceed 35 feet and two & one-half stories maximum.

## **6.8 Utility District ("UT").**

The Utility District is to provide for an areas exclusively set aside for Town and public services and facilities, including Town Hall, Town administration buildings, Town storage buildings and garages, water storage towers, water reservoirs, water pumping stations, water treatment plants, sewage pumping stations, police and fire stations, and substations for electric, gas, and telephone.

## **6.9 Open Space ("OS")**

The Open Space District is to provide areas for both "passive" and "active" open space for use by the general public or only for residents and property owners of a designated area or subdivision.

Passive Open Space shall consist primarily of undeveloped vacant lands for use as parks, walking, jogging, or bicycle trails, dog parks, and nature trails. Lands designated as Open Space may be used for such purposes as a matter of right.

Active Open Space shall consist primarily of lands which have been or are to be improved for recreational uses including, by way of example and not in limitation, baseball, football, soccer, lacrosse and field hockey fields (with or without bleachers,

dug-outs and small concession stands), tennis, handball, and basketball courts, running tracks, and similar recreational/sports activities. Lands designated as Open Space may only be used for such purposes if approved as a Special Exception by the Board of Adjustment and following Site Plan Review by the Planning Commission.

Both Active Open Space and Passive Open Space lands may be improved by appropriate parking areas, rest-room facilities, fences and similar features, but where Passive Open Space is involved, site plan approval for such improvements shall be required.

## **ARTICLE 7**

### **Conditional Uses**

#### **Section 7.1 Purpose**

- 7.1.1 The intent of the conditional use is to maintain a measure of control over uses that are likely to have an impact on the entire community. Generally, conditional uses may be desirable in certain locations for the general convenience and welfare. Owners must use the property in a manner that assures neither an adverse impact upon adjoining properties nor the creation of a public nuisance. In short, because of the nature of the use, it requires sound planning judgment on its location and site arrangement.
- 7.1.2 Conditional use permits may be issued for any of the conditional uses as enumerated by the provisions of this ordinance, provided that the Town Council shall find that the application is in accordance with the provisions of this ordinance after duly advertised hearings held in accordance with the provisions of Section 16.1.4 and 16.2.

#### **Section 7.2 Application, fees, and approval procedures.**

- 7.2.1 The application for a conditional use shall first be made with the Code Enforcement Official, who shall then forward the materials to the Planning Commission. The application shall be accompanied by the appropriate filing fee as set out in the Fee Schedule adopted by the Town Council. No application shall be accepted until the filing fee has been paid.
- 7.2.2 The Planning Commission shall study such information and make recommendations to the Town Council within 60 days of the Code Enforcement Official's referral to the Commission after holding a public hearing.
- 7.2.3 The Council shall then act within 60 days of the receipt of the Commission's recommendation to either approve with conditions or deny such use after holding a public hearing. The Council's decision shall be based on the determination that the location of the use is appropriate, it is not in conflict with the Comprehensive Plan and it is consistent with the purpose and intent of this ordinance.

#### **Section 7.3. Criteria for evaluation.**

The following criteria shall be used as a guide in evaluating a proposed conditional use:

- 7.3.1 The presence of adjoining similar or compatible uses.
- 7.3.2 An adjoining district in which the use is permitted.
- 7.3.3 There is a need for the use in the area proposed as established by the Comprehensive Plan.
- 7.3.4 There is sufficient area to screen the conditional use from adjacent different uses.
- 7.3.5 The use will not significantly detract from permitted uses in the district.
- 7.3.6 Whether sufficient safeguards, such as traffic control, parking, screening, setbacks, and architectural characteristics can be implemented to remove potential adverse influences on adjoining uses.
- 7.3.7 Due consideration of the objections, if any, of adjoining landowners.

#### **Section 7.4. Conditions for approval; expiration.**

- 7.4.1 In granting any conditional use permit, the Town Council may designate such conditions as will, in its opinion, assure that the use will conform to the requirements as stated in Section 7.3 and that such use will continue to do so.
- 7.4.2 Construction or operation shall be commenced within one year of the date of issuance of the conditional use permit or the conditional use permit shall become void.
- 7.4.3 A reapplication for a conditional use permit for the same lot or use shall not be considered by the Town Council within a period of 365 days from its last consideration. This provision, however, shall not impair the right of the Council to propose a conditional use permit on its own motion.
- 7.4.4 If a conditional use permit is granted under the provisions of this article, the Town Council shall direct the Code Enforcement Official to officially notify the applicant, in writing, of all conditions approved by the Council.
- 7.4.5 The approval of a conditional use is valid for one year. Unless permits are obtained and construction or use is substantially underway prior to the expiration of one year from the date of issuance, conditional use approval shall expire. Permits may be revoked by the Council for failure to comply with the stated conditions of approval or applicable regulations.

### **ARTICLE 8**

#### **NON-CONFORMING USES, LOTS, BUILDINGS AND STRUCTURES**

##### **Section 8.1 Non-Conforming Uses**

8.1.1 **Continuation** Any lawful use of a building, structure, or land existing at the effective date of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance.

8.1.2 **Extension**

(a) **Land.** The non-conforming use of unimproved land may be extended up to fifty percent (50%) of the total area of the lot or parcel occupied by such use as of the effective date of this ordinance if approved by the Board of Adjustment as a *special exception* provided that such extension or enlargement is immediately adjacent to the existing non-conforming use and conforms to the dimensional requirements for the district in which it is situate.

(b) **Buildings & Structures.** The non-conforming use of a building or structure may be extended *within* the interior of such building or structure if approved by the Board of Adjustment as a *special exception*; and provided that neither the exterior dimensions (height, length, width), lot coverage, or cubic volume of the building or structure is increased, and that such extension meets all other dimensional and supplementary requirements of this Ordinance for either the district in which it is located or the type of use involved, whichever is more restrictive (e.g. off-street parking, signs, yard space).

8.1.3 **Changes.** A non-conforming use of a building or land may be changed to a non-conforming use of the same or more restrictive classification. Whenever a non-conforming use of a building or land has been changed to a use of a more restricted classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.

8.1.4 **Restoration.** A building or structure containing a non-conforming use wholly or partially destroyed by fire, explosion, flood, windstorm or other Act of God, may be reconstructed and used for the same non-conforming use, provided that building reconstruction shall be commenced within six (6) months from the date the building was destroyed and shall be carried on without interruption to completion within one year of commencement.

8.1.5 **Abandonment.** If a non-conforming use of a building or land is voluntarily abandoned and ceases for a continuous period of one (1) year or more, subsequent use of such land or building shall be in conformity with the provisions of this Ordinance.

The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use, and the existence of a non-conforming use on a part of a lot, or within part of a building, shall not be construed to establish a non-conforming use on the entire lot or within the entire building.

## **Section 8.2 Non-Conforming Buildings, Structures**

8.2.1 **Continuation.** Any building or structure lawfully existing as of the effective date of this Ordinance may be continued although such building or structure does not conform to the dimensional requirements of this Ordinance.

8.2.2 **Extension.** Any non-conforming building or structure may be enlarged or extended provided that such extension or enlargement complies with the dimensional provisions of this Ordinance.

8.2.3 **Restoration.**

(a) No non-conforming building or structure which is wholly or substantially destroyed by voluntary demolition or removed from a premises shall be restored, reconstructed, or replaced except in compliance with the height, yard setback, and lot coverage requirements of this Ordinance. For purposes of this subparagraph the gradual replacement of fifty percent (50%) or more of the structural members of a building or structure within any twenty-four (24) consecutive months shall be deemed to be a "voluntary demolition" of that portion of the non-conforming building or structure and shall be prohibited unless in compliance with the height, yard setback, and lot coverage requirements of this Ordinance.

(b) Any non-conforming building or structure which is wholly or substantially destroyed by fire, explosion, flood, windstorm, or other Act of God (to the point where it is not economically feasible to repair) may be replaced or reconstructed in the same location and dimensions as the building or structure existed just previous to its destruction, provided that reconstruction shall be commenced within six (6) months from the date of destruction and carried on without interruption to completion within one year of commencement. Such restoration shall not increase the previous degree of dimensional non-conformity in any way.

### **Section 8.3 Non-Conforming Lots; Merger of Abutting Non-conforming Lots.**

**8.3.1 Lots in Single and Separate Ownership.** Any lot which is not of the required minimum street frontage or area, or is of such dimensions that the owner would have difficulty providing the required yard setbacks, may be improved by the construction or alteration of a principal building or structure (and permitted accessory buildings or structures) for any use permitted in that district if:

(a) such lot was held in single and separate ownership as of the date of adoption or amendment of this ordinance creating such non-conformity or

(b) As of the date of adoption or amendment of this ordinance creating such non-conformity, such lot and any abutting lot not held in single and separate ownership have characteristics or features which significantly preclude their being "merged" to meet the lot area or street frontage requirements of this Ordinance. By way of illustration and not in limitation, the following are examples of characteristics or features which would permit contiguous non-conforming lots held by the same identical owner to be treated as separate lots: a valid enforceable easement in favor of a third party separating the two existing lots; existing detached buildings containing dwelling units or commercial uses on each of the contiguous non-conforming lots; significant differences in natural features, elevations, or contours such that contiguous non-conforming lots could not, as practical matter, be merged and utilized as one lot.

**8.3.2 Approval by Board of Adjustment.** Where any building or accessory building is constructed on any non-conforming lot as permitted under § 8.3.1 above, a variance from the Board of Adjustment shall be required where such construction or alteration cannot meet any other requirements of this Ordinance; provided however, that

the Board of Adjustment shall not be obligated to grant any variance but shall decide each variance on the particular circumstances.

### **8.3.3 Non-conforming Lots in Existing Approved Subdivisions**

Anything in Section 8.3.1 to the contrary notwithstanding, any lot shown on a subdivision plan which has been given final approval by the Town and which is of public record shall be exempt from the “merger” provisions of Section 8.3.1, provided that subdivision approval for that publicly-recorded plan has not expired or been revoked in accordance with the provisions of the Town’s Subdivision and Land Development Ordinance.

### **8.3.4 “One-Time, One Lot” Subdivision of “Merged” Lots in Prior R-1 Zoning District by Special Exception**

Anything in Section 8.3.1 to the contrary notwithstanding, where any parcel of land (including two or more abutting lots) held of record by the same entity in the R-1 zoning district immediately prior to the adoption of this ordinance and accompanying zoning map (January 6<sup>th</sup>, 2009) contained sufficient frontage and area to meet the minimum lot frontage and lot area requirements for at least two lots under the prior R-1 district regulations (i.e. 75-foot street frontage and 7,500 square foot lot area per lot), and such parcel of land became “merged” under the provisions of Section 8.3.1 upon the adoption of this ordinance and accompanying zoning map, such parcel of land may, *if approved by the Board of Adjustment as a special exception*, be subdivided once (and only once) to create two or more lots as follows: (a) where there is sufficient land to create only two lots both meeting or exceeding the minimum lot area and frontage requirements for the R-1 district under the prior zoning ordinance, two lots may be created, both of which shall meet or exceed the minimum requirements of the prior zoning ordinance; (b) where there is sufficient land to create more than two lots meeting or exceeding the minimum lot area and frontage requirements of the prior zoning ordinance, one lot may be created meeting such prior requirements and the remainder of such lands shall meet or exceed the minimum lot area requirements (10,000 square feet) and lot frontage requirements (80 feet) for lots in the R-1 zoning district under this ordinance. No parcel of land subdivided under this Section 8.3.4 may be subsequently re-subdivided unless all lots resulting from such subsequent re-subdivision shall meet the minimum lot area and lot frontage requirements of this ordinance.

### **Section 8.4 Construction Previously Commenced**

Nothing in this ordinance shall require any change in the plans, construction or designated use of any building or part thereof, the construction of which shall be lawfully in progress at the time of passage of this ordinance or for which a permit shall have been issued pursuant to law, provided that construction shall be promptly and diligently pursued.

### **Section 8.5 Manufactured Homes.**

Any manufactured home lawfully existing as of the effective date of this Ordinance may be continued in place although such manufactured home does not

conform to the dimensional or land use requirements of this Ordinance. No existing manufactured home may be modified, enlarged, or added to; provided however, that any existing manufactured home may be removed and replaced by a new manufactured home. A "new manufactured home" for purposes of this section shall mean a manufactured home that: (a) was manufactured not more than 3 calendar years prior to the year in which the replacement is made and (b) has not been previously occupied. Anything in section 8.1.5 to the contrary notwithstanding, whenever an existing manufactured home is voluntarily removed or demolished, non-conforming use of the lot for a manufactured home shall be deemed abandoned unless a new manufactured home is installed thereon within 30 days from the date the previously-existing manufactured home was removed or demolished. Nothing in this section shall exempt any existing manufactured home from complying with all applicable housing, health, plumbing, electrical, or safety codes.

## **ARTICLE 9**

### **Off-Street Parking and Loading**

#### **Section 9.1 General provisions.**

9.1.1 **Off-street parking area.** The establishment of any off-street parking area having a capacity of four or more automobiles shall be subject to the Code Enforcement Official and further subject to the following shall:

- (1) Have a buffer strip at least five feet wide between it and any adjacent residential lot.
- (2) Be attractively landscaped and screened from neighboring residential lots or public street right-of-way.
- (3) Not extend into any required front yard areas, except for the driveways.
- (4) Be used solely for the periodic parking of private passenger (noncommercial) vehicles.

9.1.2 **Parking space size.** A parking space shall not be less than 200 square feet, with a minimum of 10 feet wide, for any use permitted in this ordinance. Upon appeal, however, the Board of Adjustment may grant variances from this size if a particular hardship will occur or if the design of a parking arrangement may be determined to justify a smaller parking space size than is provided for in this article.

9.1.3 **Parking spaces in driveways.** Driveways shall be considered as constituting off-street parking space for one-family detached, semidetached or townhouse dwellings in residential districts, provided that sufficient space is available in such driveways to meet the requirements of this section.

9.1.4 **Location of parking spaces.** All parking spaces shall be set back 15 feet from any street; provided that in residential zoning districts, the set back shall be 10 feet. Parking spaces shall be located so that no spaces are a greater distance than 400 feet from the building or use to which they are assigned, provided that this requirement shall not apply to parking spaces for shopping centers,

auditoriums, stadiums, assembly halls, gymnasiums and other places of assembly or industrial, wholesaling and manufacturing establishment.

9.1.5 **Backing Onto Public Street Prohibited.** Except for the driveways of individual dwelling units, off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited

9.1.6 **Parking spaces assigned to more than one use.** Parking spaces for separate buildings or uses in all zoning districts may be combined in a single lot, provided that the number of parking spaces in the lot shall equal the sum of the parking spaces required for each building and use, except that the parking spaces required for places of assembly may include parking spaces assigned to other uses, provided that the place of assembly shall not be used at a time when the other uses are carried on.

9.1.7 **Parking required in the D-C Downtown Commercial District.** Off-street parking shall be required in the DC Downtown Commercial District for newly constructed establishments or existing structures. Existing parking facilities shall provide the necessary parking areas for such establishments. The location of the municipal parking lots are:

(1) Mill Street and Market Street.

(2) S. Church Street and Market Street.

9.1.8 **Parking lot and garage maintenance.** Ground cover, shrubs, trees and landscape screening shall be located and maintained so as not to interfere with vehicular and pedestrian traffic on the property or with sight clearance and exits.

9.1.9 **Surface Materials.** Off-street parking facilities shall be surfaced with erosion-resistant materials.

9.1.10 **Drainage.** Off-Street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and /or public streets and alleys.

9.1.11 **Lighting** - Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare into residential areas.

9.1.12 **Fractional spaces.** When the application of a unit of measurement for parking space or loading space to a particular use or structure results in a fractional space, any fraction under 1/2 shall be disregarded and fractions of 1/2 or over shall be counted as one parking space or loading space.

9.1.13 **Boat, trailer, bus, and RV parking.** In any residential district, no house trailer, camper, bus, recreational vehicle (RV) exceeding 20 feet in length, boat, boat trailer, or jet ski shall be parked in the front yard. Parking is allowed in the side or rear yards five feet from the property line if it does not take up space normally occupied by an automobile.

9.1.14 **Points of ingress and egress.** When the parking buffer strip is adjacent to any public street upon which the lot has street frontage, the fifteen-foot buffer strip (ten-foot buffer strip in R-1, R-2, and R-3 zones) which extends for the full frontage of the lot may be interrupted only at points of ingress and egress. Only one accessway shall be permitted for each 100 feet of street frontage upon a



public road. Such accessway shall be not less than 25 feet and not more than 32 feet in width. No two accessways on the same lot shall be placed within 75 feet of each other. The location and design of entrances and exits shall be in accord with the requirements of applicable state regulations and standards.

## **Section 9.2 Parking and loading standards.**

### **9.2.1 Is (general).**

- (1) Parking spaces and aisle ways shall be designed in accordance with the standards set out in "The Dimensions of Parking, 4<sup>th</sup> ed." published by the National Parking Association and the Urban Land Institute (a copy of which is on file at the Town Hall) or in accordance with such other standards as may from time to time hereafter be adopted or amended resolution of the Town Council and on file at the Town Hall.
- (2) All spaces reserved for handicapped accessibility shall conform to the requirements set forth by the federal standards provided by the ADA (Americans with Disabilities Act).
- (3) All parking spaces for use in conjunction with public parking lots, garages, storage areas operated on a commercial basis and parking areas accessory to multifamily, commercial, industrial and office uses shall be appropriately paved and striped.
- (4) On-Street parking spaces must be situated so as not to obstruct any driveway, alley, walkway, pathway or any other curb out.

**9.2.2 Use standards.** All uses permitted in this ordinance shall be subject to the following minimum off-street parking requirements in addition to any special requirements as indicated in each zoning district.

#### **Types and Uses**

Retail stores and shops, all types, supermarkets, retail food stores and undertakers

New and used car and boat sales, mobile dwelling unit sales, truck and trailer sales, outdoor equipment and machinery sales, commercial nurseries and auctions

Personal service establishments, laundromats and dry cleaning

#### **Required Off-Street Parking Spaces**

1 per 200 square feet of floor area used or designed for sales on the ground floor, plus 1 per 300 square feet of floor area used or designed for sales on all other floors, plus 1 for each 2 employees

4 per salesperson, plus 1 per per 2 employees during the period of greatest employment

1 per 200 square feet of gross floor area

Banks and other financial institutions	1 per 200 square feet of gross floor area, plus 1 for each employee
Business, governmental and professional offices	1 per 250 square feet of gross floor area
Medical and dental offices or clinics	1 per 250 square feet of gross floor area for medical and dental offices or clinics
Hospitals	1 for each bed of planned patient capacity, plus 1 per 3 employees or the shift of greatest employment
Sanatorium or nursing home	1 for every 4 beds
Churches and other places of worship	1 per 5 seats
Indoor and commercial outdoor recreation	1 for each 150 square feet of gross floor, building or ground area devoted to such use or 1 per 4 seats of facilities available for patron use, whichever is applicable to the facility
Restaurants, taverns and similar uses	1 per 3 seating accommodations, plus 1 per 2 employees on the shift of greatest employment
Dwelling, one-family detached, semidetached or manufactured home	2 1/2 per dwelling unit
Dwelling, townhouse, garden apartment or multifamily dwelling	2 1/2 per dwelling unit
Rooming and boarding house or converted unit	1 per rented unit
Museum, art gallery and similar use	1 per 4 seats in rooms for public assembly or for each 150 square feet of gross floor area for use by the public, whichever is greater, plus 1 for each 2 employees on the shift of greatest employment
Public library	1 per 400 square feet of gross floor area for public use, plus 1 per 2 employees on the shift of greatest employment
Fire station	25
Auditorium, stadium, assembly hall, gymnasium, theater (excluding drive-in) and community or recreation center	1 per 4 fixed seats in the largest assembly room area or for each 40 square feet of floor area available for the accommodation of movable seats in the largest assembly room,

	or 1 per 150 square feet of gross floor area, whichever is applicable to the facility
Social club and fraternal, social service, union and civic organization building	1 per adult attendant, plus 1 per 100 square feet gross floor area devoted to such uses
Public or private school	3 per room used for administrative offices, plus 1 per room used for class instruction, plus 1 for each 5 seats in the auditorium and other places of assembly or facility available to the public
Industrial, manufacturing or wholesaling establishment	1 per 2 employees on the shift of the greatest employment, plus 1 per 200 square feet of floor area devoted to sales
Hotel and motel	1 for each guest room plus 1 for each 3 employees

### 9.2.3 Loading spaces.

- (1) No building or structure shall be erected in any district for the uses listed below unless loading space for the accommodation of trucks is provided on the premises in accordance with the following requirements:
  - (a) For retail stores, markets, wholesale and jobbing establishments and storage warehouses, the number of berths based on the gross floor area devoted to such use shall be as follows:
    - [1] Five thousand to 7,999 square feet of floor area: one berth.
    - [2] Eight thousand to 19,999 square feet of floor area: two berths.
    - [3] Each additional 20,000 square feet or major fraction thereof up to a maximum of 60,000 square feet of floor area: one additional berth.
  - (b) For hotels and motels, the number of berths based on the gross floor area devoted to such uses shall be as follows:
    - [1] Eight thousand to 20,000 square feet of floor area: one berth.
    - [2] Each additional 50,000 square feet or major fraction thereof up to a maximum of 120,000 square feet of floor area: one additional berth.
  - (c) Each manufacturing, office research and industrial establishment with a total of 3,500 square feet or more of gross floor area devoted to manufacturing, research and/or industrial uses shall provide loading space adequate to accommodate the normal demands for loading and unloading incidental to the type of use proposed on the premises.
- (2) Loading spaces shall not be allowed in any front yard of any property.
- (3) Anything in Section 9.2.3 (1) to the contrary notwithstanding, off-street

loading spaces shall not be required for any property in the Downtown Commercial District where such property is located within 300 feet of a designated on-street loading space.

- (4) Anything in Section 9.2.3 (1) to the contrary notwithstanding, off-street loading space requirements may be met through the shared use of one or more off-street loading spaces provided that: (a) the Town is provided with a copy of the written authorization for such shared use from the title owner or lessee of the lands upon which the off-street loading space(s) is located; (b) such off-street loading space is located within 300 feet of all properties making use of such shared space; and (c) not more than three properties are sharing use of such space. No authorization for shared off-street loading space shall be terminated on less than one year's notice from the title owner or lessee of the lands upon which the space is located to the Town and to the party(s) previously entitled to share such space. Any party receiving such notice of termination may seek a variance from the off-street loading requirements of this ordinance, but shall, as a condition of obtaining such variance, demonstrate that it has exhausted all reasonable efforts to provide or obtain off-street loading space as necessary to meet the requirements of this ordinance.

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## **ARTICLE 10**

### **Landscape Screening**

#### **Section 10.1. District requirements.**

##### **10.1.1 Districts.**

- (1) In any R-1, R-2 or R-3 District a landscape screen a minimum of six feet in height shall be planted to separate any permitted nonresidential use from any existing residential use on a contiguous lot. Such landscape screen may extend into the front yard setback, side yard and rear yard.
- (2) In any R-3 District, for any lot developed for garden apartments or townhouses, a landscape screen a minimum of six feet in height shall be planted to separate any contiguous lot developed as a single-family detached or semidetached residential dwelling on any contiguous lot zoned R-1 or R-2. Such landscape screen may extend into the front yard setback, side yard and rear yard.

**10.1.2 Commercial districts.** In any DC & HC District a fifteen-foot buffer area shall be provided within which a landscape screen a minimum of six feet in height shall be planted or erected to separate any permitted use from any contiguous lot zoned R-1, R-2 or R-3 or any contiguous lot developed or approved for development for any residential use. Such landscape screen may extend into the front yard setback, side yard or rear yard.

**10.1.3 Manufacturing & Light Industrial District ("M/LI").** At the boundary line

between an M/LI District and any R-1, R-2 or R-3 District or any lot developed or approved for development for residential use, there shall be a fifty-foot buffer area which shall include a landscape screen a minimum of six feet in height. Such landscape screen may extend into the lot setback, side yard or rear yard.

## **Section 10.2 Installation and Maintenance.**

It shall be the responsibility of the property owner of record or his delegated representative(s) to install and properly maintain and care for any landscape screen or buffer required hereunder. Trees, bushes, shrubs and other vegetation shall be selected and planted to meet the purpose of these provisions.

## **ARTICLE 11 Signs**

### **Section 11.1 Applicability and Purposes**

**11.1.1. Applicability.** These sign regulations apply within every existing and future zoning district in the Town. A sign may be erected, placed, established, painted, created, or maintained in the Town only in conformance with this ordinance.

**11.1.2 Purposes.** This ordinance has been enacted to:

- (a) Encourage the effective use of signs as a means of communication in the Town.
- (b) Avoid visual clutter and competition among sign displays in their demand for public attention.
- (c) Promote the safety and convenience of pedestrians and motorists
- (d) Minimize the adverse effects of signs on nearby public and private property.

### **Section 11.2 General**

**11.2.1. Sign Area Measurement.** The sign area is the entire portion of the sign that can be enclosed within a single rectangle. The area includes the extreme limits of the letters, figures, designs, and illumination, 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.

**Supports.** The structure that supports a sign is not included in measuring the sign area unless the structure is designated and used as an integral part of the display. A support having a perimeter larger than 4 feet at the widest point is an integral part of the display.

**Multiple Sections.** The area of a sign that consists of more than 1 section includes the space between the sections plus the measurement of the sections of the sign.

Multiple Faces. The area of a sign with more than 1 face or plane is measured as follows:

(a) General. All sides of a sign that can be seen at any one time from any vantage point outside the property line of the site where the sign is located are included in the computation of sign area.

(b) Parallel Faces.

[1] A parallel sign is one whose faces or sides are equidistant from one another at all points.

[2] When the faces of a parallel sign are separated from each other by fewer than 2 feet or are double faced or back to back, the larger of the parallel faces is used in the computation of sign area.

[3] When the faces are more than 2 feet apart, the sum of both faces or sides is used in the computation of sign area.

(c) "V" Shaped. The area of a 2-sided sign constructed in the form of a "V" is calculated by the same method as parallel faces if the angle of the "V" is less than 30 degrees and the distance between the sides does not exceed 5 feet at any point. If the angle is equal to or greater than 30 degrees or the distance between the sides is greater than 5 feet, the sum of all the planes will be used in the computation of the sign area, unless the applicant demonstrates that only 1 side of the sign will be visible from any single vantage point.

(d) 3-Dimensional. Where 3-dimensional signs are used, the area of the sign equals the total surface area of the sides that can be seen from a single vantage point outside the property lines of the site where the sign is located.

#### **11.2.2. Placement.**

Setbacks Setbacks are measured from the portion of the sign nearest the property line.

Height Height is measured from the portion of the sign that is vertically the farthest from the ground.

#### **11.2.3 Color.**

(a) Interference with Traffic Safety. A sign must not use color combinations that may be confused with a traffic sign or signal.

(b) Non-Display Sides of Signs. In order for the sign back or non-display side of a sign to be excluded from consideration as sign area, it must be a single, neutral color, if the back or non-display side is visible from outside the property lines of the property where the sign is located.

#### **11.2.4. Illumination.**

(a) Prevention of Glare.

(i) Definition. Glare is a direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.

(ii) Prevention Requirement. Signs must be illuminated using an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line.

(b) Interference with Traffic Safety—A sign must not be illuminated with a pattern or lighting combination that resembles a traffic signal.

(c) Flashing. A sign must not contain or be illuminated by flashing, revolving, or intermittent lights, or lights that change intensity, provided however, that “digital” signs shall be permitted in the DC and HC zoning districts.

(d) Near a Residence. Any sign on a lot or parcel within 150 feet of a residential use must not exceed a sign area of 100 square feet and may be illuminated only during the hours the entity is open for public business, unless the applicant demonstrates that the sign is located so that no adverse impact will affect the residence.

#### 11.2.5. Structural Limitations.

(a) Interference with Traffic Safety. A sign must not be shaped like a traffic sign or signal, or use wording similar to traffic signals, or interfere with traffic safety.

(b) Shaped Like Humans or Animals. A sign must conform to a geometric shape. It must not be shaped to resemble any human or animal form.

(c) Wind-Activated. A sign must not be set in motion or powered by wind.

(d) Moving Parts. A sign must not have moving parts.

#### 11.3. Permanent Signs.

**11.3.1. Definition.** A permanent sign is a sign intended to be displayed for an indefinite period of time and constructed in a manner and of materials that will withstand long-term exposure to the elements.

#### 11.3.2. Requirements by Zones.

(a) Residential Zones

Sign Type	Standard	Regulation
<i>Freestanding Sign</i> -- Not wholly or partially attached to a building	Number Allowed	1 per lot
	Maximum Area	3SF
<i>Supported</i> —Attached to pole, column, frame, or brace as its means for support	Maximum Height	5 feet
	Minimum Height	None
	Placement	5 feet from property line

<p><i>Ground</i>—Erected on the ground; bottom edge is within 12 Inches of the ground, support structure is Integral part of sign</p> <p><i>Wall Sign</i> --Parallel to the wall of the building to which it is attached and not extending more than 12 inches from the building</p> <p><i>Flat.</i> Parallel to the wall of a building to which it is attached, but does not extend more than 12 inches from the building face.</p> <p><i>Projecting.</i> Attached to a wall of a building &amp; extends more than 12 inches from the building face</p>	Illumination	Not Permitted
	Permit Needed	No
	Number Allowed	1 per lot
	Maximum Area	3SF
	Maximum Height	N/A
	Minimum Height	N/A
	Placement	5 feet above ground level
	Illumination	Not Permitted
	Permit Needed	No
<p><i>Entrance Sign for Subdivisions and Multi-Family Developments</i></p> <p>*Erected at entrance to subdivision or multi-family development</p> <p>*Identifies location of the subdivision or a building –</p> <p>*Must be either a ground or a wall sign</p>	Number Allowed	2 for each entrance
	Maximum Area	40 square feel per sign
	Maximum Height	26 feet
	Placement	At entrance to a subdivision or building These signs may be placed in the public right-of-way as long as the town or state allow such placement.
	Illumination	See Section 11.2.4
	Permit Needed	Yes
<p><i>Entrance Sign for Public Facilities and Places of Assembly</i> - Examples include places or worship, schools, libraries, museums, hospitals</p> <p>* Identifies location of the facility for its users</p> <p>* Must be either a ground or a wall sign</p>	Number Allowed	2 at each entrance
	Maximum Area	40 square feel per sign
	Maximum Height	26 feet
	Placement	5 feel from property line at an entrance to the building or driveway These signs may be placed in the public right-of- way as long as the town or state allow such placement.
	Illumination	See Section 11.2.4
	Permit Needed	Yes

#### b) Non-Residential Zones

Sign Type	Standard	Regulation
<p><i>Freestanding Sign</i> - Not wholly or partially attached to a building</p> <p><i>Supported</i>—Attached to pole, column, frame, or brace as its means for support</p> <p><i>Ground</i>—Erected on the ground; bottom edge ls within 12 inches of the ground, support structure is integral part of sign</p>	Number Allowed	1 at each customer entrance to the building or driveway
	Maximum Area	Generally, 2 square feel for each linear foot of street frontage - Multiple Frontage EITHER - One (1) sign may be erected facing each street. Each sign may have 1-squaro foot for each 2 linear feet of its respective frontage OR - One (1) sign may be erected at a location that permits it to be seen from along each frontage street. The single sign may have 1 square foot for each linear foot of total frontage - Minimal Frontage For a lot with less than 50 feet of frontage, sign area is based on the length of the lot line closest (o the street toward which the sign is oriented
	Maximum Height	Not higher than the tallest building on the same premises or 26 feet, whichever is least



	Minimum Height	None
	Placement	¼ of the setback for the zone
	illumination	See Section 11.2.4
	Permit Needed	Yes
<b>Wall Sign</b>  Parallel to the wall of the building to which it is attached and not extending more than 12 Inches from the building  <i>Flat</i> —Parallel to the wall of a building to which it is attached. but does not extend more than 12 Inches from the building face  <i>Projecting</i> —A sign that is attached to a wall of a building and extends more than 12 inches from the building face	Number Allowed	1 for each customer entrance. <i>A customer entrance includes, but is not limited to, a direct outside entrance to a shop or store, and a direct outside entrance to an enclosed mall or shopping center.</i>
	Maximum Area	2 square feet for each linear foot of building frontage. <i>A shop or store with an outside entrance is considered to have its own building frontage, which is the front width of the portion of the building occupied for that use. A dimension must not be counted more than once as a building frontage.</i>
	Maximum Height	26 feet May not extend above roof line or be placed on roof
	Minimum Height	- 10 feet for signs projecting over pedestrian walkway - 18 feet for signs projecting over streets and driveways
	Placement	<i>Flat</i> Not more than 12 inches from wall including its supporting structure <i>Projecting</i> Not more than 42 inches from building, no closer than 8 feet to a curb line
	Illumination	See Section 11.2.4
	Permit Needed	Yes
<b>Entrance Sign</b> *Erected at entrance to a building or development  *Identifies location of the building or development  *Must be either a ground or a wall sign	Number Allowed	1 on each face of the building having building frontage and 1 at each customer entrance to the building and parking area
	Maximum Area	100 square feet per sign
	Maximum Height	Ground Sign Same as for freestanding signs Wall Sign Same as for wall signs
	Placement	Ground Sign Same as for freestanding signs Wall Sign Same as for wall signs
	Illumination	See Section 11.2.4
	Permit Needed	Yes
<b>Canopy Sign</b> Forms an integral part of a permanent or semi-permanent shelter for sidewalks, driveways, windows, doors, seating area, or other customer-convenience areas, such as awnings or umbrellas	Number Allowed	Not limited
	Maximum Area	2 square feet for each linear foot of building frontage <b>not to exceed 200 square feet for each canopy</b>
	Maximum Height	N/A
	Placemen)	N/A
	Illumination	See Section 11.2.4
	Permit Needed	Yes

## 11.4 Real Estate, Development and Construction Signs

**11.4.1 Definition.** Real estate, development and construction signs are signs displayed on private property while such (1) property is offered for sale, rental, or lease or being developed or (2) an individual or company is engaged in construction.

### 11.4.2 General Requirements.

(a) Where Allowed. Real estate, development, and construction signs may be erected in any zone.

(b) Display Period. Real estate, development, and construction signs may be displayed while a property is being offered for sale, while land is being developed and construction is taking place.

(c) Removal. Real estate, development, and construction signs must be removed within 30 days of the sale or rental of a property, the completion of a land-development project, or the termination of an individual's construction activity.

(d) Materials. Real estate, development, and construction signs must be made of materials sufficiently durable for the time that they are displayed.

(e) Additional Requirements by Sign Type

Sign Type	Standard	Regulation
Real Estate Sign  Indicates sale, rental or lease of the premises on which it is located	Number Allowed	1 sign for each street frontage
	Maximum Area	10 square feet per side
	Max Number of Sides	2, must be back-to-back
	Maximum Height	N/A
	Minimum Height	N/A
	Placement	N/A
	Illumination	Not Permitted
	Permit Needed	No
<i>Development Sign</i>  Advertises the sale or rental of a structure being built as part of a land development project  <i>Construction Sign</i>  Identifies those engaged in construction	Number Allowed	Temp. Dev. Sign: 1 for each street entrance Temp. Con. Sign: 1 for each street frontage
	Maximum Area	128 square feet
	Max Number of Sides	N/A
	Maximum Height	15 feet
	Minimum Height	N/A
	Placement	0-32 Square Feet 5 foot front yard setback 32-128 Square Feet 25-foot front yard setback
	Illumination	Non-illuminated or Indirectly Illuminated
	Permit Needed	No

## 11.5 Temporary Signs.

**11.5.1 Definition.** A temporary sign is a sign displayed on private property for fewer than 30 days, usually made of non-permanent material such as canvass, cardboard, paper, or wood.

### 11.5.2. Requirements by Zone:

Requirement	Residential Zones	Non-Residential Zones
Number Allowed	Not limited	No limit
Maximum Area	Total of 10 square feet on property	50 square foot, each sign Total sign area of 100 square foot
Maximum Height	5 feet	10 feet
Placement	5 feet from property line	5 foot from property line
Illumination	Not Permitted	Not Permitted
Permit Needed	No	No

## **11.6. Exempt Signs**

**11.6.1. Definition.** An exempt sign is a sign that is not required to comply with the size, location, and number standards of this Article but must comply with the applicable provisions governing Prohibited Signs.

### **11.6.2 List of Exempt Signs.**

#### **(a) Measuring 2 Square feet or Less:**

**Residential-Living Sign** A sign on private property, customarily associated with residential living or decoration, including address signs (not to exceed one for each principal building or premises) showing only the numerical address designation of the premises to which they are affixed/maintained.

**Newspaper and Mailbox,** A sign that is part of a mailbox or a newspaper tube and conforms with applicable government regulations.

**Warning Signs** A sign warning the public about trespass, danger, or safety considerations

#### **(b) Regardless of Size:**

**Official Duties of Government or Utilities** A sign used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, providing information.

**Signs designating public transportation pickup points.**

**Required by Law** A sign whose display is required by law or regulation.

**Flags on Flagpoles** A flag displayed on a flagpole.

**Commemorative Sign** A sign that is cut into the masonry surface or constructed of bronze or other material and made an integral part of the structure, such as a cornerstone, memorial, plaque, or historical marker.

**Part of a Dispenser** A sign that is an integral part of a dispensing mechanism, such as a beverage machine, newspaper rack, or gasoline pump; provided that the signs are no larger than the servicing device to which they are attached.

**Holidays** A sign, including lighting, in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday, provided that it is removed within 10 days of the end of the holiday.

Adornments and Decoration. Any adornments or seasonal decoration.

## **11.7 Nonconforming Signs**

See Article 5. Nonconforming Uses, Lots, Buildings, and Structures.

## **11.8 Prohibited Signs:**

### **11.8.1 General**

(a) Definition. A prohibited sign is one that cannot be erected or maintained.

(b) The Board of Adjustment is not authorized to grant a variance permitting the erection of a sign that this Article prohibits.

### **11.8.2 List of Prohibited Signs**

(a) Obscene Signs. An obscene sign contains obscene statements, words, or depictions that are construed to offend public morals or decency.

(b) Obstructive Signs. A sign must not be placed in a location that obstructs the view of traffic signs, traffic signals, oncoming traffic, pedestrians, or that interferes, in any way, with placement or function of any traffic-control device.

(c) Confusing Signs. A sign which, by reason of wording, position, shape or color, may be confused with authorized traffic signage, as reasonably determined by the Code Enforcement Official, based upon an examination of the circumstances.

(c) Roof Signs. A roof sign is a sign painted on the roof of a building, supported by poles, uprights, or braces extending from, or attached to, the roof of a building, or projecting above the roof of a building.

(d) Unsafe Sign. An unsafe sign is one that creates a safety hazard due to structural or electrical conditions or inadequate maintenance. A sign that becomes unsafe after erection must be repaired to meet safety requirements or removed within 30 days of notice of the unsafe condition.

(e) Wind-Activated. A wind-activated sign is a banner, pennant, twirling/spinning display, streamer, ribbon, spinner, balloon, string of lights, gas or air-filled figure, or other device that moves in the wind.

(f) Signs in the Public Right-of-Way. Generally, signs may not be placed in public rights-of-way. An exception to this regulation includes signs erected by a governmental agency or utility company in the performance of its official public duties.

(g) Attached to the Property of Others. A sign must not be attached or affixed to a structure or property such as a fence, wall, antennas, other signs, trees, or other vegetation, or any public structure, such as a utility pole, without permission of the owner.

(h) Abandoned or Obsolete Sign. An abandoned or obsolete sign is a legally erected sign, other than a temporary sign, including structural supports and electrical connections, directing attention to a business, commodity, service, or entertainment in a building that has not been used for 6 months or more.

(i) Off-Site Sign (Billboard). An off-site sign is a sign directing attention to a business, commodity, service, or entertainment conducted, sold, or ordered at a location other than the premises on which the sign is located is considered an off-site sign.

(j) Signs producing noise or sounds.

(k) Signs emitting visible smoke, vapor, particles, or odor.

(l) Signs causing radio, television, or other communication interference because of lighting or control mechanisms.

## **ARTICLE 12**

### **Site Plan Review**

#### **Section 12.1. Purpose.**

Site plan review has several purposes. Among them are to assure that the large-scale developments are in accord with the Comprehensive Plan, that such developments comply with the regulations of this ordinance, and to assure that the lay-out, design, and construction are such as to best accommodate not only the project itself, but also abutting and nearby properties as well as the town as a whole.

#### **Section 12.2 Guidelines.**

Guidelines for determining what site plans shall be reviewed by the Planning Commission shall be as follows:

**12.2.1 Automatic determination of review.** In addition to those uses specifically identified for site plan review in other sections of this ordinance, certain types of developments, due to the nature of their impact on the entire community, shall automatically have their site plans reviewed by the Planning Commission, including the following:

- (1) Residential:
  - (a) Townhouses.
  - (b) Garden apartments.
  - (c) Residential Planned Communities
- (2) Commercial: shopping centers.
- (3) Institutional: hospitals.

- (4) Industrial: all industrial developments.
- (5) Any non-residential project exceeding 5,000 square feet of enclosed floor space located on any single parcel of land.

**12.2.2 Discretionary determination of a review.** The Code Enforcement Official shall have reasonable discretion in determining what proposed developments other than those enumerated above shall have their site plans reviewed by the Planning Commission. When making such a decision, the Code Enforcement Official shall consider but not be limited to the following factors:

- (1) If the traffic flow will be greatly altered. Flow includes:
  - (a) Pattern.
  - (b) Volume.
  - (c) Hazards involved.
  - (d) Time involved.
- (2) If parking on a large scale is required.
- (3) If public utilities or works must be expanded to accommodate the development.
- (4) If there is a change in the existing land use pattern.
- (5) If there are incompatible uses within the proposed development or in relation to the abutting districts.
- (6) If there may be difficulty in meeting existing performance standards.

### **Section 12.3 Review procedure.**

**12.3.1 Code Enforcement Official.** The proposed site plan shall first be referred to the Code Enforcement Official, together with the appropriate filing fee as set out in the Schedule of Fees adopted by the Town Council. No application for site plan review will be accepted for filing until the application fee is paid in full. If the proposed site plan is one that this ordinance automatically requires a site plan review for by the Planning Commission, such a site plan shall be referred to the Planning Commission. If the proposed site plan is not one enumerated in this ordinance as a development that shall automatically require the Commission's review, the Town Code Enforcement Official, following guidelines listed by this ordinance, shall determine if such a proposed development requires review by the Planning Commission. In case the Code Enforcement Official determines that the proposed development requires a site plan review, he shall then refer copies of the site plan to the Planning Commission.

**12.3.2 Planning Commission.** The site plan review by the Planning Commission shall be limited to those proposed developments enumerated by this ordinance and to those proposed developments that require a site plan review as determined by the Code Enforcement Official. No other site plans shall be considered by the Planning Commission for review.

**12.3.3 Site Plan Review Requirements; Review by Town Engineer and/or Government Agencies.**

(a) The Town Manager and/or Town Planning Commission may develop a list of items to be reviewed by the Planning Commission in the conduct of a site plan review. Such list shall be approved by resolution of the Town Council and appended to this ordinance. Such list may be revised and amended by resolution of the Town Council from time to time, either at the recommendation of the Town Manager and/or Planning Commission or at the initiative of the Town Council.

(b) Prior to approving any site plan, the Planning Commission shall specifically consider whether or not public services (e.g. water, sanitary sewage, street connections, storm drains, electric distribution service) are available to the site. If not, the Planning Commission shall require the applicant to provide a detailed plan, including a timetable and secured bonding or binding commitments from third-party providers of such facilities for the provision of such public services, as a condition for site plan approval.

(c) The Planning Commission may refer any site plan under consideration to the Town's consulting engineers and/or to any appropriate federal, state, or county agency for review and comment prior to making a decision thereon.

**ARTICLE 13  
Board of Adjustment**

**Section 13.1 Membership, Term of Office**

**13.1.1 Appointment.** The Board of Adjustment shall consist of not less than 3 nor more than 5 members who shall be residents of the Town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates for, nor members of, the legislative body nor employees of the Town. The mayor shall appoint the members of the Board of Adjustment, and all such appointments shall be confirmed by a majority vote of the Town Council.

**13.1.2 Term of Office; Officers.** All appointments shall be for a period of 3 years, provided that the terms of the original members shall be established in such a manner that the term of at least 1 member shall expire each year and the successor shall be appointed for a term of 3 years. The Board of Adjustment so selected shall elect from among their own number a chairperson and a secretary.

**13.1.3 Removal From Office.** Any member of the Board of Adjustment may be removed from office by the Town Council for cause after a hearing by a majority vote. A vacancy occurring other than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

### **Section 13.2 Rules.**

The Board of Adjustment may make and adopt such standing rules, not inconsistent with the provisions of this ordinance or controlling state law, as it deems necessary or appropriate to carry out its responsibilities hereunder. In the event any such rules are adopted, they shall be reduced to writing and a copy thereof shall be provided to any person upon request and payment of a reasonable fee as set forth in the Schedule of Fees adopted by the Town. In addition to any standing rules, the Board may establish such additional ad hoc rules for the conduct of any hearing as regards reasonable limits on the total time of the hearing, the length of time and number of times any person will be permitted to speak, the prohibition of repetitive testimony or comments, and such other matters as pertain to the reasonable conduct of the hearing.

### **Section 13.3. Powers and duties.**

The Board of Adjustment shall have the following powers:

**13.3.1 Appeals.** The Board of Adjustment shall hear and decide appeals from the Code Enforcement Official or Town Manager where it is alleged that there is error in any order, requirement, decision or determination made in the administration of this ordinance.

**13.3.2 Variances.** The Board of Adjustment shall hear and decide requests for variances from the dimensional requirements of the terms of this ordinance as will not be contrary to the public interest where, due to special conditions or exceptional circumstances, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship or exceptional practical difficulties and so that the spirit of the ordinance shall be observed and substantial justice done. The Board of Adjustment shall not have authority to grant variances from the use regulations of this ordinance.

**13.3.3 Special Exceptions.** The Board of Adjustment shall have original jurisdiction and powers to grant a permit for a special exception use only under the terms and conditions established by this ordinance, under the following stipulations and guiding principles:

- (1) The use for which application is being made is specifically authorized as a special exception use for the zone in which it is located.



- (2) The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:
  - (a) Character of the neighborhood.
  - (b) Conservation of property values.
  - (c) Health and safety of residents and workers on adjacent properties and in the surrounding neighborhood.
  - (d) Potential congestion of vehicle traffic or creation of undue hazard.
  - (e) Stated principles and objectives of this ordinance and the Comprehensive Plan of the Town of Greenwood.

**13.3.4 Interpretation.** The Board of Adjustment shall have the responsibility for the interpretation of this ordinance.

#### **Section 13.4 Appeals.**

**13.4.1 Who May Appeal; Board's Authority In Appeal.** Appeals to the Board may be taken by any person aggrieved or by any other officer, department, board or commission of the Town of Greenwood affected by a decision of the Code Enforcement Official of the Town of Greenwood in the administration of this ordinance. Such appeal shall be taken within 30 days of the aggrieved decision by filing with the Code Enforcement Official a letter of appeal specifying the reason for appeal. The Code Enforcement Official shall transmit to the Board all the papers constituting the record upon which the action appealed was taken. In exercising its powers under this section 13.4, the Board may, in conformity with this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made in the administration and enforcement of this ordinance. Any order, requirement, decision or determination of the Board which requires or permits a specific act to be undertaken shall, as a condition, prescribe a reasonable time limit within which such act shall be completed, if applicable.

#### **13.4.2 Effect of appeal upon proceedings.**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies, after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by the Court of Chancery on application on notice to the Code Enforcement Official for due cause shown.

#### **13.5 Hearings**

**13.5.1 Hearing Required.** Any appeal from a decision of the Code Enforcement Official, and any application for a variance, a special exception, or a request for an

interpretation of the terms of this ordinance, shall be decided by the Board of Adjustment only after a public hearing at which the appellant or applicant shall carry the burden of proof as to why such appeal, special exception, variance, or interpretation should be granted. A majority of the entire Board of Adjustment shall be necessary to constitute a quorum. Hearings of the Board of Adjustment shall be subject to the Delaware Freedom of Information Act, including the provisions thereof that permit a public body to go into executive session to discuss matters which are the subject of pending or potential litigation, including consulting with legal counsel to receive the attorney's legal opinion on an issue before the Board which may be appealed to the Superior Court. The Board shall keep minutes of its meetings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All hearings held before the Board shall be tape recorded, video-taped, or transcribed by a court reporter in such manner as to allow the Board to produce a verbatim transcript of the hearing in the event of appeal.

**13.5.2 Time for Hearing.** The Board of Adjustment shall fix a reasonable time for the hearing of the appeal. Absent compelling circumstances or the request of the applicant or appellant, the public hearing shall be scheduled within 30 days of the date the application or appeal was received at the Town Hall. The appeal shall be decided within a reasonable time, not to exceed 60 days from the date of the filing of such appeal. Upon the hearing, any party may appear in person, by agent or by attorney, provided that said agent or attorney produces authorization from his principal for acting in such a capacity.

**13.5.3 Notice of Hearing.** Notice of all Board of Adjustment Hearings shall consist of the date, time, and place of the hearing, the name of the applicant or appellant, the address of the property subject to such hearing (if applicable), the nature of the application or appeal (setting out the specific section numbers of this ordinance regarding which the application or appeal has been filed), and a brief description of the factual circumstances, (such as "Applicant seeks a variance of five feet from the ten-foot side yard setback requirement in order to erect an addition to his house."). Notice shall be:

(a) **posted:** (1) at the Town Hall, (2) on the subject property, (3) in two public places in the town; and (4) at such time as the Town has a website and the capability to make "in-house" postings and changes to such website, on the Town's website;

(b) **published:** in a newspaper of general circulation within the Town; and

(c) **mailed:** to all property owners of record to lands located within 200 feet of the property subject to such hearing. The Town shall mail such notices to the mailing addresses shown on the Town's tax records. The applicant shall provide the Town Office with a written list setting out the names and addresses of persons entitled to mailed notice under this subsection. The responsibility for providing a complete and accurate list shall be on the applicant.

Notice shall be provided at least 15 days prior to the date of the hearing. Where all forms of notice do not occur on the same day, the date of the last to occur (i.e. posting, publication, or mailing) shall control in determining such 15 days.

**13.5.4 Conduct of Hearing** The Chairman (or in his absence, the acting Chairman), may administer oaths and compel the attendance of witnesses as authorized by 22 Del.C. Section 323, as it may from time to time hereafter be amended, or in accordance with any corresponding future provision of law. The burden of proof shall “by a preponderance of the evidence” and shall be upon the applicant or appellant. Any party may appear in person or by agent, and may be represented by legal counsel. Strict rules of evidence shall not apply and “hearsay evidence” shall be permitted. The Board shall be entitled to accept such relevant evidence which reasonable adults would accept as trustworthy in making important decisions in their own personal lives. The Board shall be entitled to give such weight to any evidence accepted as it deems appropriate.

**13.5.7 Decision.** A majority vote of the members of the Board present at any meeting shall be sufficient and necessary to constitute the act and decision of the Board. All decisions of the Board of Adjustment concerning any appeal or application for a variance, special exception, or interpretation of the provisions of this ordinance shall be in writing, setting out the factual findings and legal conclusions of the Board with an articulation of the reasons for its decision. All verbal discussions and statements of the Board or any member of the Board leading up to the Board’s oral vote on the application shall be considered to be in the nature of preliminary discussions and statements. The Board’s final decision, from which an appeal may be taken, shall be in writing, as accepted and approved by a majority of the Board members who participated in the hearing. Such final written decision shall be signed by those members accepting and approving same whereupon a copy thereof shall be promptly filed at the Town Hall and mailed to the applicant or appellant, as well as to any other party to the proceeding, and to any other person who notifies the Board, in writing, of his or her desire to receive a copy thereof.

## **Section 13.6 Appeal From Decision of The Board**

**13.6.1 Persons Entitled to Appeal; Time to Appeal.** Any person or persons jointly or severally aggrieved by any decision of the Board or any taxpayer or any officer, department, board or commission of the Town of Greenwood may, pursuant to 22 Del.C. Section 328, present to the Superior Court of the State of Delaware, a petition duly verified setting forth that such decision is illegal, in whole or in part, and specifying the grounds for the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision. The court may allow a writ of certiorari directed to the Board to review such decision of the Board and shall prescribe the time within which a return must be made and served upon the petitioner’s attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application and notice to the Board and on due cause shown, grant a restraining order.

### **13.6.2 Duties in case of writ of certiorari.**

The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies of such portions as may be called for such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

## **Article 14 Administration**

**Section 14.1 Code Enforcement Official.** The Town Council shall appoint a Code Enforcement Official to administer and enforce the provisions of this Ordinance. It shall be the Code Enforcement Official's duty to:

14.1.1. Examine all applications for zoning compliance certificates and certificates of occupancy, and issue zoning compliance certificates and certificates of occupancy only for construction and uses which are in accordance with the requirements of this Ordinance. Where any use or construction requires a variance or special exception from the Board of Adjustment, or Conditional Use approval from the Town Council, no zoning compliance certificate or certificate of occupancy shall be issued until such variance, special exception, or conditional use has been finally approved. Any zoning compliance certificates or certificate of occupancy issued in violation of the provisions of this Ordinance shall be voidable by the Code Enforcement Official, the Board of Adjustment, or by any Court of competent jurisdiction.

14.1.2 Receive all application and review fees as specified in the Town's Schedule of Fees.

14.1.3 Record and file: (a) applications for zoning compliance certificates and certificates of occupancy along with any accompanying plans and documents; (b) zoning compliance certificates and certificates of occupancy issued with notation of any special conditions thereon.

14.1.4 Make such on-site inspections of any building, structure, or lot within the Town as necessary to ensure compliance with the terms of this Ordinance.

14.1.5 Inspect nonconforming uses and keep a record of such nonconforming uses.

14.1.6. Prepare a monthly record for the Town Council and Planning Commission summarizing for the period since the last report all zoning compliance certificates and certificates of occupancy issued; and make such other reports as the Town Manager or Town Council shall direct.

14.1.7 Appear before the Board of Adjustment, Planning Commission, or Town Council, as appropriate, in connection with any request for a variance, special exception, administrative appeal, interpretation, site plan approval, subdivision approval or conditional use approval.

14.1.8 Issue notices of violation, stop-work orders, revoke zoning compliance certificates, or certificates of occupancy, and prosecute violations of this ordinance in any court of competent jurisdiction to obtain civil penalties, injunctive relief, and/or criminal penalties and sanctions.

14.1.9 When requested by the Code Enforcement Official, the Planning Commission may provide recommendations to that office on any matter concerning this ordinance. The Code Enforcement Official may also present recommendations and reports to the Commission on zoning issues, when requested by the Commission.

**Section 14.2 Certificates To Be Issued.** Prior to any new construction, structural alteration or change in the use of a building or lot, the following permits or certificates shall be issued for any of its purposes so stated in this ordinance.

14.2.1 **Permitted uses.** A zoning compliance certificate for any permitted use may be issued by the Code Enforcement Official on his/her own authority if the use meets all of the applicable requirements for the district in which the use is to be located. No other review procedures are required.

14.2.2 **Special exception uses.** A zoning compliance certificate for a special exception may be issued by the Code Enforcement Official after a review by and upon the order of the Board of Adjustment and after a public hearing held by the Board for the purpose of deciding upon the request for a special exception. Such zoning compliance certificate shall set out all conditions imposed by the Board of Adjustment in granting the special exception.

14.2.3 **Conditional uses.** A zoning compliance certificate for a conditional use may be issued by the Code Enforcement Official after review by the Planning Commission and upon the order of the Town Council. Such zoning compliance certificate shall set out all conditions imposed by the Town Council in approving the conditional use.

14.2.4 **Zoning compliance certificate after an appeal or a request for variance.** A zoning compliance certificate may be issued by the Code Enforcement Official upon the order of the Board of Adjustment and after a public hearing held by the Board for the purpose of deciding upon the appeal or a request for a variance. Such zoning compliance certificate shall set out any conditions imposed by the Board of Adjustment in granting the variance or deciding the appeal.

14.2.5 **Certificate of occupancy.** An certificate of occupancy shall be issued by the Code Enforcement Official upon completion and inspection of any building or lot prior to occupation. A certificate of occupancy may only be issued when by the Code Enforcement Official after he/she determines that: (a) the building, structure, and/or use complies with the terms of this ordinance, with all conditions imposed by the Board of Adjustment in granting a variance, special exception, or deciding an appeal, with all conditions imposed by the Town Council in granting a conditional use, and, if applicable, with all requirements of the approved site plan or subdivision plan. All applicable conditions shall be set out in the Certificate.

**Section 14.3 Zoning Compliance Certificates.** A zoning compliance certificate shall be required prior to:

14.3.1 the erection or structural alteration of any building, structure, or portion thereof; provided however, that nothing in this Ordinance shall require a zoning compliance certificate where the actual or reasonably estimated cost of the improvement or structure is less than \$300.00. For purposes hereof, "cost" shall mean "out-of-pocket" cost and shall not include the time value of labor performed by the owner or by others performing the work who are not licensed professionals in the employ of the owner.

14.3.2. the initiation of any new use, or the extension or change of any non-conforming use, of any lot, building, or structure existing as of the effective date of this ordinance.

Application shall be made in writing on forms furnished by the Town if such forms are adopted by the Town.

**Section 14.4 Application for Zoning Compliance Certificates.** All applications for zoning compliance certificates shall be accompanied by:

14.4.1 The appropriate fee as set forth in the Schedule of Fees adopted by the Town Council as the same may from time to time be amended.

14.4.2 For applications made under Section 14.3 involving the erection or structural alteration of any building, structure, or portion thereof, and subject to the provisions of Section 14.6 ("Waiver of Requirements"), plans, in duplicate, drawn to scale, and bearing the signature and seal of a registered land surveyor, which plans shall show:

- (A) the dimensions of the lot;
- (B) the exact size and location of any *existing* buildings or structures, including underground septic tanks, systems, or tile fields on the lot;
- (C) the exact size and location of any *proposed* buildings, structures, additions, or structural alterations, including any proposed septic systems or septic tile fields;
- (D) the exact location of any existing building or structure on any abutting lot within 20 feet of the side and rear lot lines of the subject property;
- (E) the existing and intended use of each building or structure shown on the drawing;
- (F) the number of dwelling units, apartments, or lodging or boarding rooms which the existing and proposed buildings on the subject property are designed to accommodate;

- (G) the height of all existing and proposed building(s) and structure(s) on the subject lot calculated in accordance with the provisions of this Ordinance and which drawings shall also certify the elevation, of the average finished grade of the lot.
- (H) the percentage of lot coverage after the proposed construction or structural alterations, including all data necessary to verify such calculations (e.g. total lot area, lot area occupied by each building and structure);
- (I) the location of all required off-street parking and/or off-street loading spaces.
- (J) the location and nature of all required landscaping
- (K) the location, size, and nature of all signs
- (L) Any other permits, data, or information reasonably required by the Town Code Enforcement Official in order to ascertain that the proposed use, construction or structural alteration will comply with the terms of all relevant Town ordinances.

**Section 14.5 Waiver of Requirements** Where the Code Enforcement Official reasonably concludes that the proposed construction or structural alteration is of such minor proportions or will otherwise clearly not be impacted by any one or more of the dimensional limitations of this Ordinance (e.g. lot coverage, yard setbacks, height limitation), the Code Enforcement Official may, at the written request of the applicant, waive the requirement of certification by a registered land surveyor or engineer, and/or any of the plan data requirements specified in Section 14.4.2 above; provided however, that the risk of not providing all data, certified by a registered land surveyor or engineer, shall be on the applicant, and should any building or structure subsequently be determined to be in violation of any provision of this Ordinance, it shall be no excuse that the Town issued a zoning compliance certificate on the basis of inadequate or incorrect information from the applicant.

**Section 14.6 Issuance of Zoning Compliance Certificates** Unless further review is required by another Town body (e.g. Planning Commission, Board of Adjustment, Town Council), zoning compliance certificates shall be granted or refused within thirty (30) days after the written application has been filed with the Code Enforcement Official. No zoning compliance certificate shall be issued until the Code Enforcement Official has certified that the proposed use, building, structure, or structural alteration complies with all the provisions of the Ordinance. All applications with accompanying plans and documents shall become a public record.

It shall be an implied condition of every zoning compliance certificate issued under this Ordinance, that the Town Code Enforcement Official (and other persons accompanying and assisting the Town Code Enforcement Official) shall have the right, at reasonable times, to enter upon lands and into premises for purpose of inspecting the same for

compliance with the terms of this Ordinance, which right shall continue until a certificate of occupancy has been issued. The failure of any property owner to comply with this provision shall be grounds for immediate issuance of a stop work order or the revocation of a zoning compliance certificate or a certificate of occupancy.

**Section 14.7 Expiration of Zoning Compliance Certificate** A zoning compliance certificate for any proposed work shall not be valid after one year from the date of issuance thereof and shall thereafter be considered void unless the work authorized by the permit has been substantially commenced and is proceeding with due diligence.

**Section 14.8 Certificates of Occupancy.** A certificate of occupancy shall be required for any of the following: (a) occupancy and use of any building hereinafter erected or for any building for which a zoning compliance certificate was obtained to perform structural alterations; (b) change in use of an existing building to a use of a different classification; (c) occupancy and use of vacant land, or change in the use of vacant land to a use of a different classification; and (d) any change in use, or extension of, a non-conforming use. This permit shall indicate that the proposed use of such building or land is in conformity with the provisions of this Ordinance. It shall be unlawful to use or permit the use of any building, structure, lot, or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged, wholly or partly, in use or structure, except for ordinary repairs, replacements, or minor alterations involving no change in floor area or use, until a certificate of occupancy is issued by the Code Enforcement Official which shows that the building, structure, lot, or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this ordinance and in conformity with all conditions lawfully imposed by (as appropriate) the Planning Commission, the Town Council, and/or the Board of Adjustment.

#### **14.8.1 Issuance of Certificate of Occupancy.**

- (a) Upon completion of the erection or structural alteration of any building or portion thereof authorized by any zoning compliance certificate obtained in compliance with this Ordinance, and prior to occupancy or use, the holder of such permit shall notify the Code Enforcement Official of such completion. Occupancy shall not be authorized until the Code Enforcement Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this and any other applicable Town Ordinances, and has issued a Certificate of Occupancy
- (b) An application for a certificate of occupancy shall be accompanied by an "as-built" drawing, in duplicate, drawn to scale, bearing the signature and seal of a registered land surveyor or engineer which drawings shall contain all of the information required under Section 14.4.2 showing the building or structure as completed; provided however, that the Code Enforcement Official may, in writing, waive the requirement of "as-built" drawings and/or of any of the data required under 14.4.2 under the same conditions as set forth in Section 14.5 ("Waiver of Requirements").
- (c) Certificates of occupancy shall be granted or refused within fifteen (15) days after the Code Enforcement Official has been notified of the completion of the authorized construction or alteration, or, where no



construction or alteration is involved, within five (5) days after receipt of written application therefore.

- (d) Upon written request from the owner, the Code Enforcement Official shall issue a certificate of occupancy for any building or land existing at the time of the enactment of this Ordinance, certifying, after inspection, the extent and kind of use or disposition of the buildings or land, and whether such use or disposition conforms with the provisions of this Ordinance or is a lawful non-conforming use, building, or structure.
- (e) Pending completion of a building or of alterations thereto, a temporary permit may be issued by the Code Enforcement Official for the use of part or all of the building, provided that such temporary occupancy or use would not tend in any way to jeopardize life, health, or property.
- (f) A record of all certificates of occupancy shall be kept on file in an office of the Town and shall be a public record. A record of all certificates of occupancy shall be kept on file in an office of the Town and shall be a public record.

**Section 14.9 Payment of All Required Fees and Outstanding Taxes and Assessments as a Condition of Filing Application or Obtaining Certificates** No zoning compliance certificates or certificates of occupancy shall be issued, nor shall any applications for changes of zoning, conditional uses, variances, special exceptions, appeals or site plan approvals be accepted, unless and until all appropriate fees for same (as set out in the Town's Schedule of Fees), as well as all outstanding and unpaid taxes, assessments, sewer, water or trash charges, and any other fees due the Town, are paid and in good standing.

## **Article 15 Enforcement**

### **Section 15 Notice of Violation; Remedies; Penalties; Stop-Work Orders**

**15.1 Notice of Violation.** If the Code Enforcement Official finds that any provisions of this ordinance are being violated, he/she shall notify, in writing, the person responsible for such violation, indicating the nature of the violation, and order the action necessary to correct it. Such notice shall provide a reasonable time, not exceeding 3 business days, within which the person responsible must commence efforts to correct the violation; and a reasonable time within which such corrective action must be completed. Where the person responsible fails to commence efforts to correct the violation within the time prescribed, fails to diligently continue such efforts to completion, or fails to correct the violation within the time prescribed, the Code Enforcement Official may implement or pursue any enforcement action, remedy, penalty, or other corrective action as provided herein.

**15.2 Revocation of Zoning Compliance Certificates and Stop-Work Orders; Appeals.** Anything in Section 15.1 to the contrary notwithstanding, at any time it appears to the Code Enforcement Official or Town Manager that any construction or use is being undertaken in violation of this Ordinance, either of them may issue a stop work

order or revoke the zoning compliance certificate under which the work was being performed or the use conducted; provided however, that with the issuance of any stop work order or revocation of any zoning compliance certificate under this subsection, the Code Enforcement Official or Town Manager shall provide the contractor or builder on site with written notice of the alleged zoning ordinance violation which notice shall state specifically the nature of the violation with reference to pertinent sections of the zoning ordinance and specify a place and time (not less than 24 hours and not more than 48 hours from the delivery of such notice unless the owner or contractor and Code Enforcement Official agree upon a different time) where the Code Enforcement Official or Town Manager will sit to hear the builder/contractor and/or owner on the issue of whether or not the construction is in violation of this Ordinance. The Code Enforcement Official or Town Manager shall promptly attempt to provide the owner of record of such lands with actual notice thereof by telephonic communication – and shall immediately send a copy of such written notice to the owner of record by fax, e-mail, commercial courier (e.g. Federal Express), or United States mail at his address as shown on the Town's public records; but failure of the record owner to receive such notice shall not void the hearing so long as the contractor or builder on site received actual notice. At the hearing, the contractor/builder and/or owner may appear with or without counsel to be heard on the issue of whether or not construction or use is in violation of the zoning ordinance. If the person conducting the hearing concludes at the end thereof that construction or use is proceeding in violation of this ordinance, no zoning compliance certificate shall be reissued and no stop work order shall be lifted until the violation has been corrected. The decision of the Town Manager or Code Enforcement Official under this subsection 15.2 may be appealed to the Board of Adjustment under Section 13.4 hereof; **provided however**, anything herein to the contrary notwithstanding, the Code Enforcement Official or the Town Manager may issue a stop work order or revoke a certificate of zoning compliance at any time, without prior notice or opportunity to be heard, where necessary to protect the public health and safety from imminent harm or danger.

**15.3 Penalties for Violation.** Any person who shall violate this ordinance, or do any act or thing prohibited, or refuse or fail to do any act required to be done, or refuse or fail to comply with an order of the Town Code Enforcement Official or an order of the Board of Adjustment shall, upon conviction thereof, be subject for each violation to a fine of not less than \$100 and not more than \$500. Whenever such person shall have been officially notified by the Code Enforcement Official or by service of a summons in a prosecution or in any other official manner that he is committing a violation, each day's continuance of such violation after such notice shall constitute a separate offense, punishable by a like fine or penalty. For purposes of this section, "any person" shall include the owner, general agent or contractor of a building or premises where such violations have been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violations have been committed or shall exist, and the owner, general agent, architect, builder, contractor or any other person who commits, takes part in, or assists in any such violation or maintains any building or premises in which such violation shall exist.

**15. 4 Remedies Not Exclusive.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of this Ordinance, the Code Enforcement Official, the Town Manager, or the Town Council may, in addition to all remedies provided

herein, institute any other appropriate action or proceedings to prevent, abate, restrain, enjoin, or correct such violation, in any court of competent jurisdiction.

**15.5 Violations Declared a Nuisance.** Any violation of the provisions of this Ordinance is hereby declared to be a common nuisance.

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## **ARTICLE 16**

### **Amendments**

#### **Section 16.1 Procedure**

- 16.1.1 The Town Council may, from time to time, on its own motion or the motion of the Planning Commission or on petition by any owner of property in the Town, amend, supplement, change, modify or repeal the zoning regulations, restrictions and boundaries in a manner in accordance with the procedure provided.
- 16.1.2 All proposals for amending, supplementing, changing, modifying or repealing the zoning regulations, restrictions or boundaries, before being acted upon by the Town Council, except those originating on motion of the Planning Commission, shall be referred to the Planning Commission for consideration and comment. The Planning Commission shall study all proposals, whether originating with the Commission or otherwise, conduct a public hearing, after having given notice required for the agenda of the Commission, and report its findings and recommendations to the Town Council.
- 16.1.3 The Planning Commission is granted the authority to require, as a condition to consideration of any proposal other than one originating with the Town Council, that a written request be submitted accompanied by such maps, charts, sketches and other information as the Commission deems necessary for the proper and effective consideration of such proposal and to refuse to consider any proposal not complying with such requirement.
- 16.1.4 No proposed amendment, change, modification or repeal of any zoning regulation, restriction or boundary shall become effective until after a public hearing shall have been held by the Town Council at which parties in interest and citizens shall have an opportunity to be heard. Notice of such hearing shall be given as provided in Section 16.2 hereafter.
- 16.1.5 In the event of a protest against such changes signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent thereto (extending 100 feet therefrom) or of those directly opposite thereto (extending 100 feet back from the street frontage of such opposite lots), such amendment shall not become effective except by the favorable vote of 3/4 of all the members of the Town Council.
- 16.1.6 If, after due consideration, a proposal is denied, such proposal shall not be eligible for reconsideration for a period of one year after final action by the Town Council, except upon the favorable vote of 3/4 of the Planning Commission or Town Council.

#### **Section 16.2. Hearing; notice required.**

No change or amendment shall become effective until after a public hearing at which parties in interest and citizens shall have had an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in the Town of Greenwood. Additionally, notice of such public hearing shall be posted at the Town Hall and posted in two public places in the Town at least seven days prior to the date of the hearing. In all cases in which a proposed amendment would change the Zoning Map, notice of the amendment shall be posted on the subject property and sent by mail to all property owners of record whose property is proposed to be changed by the amendment and to all property owners within 200 feet of the proposed change. All public notices under this section shall state:

(a) the date, time, and place of the hearing

(b) a brief description of the nature of the proposed amendment

(c) if involving an amendment to the zoning map, a description of the lands effected by such amendment, including the street address, the approximate size of the lot(s), and the name(s) of the owners of record thereof.

### **Section 16.3 Fee.**

A nonrefundable fee as set forth in in the Town's Schedule of Fees shall accompany each application or petition to amend the zoning map or the text of this ordinance, except for those petitions which have been initiated by the Town Council or by the Planning Commission.

## **Article 17**

### **Repealer, Effective Date, Certification**

#### **Section 17.1 Repealer.**

All Ordinances or parts of Ordinances inconsistent the provisions of this ordinance are hereby repealed.

#### **Section 17.2 Effective Date.**

This Ordinance shall become effective at 12:01 a.m. on January 1st, 2009.

#### **Section 17.3 Certification.**

This shall certify that this is a true and correct copy of the Zoning Ordinance of the Town of Greenwood as adopted by at least a majority of the entire Town Council of the Town of Greenwood at a duly-noticed meeting held on December 3<sup>rd</sup>, 2008, at which a quorum was present, and following a duly noticed public hearing held on December 3<sup>rd</sup>, 2008.

So certifies:

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Attest: \_\_\_\_\_  
Town Council Secretary

Mayor