

SECTION VIII
EXCEPTIONS AND SUPPLEMENTAL REGULATIONS

1-38 Non-Conforming Uses:

- A. Applicability: The following provisions shall apply to all buildings and uses lawfully existing on the effective date of this Ordinance which do not conform to the requirements set forth in this Ordinance and to all buildings and uses that become non-conforming by reason of any subsequent amendment to this Ordinance.
- B. Regulations: Any non-conforming use of buildings or land and any non-conforming buildings may be continued indefinitely, but such buildings or uses:
 - 1. Shall not be enlarged, altered, extended, reconstructed or restored, except as provided in Section 1-39 herein, nor placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Ordinance, nor shall any external evidence of such use be increased by any means whatsoever.
 - 2. Shall not be moved to another location where such use would be non-conforming.
 - 3. Shall not be re-established if such use has been legally abandoned, or has been changed to, or replaced by, a conforming use.
 - 4. Shall not be restored for other than a conforming use after substantial destruction thereof.

1-39 Additions and Alterations to Non-Conforming Buildings:

Nothing in this Article shall be deemed to prevent normal maintenance and repair, structural alteration in, or the reconstruction of, a non-conforming structure, provided that such action does not increase or extend the degree of, or create any new, non-conformity with regard to the regulations pertaining to such buildings or the lot upon which they are constructed; **[As an example, a dwelling which complies fully with all requirements except that it is closer to the street than the minimum required depth of a front yard may build an addition to the rear that does not encroach on the required rear yard.]* except that, the floor area of a detached single family house that occupies a lot that is smaller than the minimum lot area required in the district in which such house is located may be increased by not more than ten percent (10%) of the floor area existing as of the date of adoption of this Ordinance provided that the resulting structure complies with all other requirements of this Ordinance.

1-40 Non-Conforming Lots of Record: No non-conforming vacant lot existing at the time or as a result of the adoption of this Ordinance shall be further reduced in size. Such lots in residential districts as well as those which are consolidated into a single lot but still are non-conforming in size may be improved for single family residence provided the following provisions are met:

- A. Side and rear yard setback provisions may be reduced in direct proportion to the difference in lot areas, but in all cases shall not be less than four (4) feet for each side yard and four (4) feet for rear yards.

- B. The minimum lot area may be reduced in direct proportion to the difference in lot areas, but in all cases shall not be less than the conditions imposed on a forty by eighty (40' x 80') foot plot.
- C. The maximum lot coverage may be increased inversely in proportion to the difference in lot area.
- D. The lot is in separate ownership and not contiguous to lots in the same ownership.
- E. All necessary health approvals are given by the responsible municipal agency of its agent.
- F. The height of the dwelling shall be reduced in direct proportion to the percentage of the shortfall of the required lot width.

Example: If the minimum lot width in the zone is forty feet (40'), and the non-conforming lot has a lot width of only thirty feet (30'), the height of the building shall be reduced by $40 \text{ feet} - 30 \text{ feet} / 40 \text{ feet} = 25\%$

1-41 Accessory Buildings, Structures, and Uses:

- A. Accessory buildings, structures and uses shall be permitted only on the same lot as the principal building to which they are accessory and shall not be located in any required front yard space.
- B. Accessory buildings, structures and uses shall not be such as to alter the character of the premises on which they are located and, except for access-ways to accessory parking or loading areas from an adjoining street, shall not encroach upon any side or rear yard unless otherwise permitted in this Ordinance.
- C. All accessory buildings, structures, or uses shall be governed by the bulk and area regulations of the zone in which they are located except that storage sheds associated with one and two family dwelling units on the same lot as the principal structure may be located within four feet (4') of each side yard and within four feet (4') of rear lot lines but shall comply with the front yard requirement for a principal structure. Storage sheds on corner lots shall not be located nearer to any street line than the minimum required depth of a front yard in the zone in which the lot is located.
- D. In no case shall there be more than one (1) residential building on any subdivision lot of record.
- E. Accessory building shall not exceed sixteen feet (16') in height and may not occupy more than thirty percent (30%) of the required rear yard. Accessory buildings shall be located so that all yard requirements for the lot are met by the principal use.
- F. Storage shed, tool sheds, bathhouses and playhouses shall not exceed fourteen feet (14') in height and may not exceed one hundred and twenty square feet (120 sq. ft.).
- G. A construction permit shall be required for the construction of every accessory building, including storage buildings, out-buildings, bathhouses, storage sheds, tool sheds and other sheds, and for the installation of any such structure which is already assembled or constructed. Accessory buildings shall be permitted in all zones.
- H. Every accessory building shall be installed on poured concrete permanent foundation of sufficient area and depth to satisfy the Uniform Construction Code requirements, at every point where such accessory building shall come in contact with the surface of the ground.

1-42 Landscaping in All Zones: Other provisions of this Ordinance notwithstanding, in any district, the entire lot, except for areas covered by buildings or surfaced as parking, recreation or service areas, shall be seeded, sodded or planted with ground cover and suitably landscaped to include trees, shrubs, edging materials, stones, rocks or gravel; in accordance with an overall landscape plan consistent with the natural surroundings. All landscaping shall be properly maintained throughout the life of any use on said lot. No more than twenty-five percent (25%) of any front yard setback landscape treatment shall include stones, rocks and/or gravel. All stones, rocks and/or gravel shall be placed over filter fabric, and any use of plastic or other impermeable material as a weed barrier is prohibited. Landscaping stones shall only be permitted if they are enclosed by four by four (4 x 4) railroad ties, or other comparable and suitable materials to prevent the stones from getting onto the sidewalk, curb, driveway and gutter area.

1-43 Public Sidewalk Displays: The use of public sidewalks for business purposes, advertising purposes, or the storing, displaying or placing of goods, wares and merchandise or the like for any purpose, is hereby prohibited beyond or over the respective property lines, provided that in no event shall any display be allowed more than two (2) feet from the building.

1-44 Exceptions and Supplemental Requirements to Bulk and Area Regulations:

- A. Corner Lots: At all street intersections in all district, no obstructions to vision exceeding twenty-four inches (24") in height above curb level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines twenty feet (20') distant from their point of intersection.
- B. Height Limitations: The height limitations of this Ordinance shall not apply to church spires, chimneys or radio and television antennae, nor elevator shafts and other non-habitable projections.
- C. Number of Buildings Restricted: There shall be not more than one (1) principal structure on each lot in the R-1 Zone in any residential district. In any other zone, applicants seeking to develop more than one (1) principal structure on each lot shall comply with the provisions of the Land Development Ordinance and submit for Planning Board approval a Site Plan showing existing and proposed developments on the site.
- D. Frontage upon a Street: Every principal building shall be built upon a lot with the minimum lot width fronting upon an improved and approved street in accordance with the road standards established by the Borough or on a private road shown on an approved Site Plan.

1-45 Vehicular Access to Private Property: Vehicular access from public streets to off-street parking areas or driveways shall be made only through authorized curb cuts, as hereinafter defined and regulated:

- A. "Curb cuts" as used in this Section shall include the making of an opening in or through any existing curb and the leaving of voids in curbs when the same are constructed in any street.
- B. No new curb cut (unless constructed by the Borough) nor any opening in or through any existing curb of any street shall be constructed, except for single family and two-family homes unless it is part of an application for development.

- C. The reconstruction of any existing curb or off-street parking area access drive shall be done by first obtaining a building permit from the Construction Official. The reconstruction shall be done in accordance with construction specifications approved by the Borough Engineer.
- D. All new and reconstructed curb cuts shall comply with the following:
 - 1. Minimum distance between the curb cut and the nearer right-of-way line of an intersecting street shall be fifteen feet (15’).
 - 2. The minimum distance between any curb cut and any fire hydrant shall be two feet (2’); provided, however, compliance with Paragraph D.1 above must be met.
 - 3. Any adjustments to utility poles, light standards, fire hydrants, catch basins, street signs, signals or other public improvements or installations required by any curb cut of off-street parking area access way shall be accomplished without cost to the Borough.
 - 4. The maximum curb cut dimension for single family residential construction shall be twenty-four feet (24’) and thirty-six feet (36’) for a two family residence.

1-46 Off-street Parking and Loading Requirements: Off-street parking and loading for uses allowed in this Ordinance shall be subject to the requirements stipulated in Article IX.

1-47 Signs: Signs shall be subject to the requirements stipulated in Article IX.

1-48 Special Agreements: Nothing contained in this Ordinance shall be construed or deemed to restrict, inhibit or circumscribe the rights and powers of the Borough of West Wildwood to grant lease concessions and public property as provided and permitted by the Revised Statutes of the State of New Jersey.

1-49 Grading of Lot: No certificate of occupancy shall be issued for any building to be erected upon any lot until all of said lot shall be filled into a grade of minimum of six inches (6”) on rear property line pitched to the inside of the sidewalk.

1-50 Setbacks:

- A. Steps shall be permitted in the street front building setback.
- B. Ramps may be constructed to protect vehicles from flood waters where space does not permit the required setbacks provided that the following conditions are observed:
 - 1. Said ramps may be constructed to the side lot line only when there is no other location available to construct said ramp.
 - 2. Rear setbacks shall be observed.
 - 3. Said ramp shall not extend beyond any side or front property line.
 - 4. Said ramp shall be constructed so that water from the ramp will not drain on any adjoining property line.
 - 5. The top deck of the ramp must be large enough to permit safe entrance and exit for vehicle passengers.
 - 6. Under no circumstances will walls, part walls, or roofs be permitted to be attached to ramps. Railings no higher than 3 feet (3’) may be constructed.
 - 7. Said ramp shall be constructed so that entering and exiting is done in a safe manner and the slope of the ramp shall not exceed 15%.

1-51 Patios: Patios shall be permitted in conjunction with residential uses which for the purpose of this Section shall include single family, two family, multi-family, townhouse and garden apartments, condominium and all other commercial uses. Where patios are permitted they shall, however, be specifically subject to the following conditions and restrictions:

- A. A patio may be constructed on the ground floor up to a height of the first floor elevation.
- B. A patio shall not be located closer than four feet (4') to any lot line.
- C. No awnings, roofs or other type of covering shall be permitted.

1-52 Private Residential Swimming Pools: Except for portable swimming pools which have a depth at any point of less than 15 inches (15") or a capacity of 300 gallons or less, the following regulations shall apply to permanent and portable swimming pools that are accessory to a residential use:

- A. Said use shall be located on the same lot as the principal structure.
- B. Said use shall be appropriately screened and fenced to minimize adverse impact on adjoining properties.
- C. A swimming pool shall be a permitted accessory use and no swimming pool shall be permitted unless it complies with the requirements of this Ordinance.
- D. No swimming pool shall be hereafter constructed, installed, relocated or reconstructed unless the pool itself and any apron, accessory building, structure and equipment are all located at least four feet (4') from all property lines and at least twenty feet (20') from the property line of any street bordering the property in question.
- E. Swimming pools are prohibited in front yards.

1-53 Fences and Walls

- A. On any lot in any district, no fence, hedge, solid wall or living fence shall be erected or altered so that said fence, hedge, or wall shall be over four feet (4') in height in front yards.
- B. Fences, hedges, solid walls or living fences may be maintained behind the building line at a height of not more than six feet (6') along the side property lines and six feet (6') at the rear of the building. Each fence around a swimming pool shall have at least one gate with a self-latching or closing device at least four feet (4') above the ground so designed as to keep gates or doors securely closed. No portion of the fence erected around a swimming pool shall be less than four feet (4') from the nearest point of water.
- C. Walls and fences shall be required to compliment the structural type, design, and color of the principal building.
- D. Walls and solid fences are more appropriately used adjacent to or attached to buildings as architectural extensions and careful consideration shall be given to coordination with the lines, materials and color of any principal structure.
- E. Walls and fences shall be constructed of durable, high quality materials and shall display a high level of quality in finish and detail.
- F. The use of plant screens instead of fences is encouraged along property lines.
- G. Materials and construction:
 - 1. If the fence is wood or wood frame, the framework must face the interior of the lot or be finished on both sides.

2. If the fence is open metal mesh supported by posts or frames or either pipe or wood, the posts and frame must face the interior of the lot.
 3. If the fence is of masonry construction, a finished surface must be provided on the exterior side.
- H. The height of walls and fences shall be measured from the elevation of the average finishes grade within ten feet (10') from the base of the wall or fence to its highest point.
 - I. No fence, hedge, or solid wall of any type shall be erected or maintained if it is deemed a safety hazard in obstructing the view of motorists. Sight triangle areas shall be required at intersections and driveways entering public streets, in addition to the specified right-of-way widths, in which no grading, planting or structure shall be erected or maintained more than thirty inches (30") above the street centerline, except for utility poles, street signs, fire hydrants and light standards. The sight triangle is defined as that area outside of the curb line and the straight line connecting "sight points", one (1) located on each curb line or driveway centerline at a distance of twenty-five feet (25') or one foot (1') for each mile of allowed street speed limit, whichever is greater, or fifteen feet (15') along the centerline of a driveway.
 - J. All fences erected shall be maintained in a safe, sound and upright condition by the property owner and all hedges shall be neatly maintained and trimmed in appearance and kept at a height not greater than prescribed by this Ordinance.

1-54 Home Occupations and Family Daycare Homes: Home occupations and family day care homes shall be subject to the following requirements:

- A. Such occupation may be pursued in the principal dwelling unit structure or in a secondary building which is accessory to such principal building structure, except a garage, tool shed or storage shed.
- B. The use of the property for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty five percent (25%) of the net habitable floor area of all structures shall be used in the conduct of the home occupation.
- C. No person other than members of the household residing on the premises plus one (1) secretary or other assistant shall be engaged in the occupation.
- D. The residential character of the lot and building shall not be changed, no occupational sounds shall be audible outside the building, and no equipment shall be used which will cause interference with radio or television reception in neighboring residences. No display of products shall be visible from the street, nor shall any materials be stored outside the dwelling unit.
- E. The home occupation shall not necessitate the need to park more than one (1) vehicle at any time in addition to those ordinarily used by the residents of the home. Said vehicles shall be limited to passenger automobiles and/or other vehicles not exceeding a ¾-ton capacity and must be parked off-street. The home occupation shall not reduce the parking or yard requirements of the dwelling. There may be parked on the premises not more than one (1) vehicle owned or operated in conjunction with the home occupation. No other vehicle(s) owned or operated in conjunction with the home occupation shall be parked overnight, stored, or repaired, either on or off-premises, within a residential zone, and no such vehicle(s) shall be parked overnight or stored on a street.

- F. The dwelling unit shall be permitted to have a small, unlighted nameplate sign not over two (2) square feet in area, attached flat against the dwelling and displaying only the occupant's name, occupation and/or profession.
- G. The following uses do not constitute a "home occupation" in this Ordinance: real estate agents; the maintenance and operation of a private school; beauty parlor; barber shop; private sanitarium, health institute, clinic, or hospital; nursing home; lodging or boarding home; collection, storage and sale of goods; house of worship; or any similar use.
- H. No hazardous materials as defined by the New Jersey Department of Environmental Protection shall be kept on the premises.
- I. There shall be no nuisance element detectable in connection with the home occupation.
- J. No home occupation or professional office shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, radiation or other objectionable emissions.
- K. There shall be no detrimental impacts to the use, peaceful enjoyment, economic value, or the development of the surrounding properties or neighborhoods.
- L. Family daycare homes shall be deemed to be a home occupation in any district in which home occupations are permitted and shall be subject to the same restrictions applicable to all other home occupations (except that the presence of children or customary residential recreational facilities shall not be considered as exterior evidence of a home occupation) and shall require minor site plan approval from the Planning Board and shall require public notice.

1-55 Childcare Centers: Childcare centers shall be permitted in the TC Zone within churches or other places of worship, public schools, private schools, hotels or motels, community and public buildings, and office buildings as accessory uses and subject to Site Plan review and the following conditions:

- A. The applicant shall provide substantial evidence that there is a definite need for the childcare center in the requested location and that the proposed childcare center will have no adverse impact on surrounding properties.
- B. The childcare center shall have easy and direct access, and the entrance and exits shall be located away from areas of heavy vehicular and pedestrian traffic with limited contact with commercial and/or office uses.
- C. The hours of operation shall be limited to 7:00 AM to 7:00 PM. No outdoor play areas shall be used before 9:00 AM or after 7:00 PM. There shall be no overnight care.
- D. The childcare center shall not create any objectionable traffic or lighting conditions.
- E. Parking areas, pedestrian walkways or other exterior portions of the premises subject to use by childcare center occupants at night shall be illuminated to provide safe entrance to and egress from the center.
- F. An outdoor play area shall be on the same lot as the childcare center. The area shall be graded, well drained, completely fenced and not include driveways, parking areas or land and uses otherwise unsuitable. All outdoor play areas shall include sheltered play space.
- G. No part of any outdoor play area may be situated in the front yard.
- H. The childcare center may be identified only by signage which is consistent with the overall design theme of the particular development project in which the center is located.
- I. The site shall be free from any hazards to the health, safety or well-being of the children.

- J. The childcare center, including any outdoor play space provided, shall be so located and designed that there shall be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions. The Board may require such special treatment in the way of design, screening or buildings planting and parking areas, signs or other requirements as it shall deem necessary to protect adjacent and nearby properties.
- K. All childcare centers must either be licensed by or meet the requirements of the New Jersey Department of Human Services.
- L. The floor area occupied in any building or structure as a childcare center shall be excluded in calculating any parking requirement otherwise applicable to the number of units or amount of floor space, as appropriate, under state and local laws or regulations adopted thereunder and the permitted density allowable for that building or structure under any applicable zoning standard.

1-56 Community Residences for the Developmentally Disabled and/or Community Shelters for Victims of Domestic Violence:

- A. Any community residence for the developmentally disabled or community shelter for victims of domestic violence, excluding resident staff, shall require Planning Board approval for the use of a dwelling unit for such shelter or residence, including the conversion of a dwelling unit for such use.
- B. The residential character of the lot and buildings shall not be changed and there shall be no exterior evidence of the community residence or community shelter. No signs shall be permitted except information and direction signs as permitted for single family detached dwellings.
- C. The following design requirements shall be incorporated within the submitted plan:
 - 1. Each community residence or community shelter shall be connected to public water and sewer facilities;
 - 2. Community residences or community shelters shall have immediate access to public transportation services or, in the alternative, provide occupants with a van or equivalent transportation service, and;
 - 3. Community residences or community shelters shall resemble single family detached dwellings in appearance.
- D. All community residences or community shelters shall have one-half parking space for each resident thereof.
- E. The Board may deny approval to any proposed community residence for the developmentally disabled or community shelter for victims of domestic violence which would be located within one thousand five hundred feet (1,500') of an existing such residence or shelter; provided further, however, that the Board may deny the issuance of any additional such permits if the number of persons, other than resident staff, resident at existing such community residences or community shelters within the Borough exceeds fifty (50) persons, or 0.5% of the population of the Borough, whichever is greater.