Article 6  SUPPLEMENTAL REGULATIONS

§6.1. Area Modification for Lots of Record

The ZBA shall approve all proposed development involving non-conforming lots of record. See §4.6.2 Nonconforming Lots of Record.

§6.2. General Yard Requirements

6.2.1. Every part of a required yard shall be open to the sky, unobstructed by any structure or part thereof, and, unoccupied for storage, servicing or similar uses, except as provided for herein.

6.2.2. More than one (1) multiple dwelling, office, institutional, industrial or public building may be located upon a lot or tract of land, but such dwellings shall not encroach upon the front, side or rear yards required by the district regulations.

6.2.3. In certain cases the Building Official can reduce either the front or rear yard requirement by no more than (5) five feet in any district. A greater reduction may only be approved by the ZBA through a variance. However, the side yards must meet the requirements for the applicable district.

6.2.4. Front Yard Modifications

1. Where new development is proposed on the same block face as abutting, previously developed lots located within the same district with front yards less than required in such district, the following modifications shall apply:

   a. Where a building is to be erected on a parcel that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent buildings

   b. Where a building is to be erected on a parcel that is within 100 feet of an existing building on one (1) side only, such building may be erected as close to the front lot line as the existing building.

2. Contextual Setbacks. The minimum front yard setback for all lots along a block face that includes multiple zoning districts shall be the most restrictive front yard setback required among the districts occurring along that block face (see Figure 6-2, Example 1). This shall be considered the contextual setback. However, in the case of a block face wherein a district with a greater setback requirement is separated from a district with a lesser setback requirement by an alley, watercourse, buffer, or similar physical transition, the contextual setback within the less restrictive district shall be half (1/2) of the setback required in the abutting district or the normally required setback of the abutting district, whichever is greater (see Figure 6-2, Example 2). These adjustments shall also apply to secondary front yards.

Example 1: Where the Lots along Frontage A are in a district with more restrictive Setbacks than those Lots along Frontage B, the Setback along Frontage C for Lot 1 is subject to the more restrictive Setback, except as shown in the Example 2.

Example 2: Where the Lots along Frontage A and those along Frontage B are separated by a public Alley ROW, the "Contextual Setback" along Frontage C for Lot 1 shall be the greater of; the normal Setback of the Applicable District or half of the Setback in the Abutting residential district.

Figure 6-2: Contextual Setbacks

3. Through lots shall provide the required front yard on both sides.

4. Standard corner lots for detached single-family and duplex dwellings in the R-2, R-2A and R-3 Districts, shall have a primary (greater) front yard setback and a secondary (lesser) front yard setback. Corner lots, in all other cases, shall provide a front yard on each street.
6.2.5. Rear Yard Modifications. Where a lot abuts an alley, one-half (1/2) of the alley width may be considered as part of the required rear yard.

§6.3. Height Modification

6.3.1. Any limitation on the number of stories shall not apply to buildings used exclusively for storage purposes, with the exception of Mini-warehouses provided such buildings do not exceed the height in feet permitted in the applicable district.

6.3.2. Chimneys, cooling towers, elevators, bulkheads, fire towers, gas tanks, steeples, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers or necessary appurtenances, where permitted, may be erected to any height not in conflict with existing of hereafter adopted ordinances of the City, except that where permitted in connection with residential uses, such structures shall be limited to a height of twenty-five (25) ft above the average height of structures permitted in that district. [See §7.13 Transmission Towers (Commercial)]

§6.4. Fences and Walls

6.4.1. No fence shall be allowed within the front yard setback in any single family residential district (see Figure 6-4). However, for corner lots, the Zoning Administrator may approve an encroachment of not more than five (5) ft into the secondary front yard (standard corner lots) or into the front yard corresponding with the longer of the two street frontages (for non-standard corner lots). In such cases, fences shall not exceed forty-two (42) inches in height.

6.4.2. Fences in any single family residential district shall not exceed a height of six and one half (6.5) ft as measured from the topmost point of the fence to grade level at the fence line.

Figure 6-4: Permitted Fence Locations

6.4.3. The following types of fences are permitted in Residential Districts: masonry walls, ornamental (iron), woven wire (chain link), wood or other man made materials designed specifically for such use, and hedges. The following type of fences are prohibited: any fence carrying electric current, any fence that utilizes spikes, nails, barb wire or other pointed materials in its construction. However, when warranted, those fence types listed as prohibited above may be permitted in the A-1 Agricultural, M-1 Light Industrial and M-2 Heavy Industrial Districts.

6.4.4. No fence of any material shall encroach into the Clear Sight Triangle where a thoroughfare intersects a driveway, alley, or another thoroughfare, as determined by the City Engineer in accordance with the Public Works Manual. No fence, hedge or any type of planting shall be placed or constructed in any location that would hinder access to fire hydrants, including ornamental or split-rail fences.

6.4.5. The following exceptions should be noted: fences used for guard railing, around depressed ramps, tops of retaining walls along driveways and adjacent to residential sidewalks, not to exceed forty-two (42) inches in height.

6.4.6. The finished side of the fence, if applicable, shall face adjoining properties or public areas.

6.4.7. For non-residential Districts, all fence construction shall be subject to site plan approval with no height or setback restriction(s) except those deemed, necessary and reasonable by the Commission unless otherwise stipulated elsewhere in this Ordinance. [See Use Specific Regulations, if applicable]
§6.5. Porches, Terraces, Balconies, Cornices and Eaves

6.5.1. Sills or ornamental features of a structure may project into any yard not to exceed six (6) inches.

6.5.2. Cornices or eaves may project into any required yard not to exceed twenty-four (24) inches, except as otherwise provided by the Building Code.

6.5.3. Terraces, unenclosed porches, underground fallout shelters or ornamental features (which are constructed as part of a single family or two-family dwelling) may project into a required yard, provided such projections shall not extend into the required front yard more than five (5) ft and shall not extend closer than twenty-five (25) ft to the rear lot line. The said terraces, porches, shelters and ornamental features (when constructed as part of a multi-family dwelling) shall not encroach more than five (5) ft into the side yards.

6.5.4. In single family and two-family residential districts, an unenclosed balcony, deck, porch or fire escape may project into a required rear yard, provided such structures be located not closer than twenty-five (25) ft from the rear property line and ten (10) ft from either side lot line.

6.5.5. In multi-family residential districts, an unenclosed balcony, porch, deck or fire escape may project into a required rear yard for a distance not to exceed twelve (12) ft and may project into a required side yard for a distance not to exceed eight (8) ft; but, in no instances, shall the said structures be located within a required buffer.

§6.6. Accessory Buildings and Structures

6.6.1. Accessory buildings or structures up to twelve (12) ft in height shall be permitted within five (5) ft of any side or rear property line. Accessory buildings above twelve (12) ft in height shall be set back one (1) additional foot for each four (4) ft in height above twelve (12) ft up to the maximum building height of the applicable district.

6.6.2. Accessory buildings and structures shall be constructed of materials compatible with other buildings in the same district to ensure that the aesthetic value and appearance of the area is retained.

6.6.3. Accessory buildings and structures and attached and detached carports and garages on residential lots shall meet the following requirements:

1. In the A-1 District, the lot coverage of detached accessory structures, in aggregate, shall not exceed twenty-five (25) percent of the established rear yard (as measured from the rear building line of the principal structure). In the E-1 and R-1 Districts, the lot coverage of detached accessory structures, in aggregate, shall not exceed fifteen (15) percent of the established rear yard and the gross floor area shall not exceed fifty (50) percent of that of the principal building. In all other cases, the maximum floor area of detached accessory structures shall be twenty-five (25) percent of the gross floor area of the principal building.

2. Accessory buildings and structures shall not exceed the principal building height.

3. Such structures and additions shall be subject to the front yard setback of the applicable district.

4. Attached accessory buildings and structures, such as, carports and garages shall conform with the side yard setback for the applicable district.

5. When the lot abuts an alley, detached accessory structures may be closer than five (5) ft to the lot line at the alley, but not closer than twelve (12) ft to the alley centerline.

6. Accessory structures shall not be built prior to construction of the primary structure, nor shall such be used for non-residential purposes which are not normally incidental to residential use.

7. All electrical power service to accessory buildings on residential lots shall originate from the main power service at the main building and not a separate metered service. However, after review, the Zoning Administrator may approve a separate meter for utilities in the A-1 and E-1 Districts only.

§6.7. Satellite Dish Antennas

6.7.1. Satellite dish antennas and other ground mounted antennas shall not be permitted in the front yard. Setbacks shall be from all lot lines, a distance equal to the height of the antenna. The setback shall be measured from the closest edge of the dish to the lot line. Satellite dishes are subject to the district’s maximum building height.

6.7.2. Satellite dish antennas shall be neutral in color and to the greatest extent possible, compatible with the appearance and character of the neighborhood in which located.

6.7.3. If the required placement prevents satisfactory reception or other problems of a unique nature, such may be referred to the ZBA for a variance.

§6.8. Temporary Structures and Building Material Storage

Temporary buildings may be permitted for storage of materials connected with construction projects and
such buildings may also be permitted as temporary offices until such time as the construction projects are completed and permanent buildings are ready for habitation. However, no such buildings or structures shall be permitted until appropriate Building Permits have been approved and issued.

§6.9. Garage or Yard Sales

6.9.1. Garage or yard sales on the same lot shall not be conducted for more than three (3) days (whether consecutive or not) during any ninety (90) day period.

6.9.2. All posters and/or signs, display tables, stands, racks, etc. shall be removed immediately after such sale by the person conducting the garage or yard sale and such items shall be stored inside an enclosed building or screened from public view.

§6.10. Private Swimming Pools and Tennis Courts

6.10.1. Private Swimming Pools. Where permitted, private swimming pools shall comply with the following requirements:

1. Permanent swimming pools which are wholly or partially above grade level shall be located in the rear yard of a single or two-family residential district no closer than twenty-five (25) ft from any lot line. No mechanical appurtenance shall be located within ten (10) ft of any lot line.

2. Private Swimming Pools constructed below grade level shall be:
   a. Located, including mechanical appurtenances, no closer than ten (10) ft from any lot line.
   b. Enclosed at the time of construction by a fence of not less than four (4) ft in height (measured from grade level to the highest point on the fence) as per the City’s adopted building code. Fences and gates shall be constructed of such materials so as to prevent unauthorized entry. Moreover, gates shall be provided with permanent self-latching devices which shall be locked at all times when the pool is not in use.
   c. Above-ground pools shall be subject to the requirements of the Standard Swimming Pool Code, 1991 and any future amendments thereto.
   d. All exterior lighting fixtures shall be constructed to direct the beam of light below the horizontal plane of the fixture, reflecting away from any adjacent property. Said fixtures may not extend higher than twenty-five (25) ft in height.
   e. Swimming pools for multi-family and commercial uses shall meet minimum standards deemed appropriate by the Commission upon review of each specific proposal.

6.10.2. Private Tennis Courts. Where permitted, all tennis courts constructed in single family or two family residential districts shall meet the following minimum standards:

1. The tennis court shall be located in the rear yard.

2. The tennis court may not be located any closer than twenty-five (25) ft from any lot line and residential structure.

3. All fences shall meet the requirements of §6.4 Fences and Walls.

4. Tennis courts for multi-family and commercial uses shall meet the standards deemed appropriate by the Commission during the review of each specific proposal, including but not limited to required buffers.

5. If lighted, all exterior lighting fixtures shall be constructed in a manner so as to direct the beam of light toward the facility itself and away from any adjacent areas. Said fixtures shall not exceed twenty-five (25) ft in height.

§6.11. Ownership and Management of Common Open Spaces and Facilities

For all proposals involving the creation of open spaces or facilities to be owned and maintained by a homeowner, property owner, or condominium association, the following shall apply:

6.11.1. Owner’s Association. An association representing the owners shall own the common open space or facility in perpetuity. Membership in the association shall be mandatory and automatic for all owners of the subdivision or condominium and their successors. The association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the common open space and/or facilities located thereon shall be borne by the association.

6.11.2. Management Plan. The applicant shall submit a plan for management of open space and/or common facilities that:

1. allocates responsibility and guidelines for the maintenance and operation of the common open space/facilities including provisions for ongoing maintenance and for long-term capital improvements;

2. estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the common open space/facilities
and outlines the means by which such funding will be obtained or provided;

3. provides that any changes to the plan be approved by the Commission; and

4. provides for enforcement of the plan

6.11.3. In the event the party responsible for maintenance of the Common Open Space fails to maintain all or any portion in reasonable order and condition, the City may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the association, or to the individual owners that make up the association, and may include administrative costs and penalties. Such costs shall become a lien on all involved properties.