

## **CHAPTER XXX**

### **ZONING**

#### **30-1 TITLE.**

The title by which this chapter shall be known and may be cited is The Zoning Regulations of the Borough of Surf City, and it shall include a map known as the zone map which shall be an integral part of this chapter. (Ord. No. 72-7 § 1)

#### **30-2 PURPOSE.**

The purpose of this chapter is to protect and encourage the most appropriate use of land; to lessen congestion in the streets; to secure safety from the dangers of fire, panic and other dangers; to insure the provisions of adequate light, air and amenity; to prevent undue concentration of population and the overcrowding of land; to conserve the value of property; and to promote the health, safety, welfare and convenience of the community. (Ord. No. 72-7 § 2)

#### **30-3 DEFINITIONS.**

For the purpose of this chapter, certain terms and words are herein defined. The words "used for" include the meaning "designed for"; the word "building" includes the word "structure"; the word "plot" includes "lot".

*Accessory building* shall mean a building housing any use incidental to the principal use of the land.

*Accessory dwelling* shall mean an accessory building designed or used in whole or in part as a dwelling, and

having an area not more than three-quarters (3/4) of the area of the main building.

*Basement* shall mean a story partly or wholly underground.

*Basic grade* shall mean the elevation at the center line of the street on which the plot fronts, as established or to be established by the Borough.

*Boardinghouse* shall mean a building in which not more than five (5) rooms are used, or intended to be used, for compensation for the lodging of guests, with meals served to occupants only.

*Breezeway* shall mean a covered passageway extending between a main and an accessory building and having a permanent floor and a permanent roof, designed so as to be or become an integral part of the design of the main building.

*Building* shall mean any structure having a roof supported by columns, piers or walls, including tents, lunch wagons, trailers, dining cars, camp cars or other structures on wheels, or having other supports and an unroofed platform, terrace or porch raised more than eight (8") inches above the grade of the adjacent yard.

*Building area* shall mean the area of the largest floor plan of the building, including covered porches, second floor entrance steps and any portion of the building extending beyond the foundation wall, excluding entrance steps to the first floor living area and any intermediate landing not exceeding the width of the stairs located at any point, including, but not limited to, a top landing which may be attached to a deck. The top landing shall not exceed twenty (20) square feet.

*Building height* shall mean the vertical distance measured from the basic grade to the highest point of the roof.

*Certificate of Occupancy* shall mean a certificate issued by the Construction Official upon completion of the construction of a new building or upon a change in the occupancy of a building which certifies that all

requirements of this chapter, or such adjustments thereof which have been granted by the Board of Adjustment, and all other applicable requirements have been complied with.

*Corner plot* shall mean a plot or lot having intersecting street lines as two (2) or more of its boundaries.

*Court* shall mean an open unoccupied space, other than a yard, on the same plot with a building.

*Directional sign* shall mean an advertising sign or device intended to direct or point toward a place, or one that points out the way to either an unfamiliar or a known place that obviously could not be easily located without such a sign or device.

*Duplex* shall mean a structure or structures located on a single lot designed for two (2) separate residences without regard to the legal relationship of the occupants in either or both of the living units. In order for a structure or structures to constitute a duplex, each living unit or residence must have a separate entrance, separate cooking facilities and separate complete bathroom facilities. A complete bathroom facility is defined as having a commode and shower or bath. A separate outside shower which is capable of being utilized in conjunction with half bath facilities shall constitute a complete bathroom facility. Heating capabilities shall not be considered in the determination of a duplex, as a living unit is capable of being utilized during the summer without heat.

*Dwelling* shall mean any building or portion thereof which is designed for or occupied as a residence, except hotels or motels.

*Family* shall mean one (1) or more persons related by blood or marriage occupying a dwelling unit and living and cooking as a single, nonprofit housekeeping unit, including servants. This definition shall not include

any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie or organization.

*Front yard* shall mean a yard across the full width of the plot extending from the front wall of the building to the street line of the plot.

*Garage apartment* shall mean a two (2) story building, the first floor of which is designed and used chiefly for the storage of motor vehicles, and the second floor of which is designed or used as a dwelling.

*Garage, private* shall mean a building or space designed as accessory to or a part of the main building which is designed primarily for the storage of vehicles.

*Guest house* shall mean any accessory building used in whole or in part as a dwelling.

*Half story* shall mean a story with at least one (1) of its walls formed by a sloping roof.

*Home occupation* shall mean an occupation carried on on the premises by an occupant thereof in which there is no display or sale or offer of sale of goods and services on the premises and no other persons than occupants employed.

*Home office* shall mean an office situated in a dwelling in which is performed accounting, record keeping, and similar procedures associated with a gainful occupation pursued off the premises by an occupant of the dwelling, excluding real estate agencies.

*Hotel (motel)* shall mean a building in which more than five (5) rooms are used, or intended or designed to be used, for the lodging of guests for compensation, with or without meals.

*Interior plot* shall mean a lot or plot the sidelines of which do not abut the street.



*Lot* shall mean the area of land contained in any numbered subdivision of a block as shown on the Official Map of Surf City.

*Main building* shall mean the building housing the principal use of the plot.

*Nonconforming building* shall mean a building or structure which was designed, executed or structurally altered for a use that does not conform to the use regulations of the zone in which it is located, or a building or structure which does not conform to all the height and area regulations of the zone in which it is located; provided the building or structure was in all respects a lawful building at the time it was constructed.

*Nonconforming lot* shall mean a lot or parcel which does not have the minimum width or depth or contain the minimum area for the zone in which it is located, or the use to which it is being put, and which was in all respects lawful at the time it was first delineated by deed or plot plan of public record.

*Nonconforming use* shall mean a use of a building or of land that does not conform to the regulations of the zone in which it is located but which use was in all respects lawful when it was begun.

*Occupancy permit* shall mean a permit secured by the purchaser of a dwelling unit prior to closing of title from the Tax Collector which permit would indicate the type of use for which the dwelling may be legally utilized.

*Parking space* shall mean an off-street space available for the parking of a motor vehicle and which in this chapter is held to be an area nine (9') feet wide and twenty (20') feet long.

*Plot* shall mean one (1) or more adjoining lots under one (1) ownership.

*Plot area* shall mean the total area within the boundary lines of a plot.

*Plot depth* shall mean the mean distance between the front line and the rear lot line.

*Plot width* shall mean the lot width shall be determined by measurement across the rear line of the front yard. When the side lot lines converge toward the street line, the distance between the side lot lines at their points of intersection with the street line measured along the street line shall not be less than eighty (80%) percent of the required minimum lot width. In the case of lots on the turning circle of a cul-de-sac or at points of street curvature where the radius of the right-of-way line of the street (or of a circle approximately following the right-of-way line and intersecting the foremost points of the side lot lines) is less than ninety (90') feet, the eighty (80%) percent requirement shall not be less than twenty (20') feet.

*Point of sale sign* shall mean a sign displayed on the premises occupied by an individual business, service or commercial enterprise to apprise the public of the location of the premises and the nature of the products or services offered thereon.

*Professional office* shall mean the office of a member of the following recognized professions only: accountants, architects, chiropractors, dentists, land surveyors, lawyers, medical doctors, ministers, optometrists, osteopathic physicians, professional engineers, psychiatrists.

*Rear yard* shall mean a yard across the full width of the plot extending from the rear wall of the building to the rear line of the plot.

*Rooming house* shall mean a building in which not more than five (5) rooms are used, or intended to be used, for the lodging of guests for compensation, without meals.

*Side yard* shall mean a yard between the building and the adjacent side lines of the lot extending from the front yard to the rear yard.

*Sign* shall mean a publicly displayed board, placard, or structure, lighted or unlighted, including banners and flags, bearing information by word or picture which is in the nature of identification, announcement, direction, or advertisement.

*Sign area* shall mean the area included within the frame or edge of the sign exclusive of the structure to support it properly, trim and framing device and any appurtenances required by building codes. Where the sign has no such frame or edge, the area shall be defined by an enclosed four (4) sided geometric shape which most closely outlines such sign.

*Single detached one-family dwelling* shall mean a separate building designed for and occupied by only one (1) family as a residence.

*Story* shall mean that portion of a building included between the surface of any floor, and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

*Street* shall mean a portion of land dedicated to public use for vehicular and pedestrian travel. (The width of the street includes sidewalks.)

*Street line* shall mean the dividing line between the plot or lot and the street.

*Structure* shall mean anything built, constructed or erected which requires location on the ground. However, pools shall not be considered structures.

*Take-out window* shall mean an opening in the main or principal building of a retail food establishment used to receive and dispense take-out food orders.

*Through plot* shall mean an interior plot or lot, the front line and rear line of which abut a street.

*Yard* shall mean an open, unoccupied space on the same plot with a building, open and unobstructed from the ground to the sky, except as otherwise provided herein.

(Ord No. 72-7 § 3; Ord. No. 85-1; Ord. No. 02-09 § I; Ord. No. 03-09 § II; Ord. No. 2005-05 § 1)

#### **30-4 ESTABLISHMENT OF ZONES; OFFICIAL ZONING MAP.**

**30-4.1 Zones.** The Borough is hereby divided into four (4) zones as hereinafter described and as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this chapter.

- a. *B—Business Zone.* The Business Zone shall comprise the area on both sides of Long Beach Boulevard to a depth of one hundred (100') feet from the street lines of the Boulevard between the center line of South Third Street and the centerline of Twenty-Fifth Street, except in Blocks 17, 18, 24 and 25, in which four (4) blocks the depth of the Business Zone shall be one hundred thirty (130') feet northwest of the northwest street line of the Boulevard, as shown on the zone map.
- b. *RA—Residential Zone.* The RA Residential Zone shall comprise all lands in the Borough not located in the Business Zone or the RAA Residential Zone.
- c. *RAA—Residential Zone.* The RAA Residential Zone shall comprise all those lands situated within the Borough lying west of Shore Avenue as shown on the Map No. 3 of the lands of Long Beach City Land Company filed in the Ocean County Clerk's Office on November 21, 1887 as Map No. C-255 and File Map No. H-55, the lands being commonly known as "Lazy Point."



- d. *MC-Municipal Complex Zone.* The MC Municipal Complex Zone shall comprise all lands situated in Block 25, except for Lot 1.

(Ord. No. 72-7 § 4A; Ord. No. 02-01 §§ 1, 2)

**30-4.2 Official Zoning Map.** The official zoning map shall be identified by the signature of the Mayor, attested by the Borough Clerk and bearing the seal of the Borough under

the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4 of the Ordinance No. 72-7, of the Borough of Surf City, New Jersey", together with the date of the adoption of this chapter.

If, in accordance with the provisions of this chapter and N.J.S.A. 40:55-30, et seq., changes are made in zones and boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the Mayor and Council, together with an entry on the official zoning map as follows: "On (date), by official action of the Mayor and Council, the following change(s) were made in the Official Zoning Map: (brief description of nature of change)", which entry shall be signed by the Mayor and attested by the Borough Clerk.

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable as provided under Section 30-16 of this chapter.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the Borough Clerk (or other place easily accessible to the public and shall be the final authority as to the current district delineation of land and water areas, buildings, and other structures in the Borough subject to changes by amendment not yet entered thereon. (Ord. No. 72-7 § 4B)

**30-4.3 Replacement of Official Zoning Map.** In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of minor changes and additions, a new official zoning map which shall supersede the prior official zoning map may be prepared at the direction of the Borough Clerk and duly authenticated. The new official zoning map may correct minor drafting or other minor

errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. Any major change in the official Zoning Map originally adopted by the Borough by ordinance shall be effectuated by an amendment to that ordinance. The new official zoning map shall be identified by the signature of the Mayor, attested by the Borough Clerk and bear the seal of the Borough under the following words: "This is to certify that the official zoning map, (date), supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as part of Ordinance No. 72-7 of the Borough of Surf City, New Jersey." (Ord. No. 72-7 § 4C)

### **30-5 BUSINESS ZONE—USES AND REGULATIONS.**

**30-5.1 Lot Area and Frontage.** Any lot created for commercial use in the Business Zone shall have a minimum area of five thousand (5,000) square feet and a minimum frontage of fifty (50') feet. (Ord. No. 72-7 § 5A)

#### **30-5.2 Principal Uses and Buildings Permitted.**

- a. All uses and buildings permitted in any residential zone, provided that any plot used solely for residential purposes or combined commercial-residential use shall comply with the area, yard and all other requirements of the RA Residential Zone.
- b. Retail stores and service facilities which supply commodities and services which are limited to the following:
  1. Antique shops.
  2. Bakeries.
  3. Banks.
  4. Barber shops.

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5. Beauty parlors.
6. Clothing stores.
7. Delicatessens.
8. Drug stores.
9. Dry cleaners.
10. Electrical appliance and supplies stores.
11. Furniture stores.
12. Gift shops.
13. Grocery stores.
14. Haberdasheries.
15. Hardware stores.
16. Luncheonettes.
17. Meat markets.
18. Office buildings.
19. Pet shops.
20. Real estate offices.
21. Restaurants.
22. Sport and fishing equipment stores.
23. Supermarkets.
24. Variety stores.
25. Parking lots, Borough or privately owned and operated.
26. Building and plumbing supplies stores with yards for material and equipment.
27. Liquor stores and bar rooms, licensed.



- c. Automobile service stations and public garages are permitted provided the following standards and conditions are complied with:
  - 1. A set of plans, specifications and plot plans shall be submitted to the appropriate approving authority together with an application for a conditional use permit in accordance with the provisions of the land use procedure chapter and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. as amended and supplemented. The approving authority shall grant or deny the application for a conditional use permit in accordance with the provision of this chapter, the land use procedure chapter, and the Municipal Land Use Law.
  - 2. No service station shall be located within two hundred (200') feet of a school, hospital, church, museum, public library or institution, nursing home, theater, club or place or public assembly having a capacity of more than one hundred (100) persons.
  - 3. No new service station may be constructed on a parcel of land where any part of that parcel is closer than one thousand five hundred (1,500') feet to any pre-existing service station.
  - 4. Dismantled or damaged vehicles, automobile parts, and similar articles are to be stored within a building, except that such an article may temporarily be stored outside on the premises for a period not to exceed thirty (30) days.
  - 5. A solid fence not less than six (6') feet in height shall be erected and maintained along the entire length of side and rear property lines.
- d. Combined residential and commercial use. No individual building lot in the Business Zone shall be

- used for more than one (1) commercial establishment and one (1) living unit.
- e. Any proposed additions or new construction with regard to building in this zone shall be accompanied with a set of plans and specifications scaled by an architect or professional engineer licensed by the State of New Jersey. Whether temporary or permanent, any building or storage shed separate from the main building shall comply with the existing Building Code.
  - f. Seats in combination with tables located to the exterior of the main perimeter walls of any business, restaurant, take-out establishment, or other establishment located in the Business Zone, and/or seats in combination with tables located anywhere on the outside grounds of a business, restaurant, take-out establishment, or other establishment located in the Business Zone be and are expressly prohibited. The prohibition would include, but not be limited to a covered patio, tent type structure, or area covered by an awning.

Under no circumstances shall any seats in combination with tables which may currently be in place be considered to be grandfathered unless same have been given appropriate Board approval prior to the introduction of this paragraph.\*

Seats only located to the exterior of a restaurant utilized for a waiting area only may be permitted provided said seats are not used in conjunction with any type of a table and are not located in the sidewalk area.

(Ord. No. 72-7 § 5B; Ord. No. 79-3 § 1; Ord. No. 03-17 § I)

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\***Editor's Note:** This paragraph f. was adopted December 10, 2003 by Ordinance No. 03-17.

**30-5.3 Prohibited Uses and Buildings.**

- a. Any uses or buildings not listed in subsection 30-5.2 above.
- b. A duplex (two (2) living units) on any lot less than ten thousand (10,000) square feet.  
(Ord. No. 72-7 § 5C)

**30-5.4 Building Area and Dimensions.**

- a. The enclosed ground floor of any building in this zone shall not be less than seven hundred twenty (720) square feet.
- b. The length of the building wall adjacent to any street shall not be less than twenty (20') feet.
- c. No building in this zone shall exceed thirty-five (35') feet in height above the established basic street grade.
- d. Combination commercial and residential use. In addition to the area of seven hundred twenty (720) square feet used for the purpose of commercial use, there shall be a minimum of seven hundred twenty (720) square feet devoted to residential use.  
(Ord. No. 72-7 § 5D)

**30-5.5 Yards.**

- a. The minimum depth of the front yard shall be ten (10') feet.
- b. *Side Yard.* Commercial buildings are permitted to be built upon the property line providing a firewall is erected thereon; otherwise, the side yard shall be a minimum of five (5') feet from the property line.
- c. A side yard abutting a street shall not be less in width (or depth) than the width (or depth) of the front yard required on the adjoining lot on that street.

- d. When the rear lot line abuts either a residential lot or a street twenty (20') feet or less in width, a rear yard with a minimum depth of five (5') feet is required.  
(Ord. No. 72-7 § 5E)

**30-5.6 Off-Street Parking.** There shall be provided at the time of erection or enlargement of any principal building or structure minimum off-street parking space with adequate provision for ingress and egress as follows:

- a. Churches, meeting halls, school auditoriums and similar places of public assembly, one (1) parking space for each ten (10) units of seating capacity.
- b. Commercial building, except office buildings and restaurants, two (2) parking spaces for each six hundred (600) square feet of floor space, and in addition, one (1) parking space for each person employed.
- c. Office buildings, two (2) parking spaces for each office suite, and in addition, one (1) parking space for each person employed.
- d. Restaurants, one (1) parking space for each five (5) seats, and in addition, one (1) parking space for each person employed.



- e. Combination commercial-residential use, parking spaces shall be available according to the requirement for the particular commercial use plus two (2) additional parking spaces for the living unit.
- f. Parking spaces available in municipally or privately operated parking lots within three hundred (300') feet of the building may be considered in partial fulfillment of this requirement.  
(Ord. No. 72-7 § 5F)

**30-5.7 Take-Out Windows.** Take-out windows are permitted in the Business Zone in accordance with the following:

- a. Take-out windows shall not exceed four (4') feet in height and six (6') feet in width for a total area of twenty-four (24) square feet.
- b. There shall not be more than one (1) take-out window for each main or principal building.
- c. A take-out window on a front or side yard abutting a street shall have a minimum depth of ten (10') feet from the building line to the street. Take-out windows shall not be permitted abutting the rear yard.
- d. Take-out windows shall not be permitted on any side or rear yard abutting property in the Residential Zone.  
(Ord. No. 2005-05 § 2)

### **30-6 RA RESIDENTIAL ZONE—USES AND REGULATIONS.**

**30-6.1 Lot Area and Frontage.** Any plot created for residential use in the RA Residential Zone shall have a minimum area of five thousand (5,000) square feet and minimum frontage of fifty (50') feet. (Ord. No. 72-7 § 6A)

**30-6.2 Principal Uses and Buildings Permitted.**

- a. Single family dwellings.
- b. Two-family detached duplex dwellings, provided the plot on which the duplex dwelling is erected has a minimum area of ten thousand (10,000) square feet of upland ground with a minimum frontage of one hundred (100') feet.
- c. Public parks and public playgrounds.
- d. Municipally owned and operated public utilities.
- e. Home occupations as defined in Section 30-3 of this chapter.
- f. Professional and home offices only when in single-family dwellings as defined in Section 30-3 of this chapter.
- g. *Accessory Uses and Buildings.*
  - 1. Garage or group of garages for not more than three (3) vehicles.
  - 2. Greenhouse.
  - 3. Garage apartment, when built in conjunction with single-family dwellings and providing its ground floor area does not exceed seventy-five (75%) percent of the ground floor area of the main building on the plot, and further providing that the plot on which it is erected has a minimum area of ten thousand (10,000) square feet and a minimum frontage of one hundred (100') feet.
- h. Marinas shall be permitted as a conditional use.
  - 1. Application Procedure. No zoning and/or construction permit or Certificate of Occupancy shall be issued for a conditional use as permitted by N.J.S.A. 40:55D-1 et seq., and the Revised General Ordinances of the Borough of Surf City, until

approval by the Planning Board. An application for a conditional use shall be reviewed by the Planning Board professionals for a determination of completeness. No application for a conditional use shall be listed for a public hearing until the Planning Board and/or the Board's professionals have deemed the application complete.

A set of plans and specifications showing all structures, wharfs, berth layout, fuel storage and dispensing system and any and all outside storage or display of any items for any purposes, as set forth in paragraph g. as referenced below, and parking areas shall be submitted to the Planning Board with an application for a conditional use permit.

The Planning Board shall approve or deny conditional uses simultaneously with site plan or subdivision review. The Board shall follow the

procedures outlined for review in the Revised General Ordinances of the Borough of Surf City and N.J.S.A. 40:55D-1 et seq.

Public notice and a public hearing shall be required. Notification of all property owners within two hundred (200') feet of the proposed site shall be notified by the applicant by mail. Applicants shall effectuate notice pursuant to the Municipal Land Use Law. (N.J.S.A. 40:55D-12)

In all requests for approval of conditional uses, the burden of proof shall be on the applicant. The Board shall give due consideration to all reasonable elements which could affect the public health, welfare, safety, comfort and convenience, such as, but not limited to, the proposed use(s), the character of the area, vehicular travel patterns and access, pedestrian ways, landscaping, lighting, signs, drainage, sewage treatment, potable water supply, utilities, and building and structure location(s) and orientation(s), and any and all outside storage or display of any items for any purposes, as set forth in paragraph g. as referenced below. Conditional uses shall completely comply with the special requirements listed below.

2. Special Requirements for Marinas.
  - (a) The lot for such purpose shall have not less than two hundred (200') feet measured continuously along and abutting the waterline in a straight line.
  - (b) Any portion of the lot utilized in conjunction with the marina use, including parking, shall not extend more than two hundred (200') feet measured perpendicular to the straight line established under paragraph a,2(a).



- (c) Off-street parking shall be provided at a rate of one and one-half (1 1/2) spaces for every dock space berth. Additionally, one (1) space for every two (2) persons based upon U.S. Coast Guard approved capacity of the following vessels. Commercial party boats, commercial head boats, commercial fishing vessels, commercial sport fishing vessels, commercial dinner boats, commercial site seeing vessels, commercial tour vessels and all other similar vessels.
- (d) All fuel storage and dispensing shall be registered and approved by N.J.D.E.P. and proper certifications shall be provided.
- (e) Marina shall be provided with a N.J.D.E.P. approved vessel waste pump-out facility.
- (f) All marinas shall be provided with restroom facilities according to the following schedule:
  - (i) For a small marina (up to forty (40) boats):
    - [a] Men: One (1) toilet stall, one (1) urinal and one (1) washbasin.
    - [b] Women: Two (2) toilet stalls and one (1) washbasin.
  - (ii) For a small "quality" or medium marina (forty (40) to eighty (80) boats):
    - [a] Men: One (1) urinal, one (1) toilet stall, one (1) washbasin and one (1) shower stall.
    - [b] Women: Two (2) toilet stalls, one (1) washbasin and one (1) shower stall.

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- (iii) For a large marina (over eighty (80) boats):

- [a] Add:

- [1] One (1) urinal per thirty (30) boats (men);
    - [2] One (1) toilet stall per sixty (60) boats (men);
    - [3] One (1) toilet stall per thirty (30) boats (women);
    - [4] One washbasin per thirty (30) boats (men and women);
    - [5] One (1) shower stall per sixty (60) boats (men and women).

- (iv) All restroom facilities shall comply with the Americans with Disabilities Act.

- (g) Any and all outside storage or display of any items for any purposes, including, but not limited to, any items for sale, rent, display or customer storage, including, but not limited to, boats, vessels, jet skis, kayaks, sail boats, whether motorized or self propelled, shall be limited to twelve (12') feet high above the grade of the adjacent ground. In addition, no outside storage or display for any purpose shall be located any closer than twelve (12') feet to any property line.

### 3. Definitions.

- (a) *Marina* shall mean a waterfront facility used for the dockage (wet or dry) or moorage of vessels for which any fee is charged including but not limited to dockage or moorage fees.

A waterfront facility used for the dockage (wet or dry) or moorage of vessels that offers the sales of goods (including fuel) and services related to marine activities and marinas, including but not limited to, the sales, rental and/or service of vessels, engines, vessel supplies and fishing equipment, whether or not any fee is charged for dockage or moorage.

- (b) *Vessels* shall mean a craft used or capable of being used, in navigation on water including, but not limited to, commercial and noncommercial, ships, boats, vessels, jet skis, kayaks, sail boats/ships, whether motorized, wind-driven or self-propelled.
- i. Off-street parking in conjunction with the operation of a contiguous commercial use shall be reviewed by the Borough Planning Board under guidelines established by the Master Plan update adopted by the Borough. The applicant for such off-street commercial parking shall submit a site plan to the Planning Board for their review with recommendations made to the Borough Council prior to the issuance of a permit authorizing such off-street parking. The Council shall have the final responsibility by the adoption of a resolution pertaining to the issuance of such a permit. The Council, within its discretion, may accept, reject, or modify such recommendations as made by the Planning Board to the Council.
- j. Prior to the issuance of a building permit for any structure requiring a minimum area of ten thousand (10,000) square feet and a minimum frontage of one hundred (100') feet, the owner thereof shall execute and deliver a notarized affidavit declaring the parcel to be one (1) buildable lot unless the parcel has previously been subdivided as a single parcel. The affidavit shall be filed in the office of the Construction Official and

shall become a part of the permanent records of the Borough.

(Ord. No. 72-7 §6B; Ord. No. 79-7; Ord. No. 98-6 § I; Ord. No. 98-12 §§ I-III)

#### **30-6.3 Prohibited Uses and Buildings.**

- a. Any uses and buildings not listed in subsection 30-6.2 above.
- b. Boarding and rooming houses are specifically prohibited in this zone.  
(Ord. No. 72-7 § 6C)

#### **30-6.4 Building Area and Dimensions.**

- a. The enclosed ground floor area of any main building in this zone shall be not less than seven hundred twenty (720) square feet with a minimum measurement of twenty (20') feet adjacent to any street.
- b. The maximum height of the main building shall be no more than thirty-two (32') feet above the elevation of the crown of the road upon which the lot faces; provided however, buildings on lots which are crossed by the oceanfront building line shall not exceed thirty-four (34') feet in height from an elevation determined by striking a line, perpendicular to the building line, at the elevation thereof and running to the lot elevation at the setback line at the opposite side of the lot from the building line. The thirty-four (34') foot height limitation is to be measured from the elevation established at the midpoint in the line so struck between the building line and the opposite side setback line. Chimneys may exceed the height limitations herein established.
- c. The elevation of the underside of the first floor joists shall not exceed eight (8') feet above the established basic street grade.

- d. The maximum height of any accessory building in this zone shall be one (1) story or fifteen (15') feet at the center peak. The roof shall be a continuous slope with no interruptions or dormers. The side walls shall not exceed ten (10') feet above the established basic street grade.
- e. All buildings, including accessory buildings, shall not cover more than thirty-five (35%) percent of the area of the plot on which they are erected.
- f. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy-five (75) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and older and at least thirty (30') square feet for each occupant under twelve (12) years of age. This subsection shall not apply to rooming houses, hotels, motels or other places of public accommodation in the Borough, which are duly licensed as such by the appropriate governmental agency.  
(Ord. No. 72-7 § 6D; Ord. No. 79-6; Ord. No. 90-16 § 1; Ord. No. 2007-5 § I)



**30-6.5 Yards.**

- a. On each plot in this zone, the following front, side and rear yards shall be established at the time of the erection of any main building.
  1. A front yard with a minimum depth of ten (10') feet.
  2. Side yards with minimum widths of five (5') feet on one side of the main building and ten (10') feet on the other side.
  3. A rear yard with a minimum depth of five (5') feet.
  4. On a corner plot the yards adjacent to the intersecting streets shall not be less in width (or depth) than the depth of the front yards required on those streets.
- b. No accessory buildings shall be erected or altered so as to encroach upon the front, side or rear yards required by this chapter, except that a detached garage used solely for garage purposes and erected five (5') feet from the rear line of the plot, may if necessary for accessibility, encroach on a side yard, but may not reduce the width of the side yard to less than five (5') feet.
- c. A chimney or fireplace may project not more than twenty-one (21") inches into the required five (5') foot yard only.
- d. Ornamental uncovered entrance steps and platform, may extend into the front yard five (5') feet but not exceed twenty-five (25) square feet in area.  
(Ord. No. 72-7 § 6E)

**30-6.6 Off-Street Parking.** There shall be provided at the time of erection or enlargement of any principal building or

structure minimum off-street parking space with adequate provision for ingress and egress as follows:

- a. Two (2) parking spaces for each dwelling unit on the plot.
- b. Churches and clubhouses, one (1) parking space for each ten (10) units of actual or potential seating capacity.
- c. Professional offices of chiropractors, dentists, medical and osteopathic physicians and optometrists, in addition to those required by paragraph a. above, three (3) parking spaces plus one (1) for each employee.
- d. Professional offices other than those listed in paragraph c. above, in addition to those required by paragraph a. above, one (1) parking space for each employee.
- e. Marinas, one (1) parking space for each boat berth and mooring. Shore area utilized for dry winter storage may, if adequate and accessible, be considered as parking area when boats are not stored thereon.  
(Ord. No. 72-7 § 6F)

**30-7 RAA RESIDENTIAL ZONE—USES AND REGULATIONS.**

**30-7.1 Lot Area and Frontage.** Any plot created for residential use in the RAA Residential Zone shall have a minimum area of six thousand (6,000) square feet and a minimum width of fifty-five (55') feet.

- a. There shall be no further subdivision, reconfiguration, or relocation of lot line boundaries, of any lots in the RAA Zone that are known and designated on a map entitled "Final Map of Lazy Point in the Borough of Surf City, Ocean County, New Jersey, dated February, 1969", prepared by Fernandez, Jorlett, Kief and Tracey,

and filed in the Ocean County Clerk's Office on April 30, 1970, as Map #H-55" notwithstanding the fact that such a subdivision, reconfiguration or relocation of lot line boundaries may comply with the required minimum lot area and frontage requirements of this chapter.

(Ord. No. 72-7 § 7A; Ord. No. 95-2)

**30-7.2 Principal Uses and Buildings Permitted.**

- a. Single detached one-family dwellings.
- b. Accessory uses and buildings permitted.
  1. Garage or group of garages for not more than three (3) vehicles.
  2. Greenhouses.
  3. Uses, buildings and structures normally incidental to those listed in paragraph a. above, subject to all deed restrictions of record.  
(Ord. No. 72-7 § 7B; Ord. No. 95-2)

**30-7.3 Prohibited Uses and Buildings.** Any uses and buildings not listed in subsection 30-7.2 of this section. (Ord. No. 72-7 § 7C)

**30-7.4 Building Areas and Dimensions.**

- a. The enclosed ground floor area of any main building in this zone shall be not less than nine hundred (900) square feet, exclusive of open or covered porches or patios.
- b. The maximum height of the main building shall be no more than twenty-eight (28') feet above the established basic street grade, and shall not exceed two and one-half (2 1/2) stories. However, in the event such building is constructed on pilings, which are ten (10') feet above mean sea level as required in the Flood Insurance

Ordinance of this Borough, the height of the main building shall be no greater than thirty-two (32') feet.

- c. The maximum height of any accessory building in this zone shall be one (1) story or fifteen (15') feet at the center peak with side walls not to exceed ten (10') feet above the established basic street grade.
- d. The combined total ground floor areas of all the buildings on the plot shall not exceed thirty-five (35%) percent of the area of the plot.
- e. In every dwelling unit and in every room unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy-five (75) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and older and at least thirty (30) square feet for each occupant under twelve (12) years of age. This subsection shall not apply to rooming houses, hotels, motels or other places of public accommodation in the Borough, which are duly licensed as such by the appropriate governmental agency.

(Ord. No. 72-7 § 7D; Ord. No. 78-11)

#### **30-7.5 Yards.**

- a. On each plot in this zone, the following front, side, and rear yards shall be established at the time of the erection of any main building:
  - 1. A front yard with a minimum depth of twenty (20') feet. When the street line is curved, the rear line of the front yard shall follow the curvature of the street, and no part of the building shall be closer than twenty (20') feet to the street line at any point, except as hereinafter provided.



2. Side yards with minimum widths eight (8') feet on one side and twelve (12') feet on the other.
  3. A rear yard with a minimum depth of ten (10') feet.
  4. On a corner plot, the yards adjacent to the intersecting streets shall not be less in width (or depth) than the depth of the front yards required on those streets.
- b. No accessory building shall be erected or altered so as to encroach upon the front side or rear yards except that a detached garage used solely for garage purposes and erected in the rear of the plot may, if necessary for accessibility, encroach on a rear or side yard, but may not reduce the width of either the rear or side yards to be less than five (5') feet.
  - c. A chimney or fireplace may project not more than twenty-one (21") inches into any yard.
  - d. Ornamental uncovered entrance steps and platform together not exceeding five feet by five (5' x 5') feet or twenty-five (25) square feet, may extend into the front yard only.  
(Ord. No. 72-7 § 7E)

**30-7.6 Off-Street Parking.** There shall be provided at the time of erection or enlargement of any principal building or structure minimum off-street parking space with adequate provision for ingress and egress as follows:

- a. Two (2) parking spaces for each dwelling unit.
- b. Professional offices of chiropractors, dentists, medical and osteopathic physicians and optometrists, in addition to those required by paragraph a. above, three (3) parking spaces plus one (1) for each employee.
- c. Professional offices other than those listed in paragraph b. above, in addition to those required by paragraph a.



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above, one (1) parking space for each employee.  
(Ord. No. 72-7 § 7F)

**30-7A MC-MUNICIPAL COMPLEX ZONE—USES AND REGULATIONS.**

The MC Zone has been created to contain municipal buildings and uses including, but not limited to, municipal governmental offices and buildings; Police, Fire, and other emergency services; public schools and training facilities; housing for municipal employees and/or equipment; and communications equipment, facilities, towers and antennas.  
(Ord. No. 02-01 § 3)

**30-8 OCEAN AND BAY FRONT LOTS.**

**30-8.1 Ocean Front Lots—RA Residential Zone.**

- a. *Definition.* An ocean front lot or plot is one abutting the upland boundary line of the beach-dune area as defined in subsection 20-3.2 of Chapter XX of this Revision.
- b. *Regulations.* Any buildings constructed on an ocean front plot shall comply with the following conditions and regulations:
  1. Chapter XX, Section 20-3 (Beach and Dune Regulations) of this Revision.
  2. An ocean front plot is deemed to front upon the beach and dune area, and no front yard is required.
  3. When the rear of an ocean front lot abuts an existing approved street, a rear yard of ten (10') feet in depth, measured from the east line of the street, shall be provided.
  4. When the rear line of an ocean front lot coincides and abuts a public or private right-of-way, access

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road, easement or adjoining lot, the rear yard of an ocean front lot shall be five (5') feet in depth.

5. In all other respects, the regulations, requirements, and conditions of the RA Residential Zone shall apply.  
(Ord. No. 72-7 § 8A; Ord. No. 79-5)

**30-8.2 Bay Front Lots—RA and RAA Residential Zones.**

- a. *Definition.* A bay front lot or plot is one having one (1) or more property lines, excluding the boundaries of a riparian grant, extending to or coinciding with an existing bulkhead, an established bulkhead line or the high water line on the shores of Manahawkin Bay.
- b. *Regulations.* All buildings constructed on a bay front lot in the RA or RAA Residential Zones shall comply with the following regulations and conditions.
  1. In the RA Residential Zone only, a bay front lot is deemed to front upon the bay, and no front yard is required except as outlined in subparagraph 4. below.
  2. In the RAA Residential Zone only, a bay front lot adjoining a street is deemed to front upon the street and shall have a front yard twenty (20') feet in depth.
  3. In the RA Residential Zone, when the rear of a bay front lot abuts a street, a public or private right of way, access road or easement, a rear yard ten (10') feet in depth not including the width of the street, right of way, access road or easement, shall be provided.
  4. In any zone, no building shall be erected within twenty (20') feet of an existing bulkhead. Those structures that were in existence prior to August 11, 1972, shall be permitted to be altered, repaired or replaced but not enlarged so that the building enlargement would come any closer to the bulkhead than existed prior to the enlargement.
  5. In all other respects, the regulations, requirements and conditions of the zone in which the plot is located shall apply.  
(Ord. No. 72-7 § 8B)

**30-9 FENCES AND SHRUBS.****30-9.1 Definitions.** As used in this section:

*Fence* shall mean any freestanding structure not exceeding eight (8") inches in width and of any height, constructed of wood, metal, or masonry and erected on a plot within six (6") inches of the property lines, or elsewhere on a plot for sundry specific purposes.

*Rear lines of ocean and bay front lots* shall mean as indicated in Section 30-8 of this chapter.

(Ord. No. 72-7 §9A)

**30-9.2 Permitted Fences and Shrubs.**

- a. In the RA and RAA Residential Zones, fences may be erected as described in the following:
  1. A fence of any type not over four (4') feet in height along any property line, or elsewhere on the plot.
  2. A chain link fence not exceeding eight (8') feet in height may be used to enclose the yard of a school, playground, park or a plot occupied by a municipally owned and operated public utility or other facility.
  3. A chain link fence not exceeding fourteen (14') feet in height may be used to surround, in whole or in part, a tennis or handball court.
  4. Trees, shrubs and other plants are permitted in required yards, provided they do not produce a hedge exceeding the heights permitted in subparagraph 1. above.
  5. A solid screening fence not exceeding eight (8') feet in height may be erected along the boundary line between any RA or RAA Residential Zone and any Business Zone.

- b. In the Business Zone, fences may be erected as described in the following:
  - 1. Fences of the types and heights and in the locations permitted in the RA and RAA Residential Zones.
  - 2. A solid screening fence not exceeding eight (8') feet in height may be erected along the rear boundary.
  - 3. A chain link fence not exceeding eight (8') feet in height may be erected surrounding any yard in which building or plumbing materials or equipment is stored.  
(Ord. No. 72-7 § 9B; Ord. No. 84-11)

#### **30-9.3 Prohibited Fences and Shrubs.**

- a. Fences other than those permitted by subsection 30-9.2 above are prohibited.
- b. On corner plots in all zones, shrubs or trees planted at or near the corner formed by the intersecting street line shall not, by height or other characteristic, obstruct visibility of traffic on the intersecting streets.  
(Ord. No. 72-7 § 9C)

**30-9.4 Permit and Fee.** An application for a permit, accompanied by an application fee of ten (\$10.00) dollars shall be made to the Zoning Officer; and a permit obtained prior to the erecting of any fence in any zone. (Ord. No. 72-7 § 9D; Ord. No. 90-21 § 1)

#### **30-10 SIGNS.**

**30-10.1 Signs in RA and RAA Residential Zones.** No signs, billboards, advertising structures or similar items are permitted in RA and RAA Residential Zones except as follows:



- a. Street signs erected by the Borough or County at public or private streets, lanes or drives.
- b. One (1) lighted or unlighted professional office announcement sign of over one (1) square foot in area for each dwelling containing such office in the RA Residential Zone only.
- c. One (1) lighted or unlighted sign, permanent announcement or bulletin board not over twenty (20) square feet in area for each church, school, museum or similar public use, plus signs not over four (4) square feet in area to provide directions to specific buildings, entrances and off-street parking area.
- d. A name plate not over one (1) square foot in area containing only the name of the establishment or its occupant.
- e. On improved, unimproved or vacant plots, one (1) real estate sign not over four and one-half (4 1/2) square feet in area, bearing a sale or rent message exhibited thereon by the owner of the plot or by a real estate broker; it being the express intention to permit no more than one (1) such sign to be exhibited on the plot at any time.
- f. Directional signs for public buildings, schools, churches and museums where the foregoing are permitted uses, provided that each such sign shall not be over six (6) square feet in area, and each such use shall have not more than two (2) such signs.
- g. During the construction, repair or remodeling of a single building one (1) sign may be maintained on the premises by each of the contractors or subcontractors working thereon, provided each sign does not exceed six (6) square feet in area and further provided all signs are removed within forty-eight (48) hours of the termination of the work or construction as determined by the Construction Official.

- h. The area of the trim or framing device of any sign shall not exceed ten (10%) percent of the sign area as defined in Section 30-3.
- i. Lighted signs, where permitted, shall not include exposed bulbs or tubings, or flashing lights.
- j. A sign bearing a message of political expression which includes, but is not limited to any fair comment of any matter of public interest, political speech or political expression is not included to mean commercial speech tied to commercial uses. The sign shall not exceed twelve (12) square feet in area and no single dimension shall exceed six (6') feet.  
(Ord. No. 72-7 § 10A; Ord. No. 82-4)

**30-10.2 Signs in Business Zone.** No signs, billboards, advertising structures, or similar items are permitted in the Business Zone, except as follows:

- a. Those permitted under subsection 30-10.1 above.
- b. Separately fabricated lighted or unlighted point of sale signs attached to a building or mounted on a separate support on the premises apart from the building are permitted provided that:
  - 1. There shall be on any parcel or use not more than two (2) such signs.
  - 2. The area of any one (1) sign or the total combined areas of two (2) signs shall not exceed forty (40) square feet.
  - 3. The horizontal or vertical dimensions of any one (1) sign, or the horizontal dimensions of two (2) signs when added together, or the vertical dimensions of two (2) signs when added together shall not exceed twelve (12') feet.

4. The area of the trim or framing device of any sign shall not exceed ten (10%) percent of the sign area as defined in Section 30-3.
  5. No sign shall project more than five (5') feet beyond the street line, nor more than six (6') feet beyond the face of the building to which it is attached.
  6. Illuminated signs shall not contain, have attached thereto, or incorporated therein any flashing lights, nor shall there be any real or simulated motion of the letters, designs, or figures depicted thereon; however intermittent illumination of a sign is permitted.
- c. A sign painted upon or mounted on the surface of an exterior wall of a commercial building provided:
1. That the area of the sign does not exceed ten (10%) percent of the area of the building actually devoted to the business described in such sign; however, the area of the sign in any case shall not exceed three hundred (300) square feet.
  2. That no such sign shall exceed five (5') feet in height, except that a sign not more than five (5') feet in width may be not more than twelve (12') feet in height.
  3. The area of the trim or framing of such sign shall be not more than twenty (20%) percent of the sign area as defined in Section 30-3.
  4. That there shall be not more than one (1) such sign per side or front of the building.
  5. The sign may be lighted by light sources above or below provided the light sources are concealed.
- d. A point of sale sign may be erected on any property in the business zone owned by the proprietor of a business in this municipality, although not adjacent to the

property on which the business advertised thereon is conducted, provided that the sign conforms with the provisions of this chapter and provided further that such point of sale sign may only be used for the purpose of advertising the proprietor's business.

- e. Signs identifying or directing persons to a parking area provided by the owner of a business or professional office for the use of customers, clients, or patients may be displayed on the premises in addition to those permitted by the foregoing regulations provided that not more than one (1) directional sign and one (1) identifying sign be used for this purpose, and further providing that neither of such signs exceed six (6) square feet in area.
- f. Any other provision to the contrary notwithstanding the total area for signs for property utilized as a dual commercial use, shall not exceed the area for signs permitted on property utilized as a commercial and residential use.

(Ord. No. 72-7 § 10B; Ord. No. 87-14 § 1)

**30-10.3 Permit; Fee.** An application, accompanied by an application fee of five (\$5.00) dollars shall be made to the Construction Official for a building permit to erect any illuminated sign in the RA and RAA Zones, except signs giving only directions to or only identifying parking areas. (Ord. No. 72-7 § 10C)

## **30-11 GENERAL PROVISIONS AND EXCEPTIONS.**

### **30-11.1 Use Provisions and Exceptions.**

- a. Any portion of any yard required by this chapter may be used for parking of motor vehicles and the storage of watercraft.



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- b. No plot may be used for or occupied by more than two (2) dwellings as defined in Section 30-3.
- c. No plot may be occupied by more than one (1) accessory structure utilized as a shed. In the case where the plot in question is made up in total of more than one (1) lot or such plot has a contiguous plot of the same ownership, then no more than two (2) sheds may be placed thereon. Shed shall not exceed one hundred (100) square feet in total size with side walls not to exceed eight (8') feet in height and total height not to exceed ten (10') feet at peak.  
(Ord. No. 72-7 §11A; Ord. No. 88-25 § 1; Ord. No. 2000-10 § I)

**30-11.2 Area Provisions and Exceptions.**

- a. Any lot or plot having a minimum forty (40') foot frontage in the residential zones in separate ownership on August 11, 1972, and which has an area or width less than that required in the zone in which it is located may be occupied by a single detached, one-family dwelling provided that:
  - 1. The owner of the plot does not own any adjoining lots or adjacent ground.
  - 2. The parking spaces and yards required by the zone are provided.
  - 3. The area of the main building shall not be less than six hundred (600) square feet and the total area of all buildings on the plot shall not exceed thirty-five (35%) percent of the lot area.
  - 4. A plan of the plot drawn by a registered engineer, architect, or surveyor and showing all buildings proposed and or existing, shall be submitted to and may be approved by the Board of Adjustment as a special use permit if the criteria described herein have been fully met.



5. Except that if the owner of the substandard lot or plot owns adjacent lots or parcels of land such lots or parcels together with the substandard lot shall be considered as a single plot, and all provisions of this chapter shall apply.
6. Platforms not to exceed four (4') feet by four (4') feet, utilized solely for air conditioning units shall not be counted in the calculation of lot coverage and shall not be required to conform to the setbacks for the zone in which they are located.
- b. Any portion of a lot or plot shall not be counted again as a required yard for another building nor shall it be sold in whole or in part as a parcel or lot separate from the lot or plot of which it is a part.
- c. In the residential zones, no portion of any lot or plot shall be sold if such sale will reduce the area of such lot or plot to the point where the area of the building thereon will be greater than thirty-five (35%) percent of the lot area or reduce the width or depth of the yards no less than that required in the zone.
- d. In the residential zones, the eaves of a main or accessory building may not extend more than eighteen (18") inches into a required yard.
- e. In any residential zone, walkways at and cantilevered from the level of the second floor, and having no separate supports or columns extending to the ground, may extend not more than forty-two (42") inches into ten (10') foot wide side yards and front yards only.
- f. A second story extending beyond the walls of the first story, supported by cantilevered construction and having no separate supports or columns extending to the ground, may extend not more than thirty-six (36") inches into ten (10') foot wide side yards and front yards only.

- g. For the purpose of this chapter, a carport attached to a main or accessory building is considered to be an integral part of that building, and as such may not extend into any required yard. A carport is defined as a roofed structure with or without sidewalls erected for the purpose of sheltering without completely enclosing a motor vehicle.  
(Ord. No. 72-7 § 11B; Ord. No. 03-03 § I; Ord. No. 03-09 § I)

**30-11.3 Parking in Residential Zone.** No vehicle exceeding four (4) tons in gross weight may be parked on any lot or parcel of land located in any residential zone in the Borough, provided that where such vehicle is actually engaged in the delivery of goods or providing of services to or for any resident actually residing in a structure located on the lot wherein such vehicle may be parked the provisions of this section shall not apply during the actual period when such goods are being delivered or such services are being provided.  
(Ord. No. 82-8)

**30-11.4 Refuse Enclosures.**

- a. No new refuse enclosures shall be constructed on or placed upon any property or lands within the Borough except as follows:
1. The front wall of the enclosure, defined as being one of the two (2) longest sides in length, shall have a maximum height not to exceed eighteen (18") inches from the ground.
    - (a) The front wall may be situated on the property so as to face either parallel or perpendicular to the roadway.
  2. The remaining walls, rear and side shall be no higher than thirty-six (36") inches from the ground.
  3. In any event, the front wall shall be no higher than eighteen (18") inches from the ground and the rear

and side walls shall be no higher than thirty-six (36") inches from the ground.

4. Refuse enclosures shall have a width large enough to have one (1) can placed inside in an inverted manner and shall have a length of no more than that which is required to have placed inside the proper number of cans in accordance with Borough Ordinance 90-13.
- b. Existing refuse enclosures shall be modified in the following manner:

1. The front wall of the enclosure, defined as being one of the two (2) longest sides in length, shall have a maximum height not to exceed eighteen (18") inches from the ground.
  2. The rear and side walls may remain as originally constructed so long as the front wall is only eighteen (18") inches from the ground.
  - c. Refuse enclosure shall be located one (1') foot from the roadway edge and shall be placed on a level surface.
  - d. Refuse enclosures constructed and or placed on lands prior to the introduction of this ordinance must be brought into conformance within nine (9) months from the date of the final adoption and publication according to law.
  - e. A zoning permit must be obtained for said construction or placement from the Zoning Official of the Borough at no cost to the applicant. Renovations to existing enclosures may be done with no permit being required.
  - f. The sketch as drafted by the firm of Henderson and Breen and kept on file in the offices of the Borough may be used as a reference in the construction of a refuse enclosure.
- (Ord. No. 95-20)

**30-12 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES AND NONCONFORMING USES OF STRUCTURES AND PREMISES.**

**30-12.1 Intent.** Within the zones established by this chapter or any amendments thereto, there exist lots, structures and uses of land and structures which were lawful before August 11, 1972, but which would be prohibited, regulated or restricted under the terms of this chapter or any future amendment.



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

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after August 11, 1972 by attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of other uses of a nature which would be prohibited generally in the zone involved.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to August 11, 1972 or the date of any amendment of this chapter, and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved. The within grace period herein provided for shall not be construed to apply to any subsequent amendment of this chapter. (Ord. No. 72-7 § 12A; Ord. No. 81-12 § 2)

**30-12.2 Nonconforming Lots of Record.** Pursuant to subsection 30-12.8 in any zone in which single-family dwellings are permitted, with lots having a frontage of at least forty (40') feet and a total square footage of four thousand (4,000') feet or more, a single-family dwelling and customary accessory buildings may be erected on any single lot of record as of



August 11, 1972, or the date of any amendment hereto. Such lot shall be in a separate ownership and not of continuous frontage with other lots in the same ownership. For lots not meeting the requirements above, a variance of area, width and yard requirements shall be obtained through the Board of Adjustment.

If two (2) or more lots or combinations of lots with continuous frontage and single ownership are of record as of August 11, 1972, or the date of any amendment hereto, and are recorded as single lots on the tax map of the Borough, the lots shall be considered single, individual building lots and shall not be combined for purposes of conforming with more stringent amendments to the Zoning Ordinance adopted subsequent to August 11, 1972. (Ord. No. 72-7 § 12B; Ord. No. 85-8; Ord. No. 2000-13 § I; Ord. No. 01-02 § I)

**30-12.3 Nonconforming Uses of Land.** Where, on August 11, 1972 or the date of any amendment hereto, lawful use of land exists that is made no longer permissible under the terms of this chapter, as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied as of August 11, 1972, or the date of any amendment hereto.
- b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use as of August 11, 1972.
- c. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.  
(Ord. No. 72-7 § 12C)

**30-12.4 Nonconforming Structures.** Where a lawful structure exists on August 11, 1972 that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No nonconforming building, which was erected pursuant to and in conformity with the zoning ordinance or any variance therefrom, shall be enlarged or altered in a manner which would increase the degree of nonconformity without a variance. Where the owner of a nonconformity building seeks a building permit which will enlarge or alter the building but will not increase the degree of nonconformity, plans for the proposed enlargement or alteration shall be provided to the Zoning Officer who shall issue a certificate that the proposed enlargement or alteration will not increase the degree of nonconformity. If the Zoning Officer finds that the enlargement or alteration will increase the degree of nonconformity, he shall issue a certificate so stating and no building permit shall then be issued without prior approval of the Zoning Board of Adjustment, or the Planning Board in the appropriate case.
- b. Should such structure be destroyed by any means to an extent of more than seventy-five (75%) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

- c. A nonconforming structure may be moved or relocated on any lot, provided that the relocation or movement does not increase the degree of nonconformity.  
(Ord. No. 72-7 § 12D; Ord. No. 83-4 § 3; Ord. No. 85-1)

**30-12.5 Nonconforming Uses of Structures.** If a lawful use of a structure, or of structure and premises in combination, exists on August 11, 1972 that would not be allowed in the zone under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No existing structure devoted to a use not permitted by this chapter in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered in any manner which would increase or intensify the density or actual living quarters for such structure except in changing the use of the structure to a use permitted in the zone in which it is located, provided, however, this section shall not preclude a zoning certificate and building permit from being issued if the proposed enlargement, extension, construction or reconstruction is for a garage, staircase, deck, fence, shed or any other addition which does not increase the actual living quarters of the existing structure, and the enlargement, extension, construction, reconstruction or alteration is conforming in all other respects to this chapter.
- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use as of August 11, 1972, but no such use shall be extended to occupy any land outside such building.
- c. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific

case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

- d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.
- e. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for nine (9) consecutive months or for eighteen (18) months during any three (3) year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.
- f. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. 72-7 § 12E; Ord. No. 83-8)

**30-12.6 Repairs and Maintenance.** On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content of the building as it existed on August 11, 1972, or the date of any amendment hereto, shall not be increased.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building



or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. (Ord. No. 72-7 § 12F)

**30-12.7 Uses under Exception Provisions, Not Nonconforming Uses.** Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district. (Ord. No. 72-7 § 7F)

**30-12.8 Additional Provisions.** The following shall apply:

- a. It is the purpose of this zoning chapter to characterize existing lots having a frontage of at least forty (40') feet and a total square footage of four thousand (4,000') feet or more as being conforming lots for one-family residences. It is the purpose of the zoning chapter to require that all newly created lots designed for one-family residences have a minimum of fifty (50') feet frontage and a total square foot area of not less than five thousand (5,000) square feet.
- b. It is further the intention of the zoning chapter to declare that any lots having one hundred (100') feet frontage or greater and having a total square foot area of ten thousand (10,000) square feet or greater is a conforming lot for the purpose of constructing a duplex.
- c. It is further the intention of this chapter to limit the reconstruction, expansion or alteration of a single family dwelling on a lot with less than forty (40') foot street frontage and a total lot area of less than four thousand (4,000) square feet. Any reconstruction, expansion or alteration of any such structure must be approved by the Zoning Board of Adjustment. Any reconstruction, expansion or alteration shall be limited to the existing footprint of the current structure. No increase in the square footage of the existing structure is permitted. No increase in the number of area of bathrooms is



permitted. No increase in the number of area of existing bedrooms is permitted. No increase in the liveable area of the existing structure is permitted, exclusive of storage or attic space. Primary consideration shall be given to off-street parking and setback requirements. Any reconstruction, expansion or alteration of any such structure shall comply with Chapter XXI, Flood Control and shall be subject to all other applicable provisions of Federal, State, County or local law.

- d. All applications/appeals that involve a variance or a determination from the Zoning Ordinance of the Borough of Surf City as same pertains to N.J.S.A. 40:55D-70(d) shall submit the following, in addition to the items required by the Zoning Board application and the Revised General Ordinances of the Borough of Surf City, 2000:
1. Certified copies of all previously issued zoning and construction permits;
  2. Certified copies of all prior certificates of occupancy;
  3. Certified copy of any certificate of nonconformity;
  4. Applicant's certification detailing the preexisting nonconforming status of the premises;
  5. Certified copies of all property record cards for the lot and block;
  6. In addition to the above requirements, any premises that is nonconforming based on density, i.e., that is nonpermitted duplexes, triplexes, quadplexes, etc., shall provide certified copies of all utility bills, including but not limited to telephone, cable, gas, electric, and water/sewer bills for each unit.
- (Ord. No. 72-7 § 7G; Ord. No. 2000-13 § I; Ord. No. 01-09 § I)

**30-13 APPLICATION OF ZONE REGULATIONS.**

**30-13.1 Findings.** The regulations set by this chapter within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure of land, and particularly, except as hereinafter provided. (Ord. No. 72-7)

**30-13.2 Conformity with All Regulations.** No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located. (Ord. No. 72-7 § 13A)

**30-13.3 Conformity with Specific Regulations.** No building or other structure shall hereafter be erected or altered:

- a. To exceed the height;
- b. To accommodate or house a greater number of families;
- c. To occupy a greater percentage of lot area;
- d. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this chapter.

(Ord. No. 72-7 § 13B)

**30-13.4 Open Spaces; Etc.** No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building. (Ord. No. 72-7 § 13C)

**30-13.5 Yards.** No yard or lot existing on August 11, 1972, shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after August 11, 1972, shall meet at least the minimum requirements established by this chapter. (Ord. No. 72-7 § 13D)

**30-13.6 Annexation of Territory.** All territory which may hereafter be annexed to the Borough shall be considered to be zoned in the same manner as the contiguous territory inside previous Borough limits otherwise classified. (Ord. No. 72-7 § 13E)

**30-14 RULES FOR INTERPRETATION OF ZONE BOUNDARIES.**

Where uncertainty exists as to the boundaries of zones as shown on the official zoning map, the following rules shall apply:

- a. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow the center lines.
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as approximately following Borough limits shall be construed as following such Borough limits.
- d. Boundaries indicated as following ocean shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as following shore lines other than along the ocean shall be construed to follow the exterior pierhead line established by the Bureau of Navigation of the State of New Jersey.
- e. Boundaries indicated as parallel to or extensions of features indicated in the above paragraphs shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map, where not specifically set forth in this chapter.

- f. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by the above paragraphs, the Board of Adjustment shall interpret the district boundaries.  
(Ord. No. 72-7 § 14)

### **30-15 ADMINISTRATION AND ENFORCEMENT.**

**30-15.1 Enforcement.** The provisions of this chapter shall be administered and enforced by the Zoning Officer. In no case shall a permit be granted for the construction or alteration of any building where the proposed construction, alteration or use thereof would be in violation of any provision of this chapter. It shall be the duty of the Zoning Officer and his duly authorized assistants, if any, to cause any building, plans or premises to be inspected or examined and to order in writing the remedying of any conditions found to exist in violation of any provision of this chapter. The Zoning Officer, or his assistants, shall make any necessary inspections of any building or premises during the daytime in the course of his duties. (Ord. No. 72-7 §15A; Ord. No. 83-4 § 1)

**30-15.2 Zoning Official.** There is hereby created in the Borough the position of Zoning Officer, who shall have the following duties:

- a. To enforce the Zoning Ordinances of the Borough.
- b. To issue zoning permits in accordance with the provisions of this chapter.
- c. To answer all inquiries with regard to zoning questions in the Borough.
- d. To keep a record of all applications for permits and of all permits and certificates issued, with a notation of all special conditions involved.



- e. To collect and record fees for zoning permits.
- f. To prepare a monthly report for the Mayor and Council summarizing all activities of the previous month concerning the duties of the Zoning Officer.
- g. The Zoning Officer shall be deemed to be the administrative officer as defined in N.J.S.A. 40:55D-3, and shall issue certifications on behalf of the Borough certifying whether or not subdivision has been approved by the Planning Board of the Borough in accordance with N.J.S.A. 40:55D-56.
- h. The Zoning Officer shall conduct field inspections and special investigations to ensure compliance with the Zoning Ordinance and the various land use ordinances of the Borough and to initiate necessary legal action against violators of such ordinances in the Municipal Court and, with the prior approval of Mayor and Council, in the Superior Court of New Jersey.  
(Ord. No. 83-4 § 1)

**30-15.3 Term of Office.** The term of office of the Zoning Officer shall be for one (1) year commencing January 1 of the year of appointment and ending December 31. The Zoning Officer, however, shall continue to serve until his successor shall be appointed and qualified. The Zoning Officer shall receive an annual salary as may be fixed by the Mayor and Council in the Salary Ordinance of the Borough. (Ord. No. 83-4 § 1; Ord. No. 83-5)

**30-15.4 Permits.**

- a. *Conditional Use Permits.* Applications for any conditional use permit as permitted by this chapter shall be made to the Planning Board, except when such an application includes an application for approval of a variance pursuant to N.J.S.A. 40:55D-70 before the Board of Adjustment, in which case such application for a conditional use permit shall be made to the Board



of Adjustment. The appropriate board may thereafter direct the Construction Official to issue such permit if in its judgment the issuance of same will not be detrimental to the health, safety and general welfare of the Borough and is deemed necessary for its convenience.

In approving any such application, the appropriate board may impose any conditions that it deems necessary to accomplish the reasonable application, but only in accordance with the standards.

- b. *Certificates of Occupancy.* Certificates of Occupancy shall be issued by the Construction Official in the manner prescribed in the Building Code. No building may be occupied until a Certificate of Occupancy is issued.
- c. *Zoning Permit.* Applications for a zoning permit to the Zoning Officer shall be accompanied by a fee of fifteen (\$15.00) dollars.
- d. *Prior Payment of Taxes.* No zoning permit, building permit or Certificate of Occupancy shall be issued unless the application for same is accompanied by a certification from the Tax Collector that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of the application.  
(Ord. No. 83-4 § 1; Ord. No. 85-19 § 1)

**30-15.5 Records.** It shall be the duty of the Construction Official to keep a record of all applications for building permits and a record of all permits issued, together with a notation of all special conditions involved.

The Construction Official shall prepare a monthly report for the Mayor and Council summarizing, for the period since his last previous report, all building permits issued and certificates signed by him and all complaints of violations, and the action taken by him consequent thereon. A copy of

each such report shall be filed with the Borough Tax Assessor at the same time it is filed with the Mayor and Council. (Ord. No. 83-4 § 1)

**30-15.6 Certificate of Zoning Occupancy Required for Transfer of Title to Existing Structures.**

- a. *Certificate Required Prior to Transfer.* No transfers of title by an owner to any real property within the Borough shall take place unless and until the new Certificate of Occupancy has been received from the office of the Zoning Officer for any existing structure located thereon and used for commercial or residential purposes. It shall be the obligation of the record owner of such real property to first obtain a new Certificate of Occupancy prior to the transfer of title. No person, agents, servants or representatives of any of the foregoing shall suffer or allow any person to occupy any structure used for commercial or residential purposes within the Borough without first having obtained a Certificate of Occupancy.
- b. *Application; Inspection.* Prior to the transfer of title of any existing commercial or residential structure, application for a new Certificate of Occupancy shall be made by the record owner, in writing, to the Zoning Officer, or any other person designated by him. The applicant shall permit the Zoning Officer, or any other person designated by him, to enter upon and examine the structure or structures subject to the Certificate of Occupancy application in order that the Zoning Officer, or any other person designated by him, may determine if the structure conforms with the Zoning Ordinances of the Borough as a permitted use or, if not a permitted use, then determine if such structure exists as a valid nonconforming use. No Certificate of Occupancy shall be issued until such inspection shall have been made and a certification filed with the Zoning Officer, or any other person designated by him, that the use for such

building or buildings complies with the Zoning Ordinance of the Borough or is a valid pre-existing nonconforming use.

- c. *Filing; Fee.* The applicant shall be required to complete an application to be filed with the Zoning Officer and file along with such application a fee of twenty-five (\$25.00) dollars and a current plot plan.
- d. *Exemption.* The transfer of title to properties requiring certificates of zoning occupancy as set forth in paragraphs a. and b. shall be exempt from the provisions of this subsection if the transfer is between existing record owners together or if property passes by intestate succession or as the result of a Last Will and Testament.

(Ord. No. 83-4 § 1; Ord. No. 85-7)

### 30-16 VIOLATIONS AND PENALTIES.

**30-16.1 Violation and Penalty.** Any owner, contractor, agent or any person or corporation who violates any of the provisions of this chapter, or fails to comply therewith or with any of the requirements thereof, or who shall erect, structurally alter, enlarge, rebuild or move any building or buildings or any structure, or who shall put into use any lot or land in violation of any detailed statement of plan submitted and approved hereunder, or who refuses reasonable opportunity to inspect any premises, shall be subject to the provisions of Chapter I, Section 1-5 of this Revision. (Ord. No. 72-7 § 16)

**30-16.2 Persons Liable.** The owner of any building or structure, lot or land, or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall each be guilty

of a separate offense, and upon conviction thereof shall each be liable to a fine or imprisonment, or both, as specified in Section 1-5. (Ord. No. 72-7 § 16)

**30-16.3 Prosecution of Violations of Prior Ordinances.**

Any violation of any prior ordinance subsequently amended or repealed shall not be waived or forgiven as a result of the adoption of a subsequent ordinance and any violations of any such previous zoning ordinance may still be prosecuted, subject to such limitations as provided by law. (Ord. No. 83-4 § 1)