

**THE CITY OF BEVERLY
CHAPTER XX, ZONING**

**ARTICLE I
Title, Districts and Applicability**

§ 20-1. Title.

This chapter shall be known as the "Zoning Ordinance of the City of Beverly."

§ 20-2. Districts enumerated.

The City of Beverly is hereby divided into seven (7) classes of districts, which shall be known as:

R-1 Single Family Residential
R-2 Single Family Residential
R-3 Single Family and Two Family Residential
C-1 Neighborhood Commercial
C-2 Downtown Commercial
C-3 Waterfront Development
I General Industrial

§ 20-3. District boundaries.

The location and boundaries of districts are and shall be as shown on a map entitled "Zone Map, City of Beverly, New Jersey," on file in the office of the City Clerk of said municipality. Where the designation on the Zone Map indicates a district boundary located approximately along a street or alley line or along a lot line, the centerline of such street or alley or such lot line shall be construed to be the boundary.

§ 20-4. Compliance required.

Hereafter, no land shall be used or occupied and no building or structure shall be erected, altered, used or occupied except in conformity with the regulations herein established for the district in which such land, building or structure is located. In cases of mixed use or occupancy, the regulations for each use shall apply to the portion of the building or land so used or occupied.

**ARTICLE II
Word Usage and Definitions**

§ 20-5. Word usage.

- A. Words and phrases shall be presumed to have their ordinary meaning, unless specifically defined or interpreted differently within this chapter.
- B. For the purpose of this chapter, certain grammatical forms and words shall assume a different interpretation than is assumed in common usage as follows:
 - (1) All present and future tenses shall be interchangeable.
 - (2) The word "building" includes "structure" and any part thereof.

- (3) The singular and plural shall be interchangeable.
- (4) The word "shall" is always mandatory, and the word "may" indicates a permissive action.
- (5) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
- (6) The word "person" includes an individual, corporation or partnership.
- (7) The word "includes" (or "including") shall not limit the term to the specified example but is intended to extend its meaning to all other instances of like kind and character.

§ 20-6. Definitions.

For the purpose of this chapter, certain terms and word are hereby defined as follows:

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

ADMINISTRATIVE OFFICER -- For the purposes of the receipt of applications for development and all other requests for action called for by the Planning Board, the Administrative Officer shall be the Zoning Officer; and in issues relating to completeness of applications under N.J.S.A. 40:55D-10.3, the Zoning Officer shall make the determination of completeness. The Planning Board shall be empowered to waive any deficiencies of application with authority to certify same as complete notwithstanding prior, and inconsistent, determination by the Zoning Officer.

AGE RESTRICTED DEVELOPMENT -- Any development, which may be in any housing form, including detached and attached dwelling units, apartments, flats, and residences, offering private and semiprivate rooms, that restricts the minimum age of all residents to be sixty-two (62) years or fifty-five (55) years for one resident of each of eighty percent (80%) of the units, provided that significant facilities and services for the elderly are provided. Such age restricted development shall be deed restricted controlling for minimum age as stated previously.

ALLEY -- Any roadway or public way dedicated or opened to public use, or shown on the City map and not opened, twenty (20) feet or less in width.

ALTERATIONS -- Alterations include, but are not limited to, the following:

- A. All incidental changes or replacement in the non-structural parts of a building or other structure.
- B. Minor changes or replacement in the structural parts of a building or other structure limited to the following examples and other of similar character or extent:
 - (1) Alteration of interior partitions to improve livability in nonconforming residential buildings, provided that no additional dwelling units are created thereby.
 - (2) Alteration of interior non-loading and/or non-structural partitions in all other types of buildings or other structures.
 - (3) Making windows or doors in exterior walls.

- (4) Strengthening the load-bearing capacity in not more than ten percent (10%) of the total floor area to permit the accommodation of a specialized unit of machinery or equipment.

ASSISTED LIVING -- A coordinated array of supportive personal and health services, available twenty-four (24) hours per day, to residents who have been assessed to need these services, including residents who require formal long-term care. Assisted living promotes resident self-direction and participation in decisions that emphasize independence, individuality, privacy, dignity, and homelike surroundings.

ASSISTED LIVING RESIDENCE -- A facility which is licensed by the New Jersey State Department of Health and Senior Services, in accordance with N.J.A.C. 8:36, to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed, to four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance. Assisted living residence shall also include "continuing care retirement community," "nursing facility," "residential health care facility," and "statewide restricted admissions facility" as described and regulated in N.J.A.C. 8:33H-1 et seq.

AUTOMOBILE SALES BUILDING -- A building used for the sale of, hire of or remuneration from automotive and other vehicles and equipment. This shall be interpreted to include automobile accessory salesrooms but not the sale of junked vehicles and equipment.

AUTOMOBILE SERVICE STATION -- Land and building providing for the sale of fuel, lubricants and automobile accessories and/or for maintenance and minor repairs for motor vehicles, excluding body repairs and the storage of inoperable and wrecked vehicles.

AUTOMOBILE WASH -- Any building or premises or portions thereof used for washing and cleaning automobiles or other motor vehicles.

AUTOMOBILE WRECKING YARD -- An establishment that cuts up, compresses or otherwise disposes of motor vehicles, including the retrieval and refurbishment of motor vehicle parts from inoperable and wrecked vehicles.

AUTOMOTIVE AND/OR TRAILER SALES AREA -- An open area, other than a public or private street or way, used for the display or sale of new and used vehicles, trailers, trucks or equipment and where no work is done except that which is minor and incidental, not including body and fender work.

AUTOMOTIVE REPAIR SERVICE AND GARAGE -- Any premises or establishments used for the repair or servicing of vehicles, but not including body repairs and automotive wrecking.

AWNING -- A roof-like cover that is temporary or portable in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements and is periodically retracted into or toward the face of the building.

BASEMENT -- That portion of a building that is partly or completely below grade.

BED-AND-BREAKFAST -- A residential property originally constructed as a private, single-family residence which provides overnight lodging for transient guests and which provides breakfast for those guests in the forenoon of each day and/or a tea or service of light refreshments and beverages for those guests in the afternoon of each day with no other meal service.

BODY REPAIR SHOP -- A use providing for the repair, repainting or restoration of the bodies and frames of motor vehicles.

BUILDING -- A combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

A. BUILDING, ATTACHED -- Two (2) or more buildings having a common unpenetrated wall or common stairwell.

B. BUILDING, DETACHED -- A building surrounded by yards or open area on the same lot.

BUILDING AREA -- The area of the largest horizontal section of a building measured to the outer edge of the walls.

BUILDING HEIGHT -- The vertical distance measured from the average elevation of the finished grade around the foundation of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the average distance between the eaves and the ridge level for gable, hip and gambrel roofs, provided that chimneys, spires, towers, mechanical penthouses, tanks and similar projections of the buildings not intended for human occupancy shall not be included in calculating the height. If there are two (2) or more separate roofs on a single, building, the height of such building shall be calculated from the highest roof.

CANOPY -- A roof-like cover that is permanent in nature that projects from the wall of a building for the purpose of shielding a doorway or window from the elements, or a freestanding, roof-like cover that is permanent in nature that shields vehicles, patrons and employees from the elements.

CERTIFICATE OF OCCUPANCY -- An official document signed by the Zoning Officer setting forth either that a building or structure does comply with this chapter or that a building, structure or parcel of land may lawfully be used for specified uses, or both.

CONGREGATE CARE FACILITY -- See Assisted Living Residence.

COURT -- An unoccupied open space, other than a yard, on the same lot with a building which is bounded on three (3) or more sides by the wall of such building.

DECK -- A level wooden or simulated wooden structure built on or above grade and is either attached to a principal building or adjacent to such building.

DENSITY -- The permitted number of dwelling units per gross area of land to be developed.

DISH ANTENNA, SATELLITE DISH, SATELLITE EARTH STATION OR HOME VIDEO EARTH STATION -- A device function as an antenna for the reception of television programming exceeding two (2) feet in diameter if round or two (2) feet in its widest or longest dimension if otherwise shaped. In addition, all existing "antennas" which do not conform to this chapter shall at this time be grandfathered and shall be required to conform to all pertinent Uniform Construction Code requirements.

DRYING YARD -- An open space in the rear of apartment buildings shall be provided on ground level for hanging clothing and accessories out of doors. These areas shall be screened from view by closely planted evergreen shrubbery planted not less than six (6) feet apart and permitted to grown

not more than eight (8) feet high.

DWELLING -- Any building or portion thereof designed or used exclusively as the residence consisting of a dwelling unit.

- A. SINGLE-FAMILY OR ONE-FAMILY DETACHED DWELLING -- A dwelling designed for and occupied exclusively as a residence for only one (1) family and having no party wall in common with an adjacent building.
- B. SINGLE-FAMILY OR ONE-FAMILY ATTACHED DWELLING -- A dwelling designed for and occupied exclusively as a residence for one (1) family, being one (1) side of a building wherein are contained two (2) dwelling units under the same roof with a common party wall between, separate entrances for each dwelling unit, separate and distinct deeds and title and no interior connection between the two (2) dwelling units.
- C. TWO-FAMILY DETACHED DWELLING -- A building designed for and occupied exclusively as a residence for two (2) families with two (2) separate and distinct dwelling units contained within it, in which one (1) dwelling unit is wholly or partially over the other dwelling unit and there is not party wall in common with adjacent dwelling.
- D. APARTMENT DWELLING -- One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a residential building containing three (3) or more dwelling units or a building with a non-residential use on the first floor and a residential use consisting of one (1) or more dwelling units on a floor over the first floor.
- E. FLAT DWELLING -- A dwelling unit designed and used in a manner similar to an apartment dwelling with the attribute of owner-occupancy distinguishing a flat dwelling from an apartment dwelling.
- F. TOWNHOUSE DWELLING -- A dwelling unit located in a building that has not less than three (3) or more than eight (8) one-family dwelling units attached in a row as a single building on a common lot or adjoining lots, each dwelling being separated from the adjoining unit by a common party wall, thus, creating distinct and non-communicating dwelling units with their own front and rear access to the outside and without no dwelling unit located over another dwelling unit. Such separate townhouse dwelling units are intended for separate ownership or rental.
- G. MULTIFAMILY DWELLING -- A building designed for three (3) or more dwellings, subject to further refinement of definition in this chapter.

DWELLING UNIT -- One (1) or more rooms for living purposes, together with separate cooking and sanitary facilities, which rooms are accessible from the outdoors, either directly or through an entrance hall shared with other dwelling units, and are used or intended to be used by one (1) or more persons living together and maintaining a common household.

FAMILY -- A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

FLOOR AREA, GROSS -- The sum of the gross horizontal areas of the several floors of a building or structure measured from the exterior face of exterior walls and from the centerline of a wall

separating two (2) buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

FLOOR AREA, LIVABLE -- The total of all floor areas of a building dedicated to the inhabitation of a resident and/or residents.

FLOOR AREA RATIO -- The sum of the area of all floors of buildings or structures compared to the total area of the site.

GARAGE -- A building, structure or any portion thereof used for parking and storing motor vehicles.

A. PRIVATE CUSTOMER AND EMPLOYEE GARAGE -- A garage that is accessory to a non-retail commercial or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles operated by customers, visitors, and employees of such building and that is not available to the general public.

B. PRIVATE RESIDENTIAL GARAGE -- A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

C. PUBLIC GARAGE -- A structure, or portion thereof, other than a private customer and employees garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

HOME OCCUPATION -- An occupation being conducted wholly or in part from a residence or the residential lot as an accessory use.

HOMEOWNERS' ASSOCIATION -- An incorporated or unincorporated entity responsible for operating under a recorded land agreement through which:

A. Each lot or dwelling unit owner shall be a member.

B. The owner of each lot or dwelling unit is subject to a charge for a proportionate share of the association's expenses for activities and maintenance, including maintenance costs levied against the association by Beverly City.

C. Each owner and tenant has certain rights to use the common property.

HOSPITAL -- An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

IMPERVIOUS SURFACE -- Any material that prevents absorption of stormwater into the ground.

JUNKYARD -- Any area, lot, land parcel, building, or structure, or part thereof, used for the storage, used for the storage, collection, processing, purchase, sale, salvage, or disposal of any scrap, waste, reclaimable material, or debris.

LOADING SPACE -- An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

LOT -- A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

LOT AREA -- The area contained within the lot lines but not including any portion of a street right-of-way.

LOT, CORNER -- A lot at the junction of two (2) or more intersecting streets where the interior angle of intersection does not exceed one hundred thirty-five degrees (135°).

LOT COVERAGE -- The area of a lot covered by buildings, structures and other impervious surfaces.

LOT DEPTH -- The average distance measured from the front lot line to the rear lot line.

LOT FRONTAGE -- The distance between the side lot lines measured along the street line. The minimum lot frontage shall be the same as the lot width except that on curved streets with an outside radius of less than five hundred (500) feet, the lot frontage may be reduced to not less than fifty percent (50%) of the required minimum lot width. On corner lots, the lot frontage requirements shall be met for each street frontage and the measurement shall be made from side lot line to front lot line or from front lot line to front lot line, as the case may be.

LOT LINE -- Any line, including the street right-of-way line, forming a portion of the boundary of a lot.

A. LOT LINE, FRONT -- The lot line separating a lot from a street right-of-way.

B. LOT LINE, REAR -- The lot line opposite and most distant from the front lot line.

C. LOT LINE, SIDE -- Any lot line other than a front or rear lot line.

LOT WIDTH -- The distance between side lot lines measured parallel to the street line at the minimum required building setback from the street right-of-way.

LOT, THROUGH -- A lot whose side lot lines do not abut a street but has frontage on two (2) streets or one (1) street and an alley.

MARQUEE -- A roof-like structure that is permanent that projects from a wall of a building for the purpose of shielding a doorway or entrance from the elements.

MIXED OCCUPANCY -- Occupancy of a building or land for more than one (1) use.

MOTION PICTURE -- Film or films, continuous slides or pictures of any nature. In the case of adult entertainment, motion pictures show, depict or reveal any person in any act of sexual conduct or sadomasochistic abuse.

NIGHTCLUB -- An establishment dispensing liquor and meals and in which music, dancing, or entertainment is conducted.

NONCONFORMING LOT -- A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this chapter.

NONCONFORMING BUILDING OR STRUCTURE -- A building or structure, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this chapter.

NONCONFORMING SIGN -- Any sign lawfully existing on the effective date of this chapter, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of this chapter.

NONCONFORMING USE -- A use or activity that was lawful prior to the adoption, revision, or amendment of this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this chapter.

NURSING HOME -- See Assisted Living Facility.

PATIO -- An area that is level and surfaced with pavement including, but not limited to, stone, gravel, bricks, concrete, bituminous concrete, pavers, etc., and is directly adjacent to a principal building. Patios may be constructed at grade or above grade in a terraced fashion with or without walls.

PERMITTED USE -- Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district as set forth in this chapter.

PLACE OF WORSHIP -- A church, synagogue, temple, mosque, or other facility that is used for prayer and worship by persons of similar beliefs.

PORCH -- A roofed open structure projecting from the front, side or rear wall of a building and having no enclosed features or glass, wood or other material more than thirty (30) inches above the floor thereof, except the necessary columns to support the roof.

PRINCIPAL BUILDING OR STRUCTURE -- A building or structure in which the principal use of the lot on which it is located.

PRINCIPAL USE -- The primary or predominant use of any lot or parcel.

PROHIBITED USE -- A use that is not permitted in a zoning district.

QUASI-PUBLIC USE -- A use owned or operated by a nonprofit, religious, or eleemosynary institution and providing educational, cultural, recreational, religious, or similar types of programs.

RECREATION AREAS AND FACILITIES -- Public-owned lands used for leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields, or leisure-time activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, and table games.

RIGHT-OF-WAY -- The total width and length of the course of a street, alley, watercourse, utility alignment, railroad or other way and within, under or over which all improvements and rights of access are confined.

RESTAURANT -- An establishment where food and drink are prepared, served, and consumed within the principal building. An outdoor eating area supplemental and ancillary to the indoor eating

and cooking facility may be permitted, provided the outdoor eating area receives site plan approval. Cafes, coffeehouses and "cyber" cafes, which provide Internet access, are restaurants. "Sexually oriented businesses" in which food and drink are prepared, served, and consumed within the principal building are not restaurants.

ROWHOUSE -- A structure that contains at least three and no more than four residential dwelling units attached side by side and has upstairs and downstairs living space within each dwelling unit.

SETBACK -- The distance between the building or structure and any lot line.

SETBACK LINE -- The line that is the required minimum distance from any lot line and that establishes the area within which the principal and accessory structures must be erected or placed.

SEXUAL CONDUCT -- Human masturbation, sexual intercourse or any touching of the genitals, pubic areas or buttocks of the human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

SEXUALLY ORIENTED BUSINESSES -- A commercial establishment, as described in the provisions of N.J.S.A. 2C:33-12.2 and 34-6, which:

- A. As one of its principal business purposes offers for sale, rental, or display any of the following: books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes, slides or other visual representations which depict or describe a "specified sexual activity" or "specified anatomical area;" or still or motion picture machines, projectors or other image-producing devices which show images to one person per machine at any one time, and whether the images so displayed are characterized by the depiction of a "specified sexual activity" or "specified anatomical area;" or instruments, devices, or paraphernalia which are designed for use in connection with a "specified sexual activity;" or
- B. Regularly features live performances characterized by the exposure of a "specified anatomical area" or by a "specified sexual activity," or which regularly shows films, motion pictures, video cassettes, slides, or other photographic representations which depict or describe a "specified sexual activity" or "specified anatomical area."

SIGN -- Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. Excluded from the definition of signs are national or state flags, window displays, graffiti, banners, athletic scoreboards, or the official announcements or signs of government.

- A. **SIGN, ANIMATED OR MOVING** -- Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
- B. **SIGN, ATTACHED** -- A sign that is wholly or partly dependent upon a building for support.

- (1) Parallel signs attached to a wall project up to fifteen (15) inches from the surface of the wall.

(2) Perpendicularly attached signs project up to five (5) feet from the surface of the wall.

- C. SIGN, AWNING, CANOPY OR MARQUEE -- A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by this chapter.
- D. SIGN, BILLBOARD -- A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.
- E. SIGN, BUSINESS -- A sign that directs attention to a business or profession conducted, or to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the sign is located.
- F. SIGN, DIRECTIONAL -- A sign limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit."
- G. SIGN, DIRECTORY -- A sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.
- H. SIGN, WALL -- A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than six (6) inches from such building or structure.
- I. SIGN, FACE -- The area or display surface used for the message.
- J. SIGN, FREESTANDING -- Any non-movable sign not affixed to a building.
- K. SIGN, GROUND -- Any sign, other than a pole sign, in which the entire bottom is in contact with the ground and is independent of any other structure.
- L. SIGN, HOLIDAY DECORATION -- Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local, or religious holiday.
- M. SIGN, HOME OCCUPATION -- A sign containing only the name and occupation of a permitted home occupation.
- N. SIGN, ILLUMINATED -- A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
- O. SIGN, REAL ESTATE -- A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.
- P. SIGN, TEMPORARY -- A sign or advertising display constructed of cloth, canvas, fabric, plywood, other light material and designed or intended to be displayed for a short period of time.

SIGN AREA -- The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

SPECIFIED ANATOMICAL AREAS -- As described in the provisions of N.J.S.A. 2C:33-12.2 and 34-6:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or
- B. Human male genitals in a discernible turgid state, even if covered.

SPECIFIED SEXUAL ACTIVITY -- A described in the provisions of N.J.S.A. 2C:33-12.2 and 34-6:

- A. The fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast; or
- B. Any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.

STORY -- That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

STORY, HALF -- A story under a gabled, hipped or gambrel roof, the wall plates of which on at least two (2) opposite walls are not more than two (2) feet or less than one (1) foot above the finished floor of such story.

STREET -- Any vehicular way that is an existing state, county, or municipal roadway; is shown upon a plat approved pursuant to law; is approved by other official action; or is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; includes the land between the street lines, whether improved or unimproved.

STREET LINE -- The edge of the existing or future street right-of-way, whichever would result in the widest right-of-way, as shown on the adopted City master plan or Official Map or as required by this chapter, forming the dividing line between the street and property line.

SWIMMING POOL -- A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-ground surface pool, having a depth of more than thirty (30) inches, designed, used and maintained for swimming and bathing.

THEATER -- A building or part of a building devoted to the showing of motion pictures or for dramatic, dance, musical, or other live performances, excluding "sexually oriented businesses."

YARD -- An open unoccupied space, except as permitted and defined otherwise in this chapter, extending between any building and lot line or street line. All "yard" dimensions shall be measured parallel to the horizon and at right angles to either a straight street line, lot line or building facade or perpendicular to the point of tangency of curved lines and facades.

- A. YARD, FRONT -- The area extending across the full width of a lot between the street line and the nearest point of the building to the street line, extending to the side lot lines from such point in lines parallel or concentric to the street line. On lots with multiple lot frontages, such as corner lots, the "front yard" standards shall apply to all lot frontages.
- B. YARD, REAR -- The area extending across the full width of a lot between the rear lot line and

nearest point of the building to the rear lot line, extending to the side lot lines from such point in lines parallel or concentric to the street line. In the case of a corner lot, the rear yard shall be parallel to the narrower of the two street frontages. In the case of a corner lot with equidistant street frontages, the rear yard shall be parallel to main entrance facing the street.

- C. YARD, SIDE -- The area extending from the front yard to the rear yard and lying between each side lot line and the nearest point of the building to a side lot line. In the case of a corner lot, all yards not meeting front and rear yards shall be "side yards," and the "side yard" shall be measured from each side lot line to the nearest point of the building to a side lot line.

ZONING OFFICER -- The officer designated by the City of Beverly Council to administer the zoning ordinance and issue zoning permits.

ARTICLE III General Regulations

§ 20-7. Enforcement officers.

- A. The Zoning Officer shall administer and enforce the zoning provisions of this chapter and shall be responsible for issuing zoning permits. No zoning permit shall be issued unless the proposal complies with this chapter. A zoning permit shall be issued prior to the issuance of a construction permit by the Construction Official.
- B. No certificate of occupancy for a new use of an existing structure shall be issued unless there is an approved zoning permit. All changes in occupancy of an existing structure which do not involve residential uses shall require a zoning permit which shall certify that the use complies with zoning laws of the City. Prior to the issuance of a zoning permit for a change in occupancy, the Construction Official shall issue a certificate of continued occupancy which certifies that the building, structure and premises conform with the Uniform Construction Code of the State of New Jersey.
- C. It shall be the duty of the Zoning Officer, with the advice of the City Engineer or Planning Board Engineer, to enforce the provisions of subdivision and site plan approvals.
- D. A zoning permit shall be issued or denied within thirty (30) days of the date of a complete submission, and the work shall be commenced within one (1) year after the issuance of the permit as provided in this chapter; otherwise, the permit shall be void.

§ 20-8. Prohibited uses.

- A. No building or structure may be erected, altered or used, and no lot or premises may be used, for any use which is likely to create conditions of hazards, smoke, fumes, noise, odor or dust or other noxious or offensive conditions detrimental to the health, safety or general welfare of the surrounding area. All uses shall be subject to such fire-safety conditions as are approved by the Construction Official. In determining whether a proposed use is noxious, hazardous or offensive, the following standards shall apply. The proposed use, facility or operations shall not:
- (1) Constitute a public nuisance beyond the boundary of the site on which the use is located, by reason of dissemination of noxious, toxic or corrosive fumes, smoke, odor or dust.

- (2) Result in noise or vibration exceeding the average intensity of noise or vibration occurring from other causes at the boundary line of the site on which the use is located.
- (3) Endanger surrounding areas by reason of fire or explosion.
- (4) Produce objectionable heat or glare.
- (5) Result in electrical disturbances in nearby residences.
- (6) Contribute to the pollution of waters.
- (7) Create an objectionable traffic condition on the street or in an adjacent area.
- (8) Create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.

B. All uses not expressly permitted in this chapter are prohibited.

C. The following uses are expressly prohibited:

- (1) Junkyards and junk business or automobile junkyards or wrecking yards.
- (2) Sanitary landfills, garbage dumps, refuse dumps, disposal sites for solid and liquid materials and dumps for hazardous wastes.
- (3) Acetylene manufacture or warehouse storage.
- (4) Asphalt or coal tar manufacture or refining.
- (5) Creosote manufacture or treatment.
- (6) Celluloid manufacture or storage or rubber manufacture.
- (7) Fat rendering, soap, tallow, grease or lard manufacture or refining.
- (8) Abattoir or stockyards.
- (9) Animal black, lampblack or bone black manufacture.
- (10) Crematory.
- (11) Oilcloth or linoleum manufacture.
- (12) Potash works.
- (13) Gas manufacture or storage in excess of ten thousand (10,000) cubic feet.
- (14) Match manufacture.
- (15) Sexually oriented businesses.

- (16) Tanning, curling or storage of raw hides.
- (17) Tar distillation or manufacture.
- (18) Petroleum refining or processing.
- (19) Storage of gasoline or petroleum products in excess of 10,000 gallons above ground.
- (20) Fertilizer manufacture.
- (21) Explosive manufacture or storage including, but not limited to, gunpowder, fireworks, etc.
- (22) Manufacture or warehouse storage of combustible inflammable or volatile materials; those uses which may be noxious or offensive by reason of the emission of odor, gas, smoke, dust, vibration or noise; and those uses which constitute an unusual fire or explosive hazard.
- (23) The keeping or maintaining of poultry, pigeons and livestock, except dogs and cats, is prohibited, with the limitation of not more than three (3) adult cats and/or dogs.
- (24) Storage or use of motor vehicle, trailer or other type of vehicle for residential or commercial purposes on vacant lot or unoccupied lot or portion thereof, except temporarily (15 days) on a lot used for temporary parking of automobiles.

§ 20-9. Nonconforming uses, buildings and structures.

- A. The lawful use of land existing at the time of the adoption of this chapter or of an amendment thereto, although such use does not conform to the provisions hereof, may be continued.
- B. The lawful use of a building or structure existing at the time of the adoption of this chapter or of an amendment thereto, although such use does not conform to the provisions hereof, may be continued.
- C. Whenever a nonconforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use or revert to its former nonconforming use.
- D. Whenever a nonconforming use of a building or structure or portion thereof has been abandoned, such nonconforming use shall not thereafter be reestablished, and the future use shall conform to the provisions of this chapter.
- E. Whenever a nonconforming building or structure has been totally destroyed shall not be rebuilt, and a building or structure conforming to this chapter shall be built.

§ 20-10. Conditional uses.

The following uses shall be conditionally permitted when all specific requirements for each respective conditional use set forth herein have been met:

- A. Apartments over the first floor of commercial establishments, offices and facilities permitted as

principal uses in the C-2 zoning district.

- (1) As an incentive for developers and landlords to create and rehabilitate apartments over non-residential uses permitted as principal uses in the C-1 and C-2 zoning districts, the creation of additional apartments over such non-residential uses shall be permitted provided: that the newly created apartment units are affordable and have affordability controls established pursuant to N.J.A.C. 5:93-1 et seq.; the existing market rate apartment units are rehabilitated to satisfy BOCA National Existing Structures Code; and that all apartment units meet the following minimum floor area requirements:

- (a) Studio units shall have a minimum livable floor area of five hundred (500) square feet.

- (b) One (1) bedroom units shall have a minimum livable floor area of six hundred (600) square feet.

- (c) Two (2) bedroom units shall have a minimum livable floor area of seven hundred (700) square feet.

- (d) Three (3) bedroom units shall have a minimum livable floor area of eight hundred (800) square feet.

- (2) New apartment units created in existing buildings over first floor non-residential principal uses permitted in the C-1 and C-2 zoning districts where apartments do not currently exist shall conform to the minimum floor area requirements set forth in § 20-10.A(1)(a)-(d).

- (3) New apartment units created in new buildings over first floor non-residential principal uses permitted in the C-1 and C-2 zoning districts shall conform to the minimum floor area requirements set forth in § 20-10.A(1)(a)-(d).

- (4) Apartment units shall have an entrance separate from the entrance to the first floor non-residential principal use.

- (5) Minimum onsite parking shall comply with the provisions set forth in § 20-14.A.

B. Automobile and truck leasing facilities.

- (1) All requirements provided in § 20-10.O shall be required for automobile and truck leasing facilities.

- (2) No major repairs of vehicles, including but not limited to rebuilding engines and transmissions, body work and painting, repairs to correct collision damage, and other similar repairs and work, shall be permitted on site; regular maintenance and minor repairs shall be permitted on site.

C. Automobile service stations and automotive repair services and garages.

- (1) Minimum lot area shall be 20,000 square feet.

- (2) Minimum lot width shall be two hundred (200) feet.

- (3) Minimum lot depth shall be one hundred (100) feet.
- (4) Minimum front yard setbacks.
 - (a) To buildings and structures shall be fifty (50) feet.
 - (b) To canopies over fuel dispensing islands shall be ten (10) feet.
 - (c) To fuel dispensing islands shall be twenty-five (25) feet.
- (5) Minimum side yard set backs.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To canopies over fuel dispensing islands shall be twenty-five (25) feet.
 - (c) To fuel dispensing islands shall be thirty (30) feet.
- (6) Minimum rear yard set backs.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To canopies over fuel dispensing islands shall be twenty-five (25) feet.
 - (c) To fuel dispensing islands shall be forty (40) feet.
- (7) Maximum building and structure, including canopies over fuel dispensing islands, height shall be twenty-five (25) feet and one and one-half (1-1/2) stories.
- (8) Maximum lot coverage shall be eighty percent (80%).
- (9) Vehicles waiting to be serviced shall be parked in the side and rear yards. No wrecked or inoperable vehicles shall be stored on site.
- (10) Minimum landscape buffer areas.
 - (a) Along side and rear yards abutting residential zoning districts and uses shall be fifteen (15) feet in width and shall have a solid six-foot (6-foot) high fence ending twenty (20) feet from the street line.
 - (b) Along side and rear yards abutting non-residential zoning districts and uses shall be ten (10) feet in width.
 - (c) Along the street line shall be five (5) feet in width and shall consist of plant material that is maintained at a height no greater than three (3) feet.
 - (d) All landscape buffer areas shall be designed and installed pursuant to § 20-15.
- (11) Minimum onsite parking. Two (2) parking spaces, either within or without the building or structure, for each two hundred (200) square feet of floor area devoted to repair or

service facilities; one (1) parking space for each employee during peak shift; and at least five (5) parking spaces for parking vehicles waiting to be serviced.

- (12) Minimum onsite loading. Adequate space shall be provided onsite for the off-loading of fuels from a delivery truck to onsite storage tanks.

D. Automobile wash.

- (1) Minimum lot area shall be 40,000 square feet.
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) Minimum lot depth shall be two hundred (200) feet.
- (4) Minimum front yard setback to buildings and structures shall be fifty (50) feet.
- (5) Minimum side yard setback to buildings and structures shall be thirty (30) feet.
- (6) Minimum rear yard setback to buildings and structures shall be fifty (50) feet.
- (7) Maximum building and structure height shall be twenty-five (25) feet and one and one-half (1-1/2) stories.
- (8) Maximum lot coverage shall be seventy percent (70%).
- (9) No wrecked or inoperable vehicles shall be stored on site.
- (10) Minimum landscape buffer areas shall comply with the provisions set forth in § 20-10.C.
- (11) Minimum onsite parking. One (1) parking space for each employee during peak shift and one (1) parking space per outdoor vacuuming station.
- (12) Minimum stacking. At least twenty (20) spaces per lane shall be provided for each automated washing bay, and at least ten (10) spaces per lane shall be provided for each self-service washing bay.
- (13) Water, detergents or liquids used in the washing of automobiles shall be contained within the automobile wash buildings and structures and shall not be permitted to enter into the stormwater management system.

E. Bed-and-breakfasts.

- (1) Minimum lot area shall be 20,000 square feet.
- (2) Minimum lot width shall be one hundred (100) feet.
- (3) Minimum lot depth shall be two hundred (200) feet.
- (4) Minimum yard setbacks shall comply with those provided for the R-1 zoning district.

- (5) Maximum lot coverage shall be sixty-five percent (65%).
- (6) Bed-and-breakfasts shall be permitted only in existing dwellings and structures. Additions of no more than twenty-five percent (25%) of the gross floor area of existing dwellings and structures shall be permitted as part of a bed-and-breakfast facility.
- (7) No more than ten (10) bedrooms shall be utilized as guest bedrooms.
- (8) No more than one (1) family unit or two (2) individuals shall be lodged in any one room.
- (9) No guest shall reside at a bed-and-breakfast establishment for more than fourteen (14) days within any thirty-day period.
- (10) An operator of bed-and-breakfasts shall be the owner of the facility, and the premises on which the facility is located shall be the principal domicile of the owner.
- (11) The preparation and serving of food for guests shall be limited to breakfast and an afternoon tea or service of light refreshments and beverages. No patrons may be served food other than registered guests of the bed-and-breakfast establishment.
- (12) Deliveries to bed-and-breakfasts shall occur between the hours of 9 a.m. and 5 p.m. from Monday through Saturday.
- (13) Bed-and-breakfasts shall be used strictly for renting rooms to guests and not for renting as an apartment.
- (14) In addition to providing two (2) off-street parking spaces for the residents of the dwelling, one (1) off-street parking space shall be provided for each bedroom rented to patrons.
- (15) Minimum landscape buffer areas along side and rear yards abutting residential uses shall be five (5) feet in width similar to the C-1 zoning district.
- (16) All landscape buffer areas shall be designed and installed pursuant to § 20-15.

F. Body shops.

- (1) Minimum lot area shall be 20,000 square feet.
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) Minimum lot depth shall be one hundred (100) feet.
- (4) Minimum front yard set back to buildings and structures shall be twenty-five (25) feet.
- (5) Minimum side yard set backs.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To parking and automobile storage areas shall be ten (10) feet.

(6) Minimum rear yard set backs.

(a) To buildings and structures shall be ten (10) feet.

(b) To parking and automobile storage areas shall be ten (10) feet.

(7) Maximum building and structure height shall be thirty-five (35) feet and two and one-half (2-1/2) stories.

(8) Maximum lot coverage shall be eighty percent (80%).

(9) Vehicles waiting to be serviced shall be parked in the side and rear yards.

(10) No body repairs to and painting of vehicles shall occur outdoors.

(11) Minimum landscape buffer areas shall comply with the provisions set forth in § 20-10.C.

(12) Minimum onsite parking. One (1) parking space for each employee during peak shift and five (5) parking spaces for each repair bay.

G. Check cashing facilities.

(1) Minimum lot area shall be 20,000 square feet.

(2) Minimum lot width shall be one hundred (100) feet.

(3) Minimum lot depth shall be two hundred (200) feet.

(4) Minimum yard requirements shall conform to those established for the I-2 zoning district.

(5) Maximum height shall be thirty-five (35) feet and two and one-half (2-1/2) stories for principal buildings and structures, and fifteen (15) feet and one (1) story for accessory buildings and structures.

(6) Maximum lot coverage shall be seventy percent (70%).

(7) Landscape buffer areas shall be designed and installed pursuant to § 20-15.

(8) Minimum onsite parking. One (1) parking space per two hundred (200) square feet of gross floor area.

H. Churches and other places of worship.

(1) Minimum lot area shall be 40,000 square feet.

(2) Minimum lot width shall be one hundred (100) feet.

(3) Minimum front yard shall be thirty-five (35) feet.

(4) Minimum side yard shall be twenty (20) feet.

- (5) Minimum rear yard shall be twenty-five (25) feet.
- (6) Maximum building and structure height shall be two and one-half (2-1/2) stories and thirty-five (35) feet, excluding church spires and belfries.
- (7) Maximum lot coverage shall be eighty percent (80%).
- (8) Off-street parking. One (1) parking space per 60 square feet of floor space devoted to patron use.
- (9) Landscape buffer areas shall be designed and installed pursuant to § 20- 15.

I. Construction contractor storage yards, offices and shops.

- (1) Minimum lot area shall be 40,000 square feet.
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) Minimum lot depth shall be two hundred (200) feet.
- (4) Minimum front yard setbacks.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To storage areas shall be twenty (20) feet.
- (5) Minimum side yard setbacks.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To storage areas abutting residential zoning districts and uses shall be twenty (20) feet.
 - (c) To storage areas abutting non-residential zoning districts shall be ten (10) feet.
- (6) Minimum rear yard setbacks.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To storage areas abutting residential zoning districts and uses shall be twenty (20) feet.
 - (c) To storage areas abutting non-residential zoning districts shall be ten (10) feet.
- (7) All construction contractor storage yards and areas shall be fully enclosed by a solid eight-foot (8-foot) high fence and gate.
- (8) Minimum landscape buffer areas.
 - (a) Along side and rear yards shall be fifteen (15) feet in width.

- (b) Along the street line shall be five (5) feet in width and shall consist of plant material that is maintained at a height no greater than three (3) feet.
- (c) All landscape buffer areas shall be designed and installed pursuant to § 20- 15.
- (9) Maximum lot coverage shall be eighty percent (80%).
- (10) Outdoor storage yards and areas shall be paved with concrete or bituminous concrete which shall drain to an oil separator/grease trap, sediment trap and stormwater management system designed pursuant to New Jersey Department of Environmental Protection stormwater management rules.
- (11) Minimum onsite parking. One (1) parking space for each employee at peak shift.
- (12) Minimum onsite loading. One (1) loading space per 25,000 square feet of indoor and outdoor storage area.

J. Funeral Homes.

- (10) Minimum lot area shall be 20,000 square feet.
- (11) Minimum lot width shall be one hundred (100) feet.
- (12) Minimum front yard shall be twenty (25) feet.
- (13) Minimum side yard shall be fifteen (15) feet.
- (14) Minimum rear yard shall be twenty-five (25) feet.
- (15) Maximum building and structure height shall be two and one-half (2-1/2) stories and thirty-five (35) feet.
- (16) Maximum lot coverage shall be eighty percent (80%).
- (17) Off-street parking. One (1) parking space per 60 square feet of floor space devoted to patron use.
- (18) Landscape buffer areas shall be designed and installed pursuant to § 20- 15.

K. Home Occupations.

- (1) Home occupations shall be conducted solely by resident occupants of the lot, except that no more than one (1) person not a resident of the building may be employed on the premises at any one (1) time.
- (2) Home occupations shall be limited to not more than thirty percent (30%) of the total livable floor area of the dwelling unit in which the home occupation is to be situated. The home occupation shall be subordinate and incidental to the principal residential use. In the case of the home occupation being conducted in an accessory structure, the maximum area occupied by the home occupation in such an accessory structure

shall be limited to five hundred (500) square feet of the floor area of the accessory structure.

(3) Home occupational uses.

- (a) Professional services rendered by attorneys, accountants, bookkeepers, architects, engineers, planners, financial advisors, management consultants, computer consultants and insurance agents.
- (b) Medical and health services rendered by doctors, dentists, physical therapists, psychiatrists, psychologists, speech therapists, chiropractors and licensed massage therapists.
- (c) Personal services rendered by barbers, hairdressers, tailors, photographers and daycare centers as regulated in N.J.S.A. 40:55D-66.6 and 66.7.

(4) No display of products shall be visible from the street.

(5) The residential character of the neighborhood and dwelling unit shall not be changed.

(6) Signage shall comply with § 20-17.C.(1)(b).

(7) Vehicles used in conjunction with the home occupation shall not exceed the size of a one-ton truck.

(8) Home occupations shall not generate light, smoke, glare, noise, and vibrations that are obnoxious and become a nuisance to residential neighbors. No machinery or equipment shall be used that will cause interference with radio, television and satellite reception and other forms of electronic communications in neighboring residences.

(9) Hours during which the non-resident employee works on the premises and patrons visit the premises shall be limited to 8 a.m. to 5 p.m. from Monday through Friday, except for day care facilities hours of operation shall be limited to 7 a.m. to 7 p.m. from Monday through Friday.

(10) The home occupation shall be conducted entirely within either the dwelling or accessory building.

(11) Minimum onsite parking.

- (a) The home occupation shall not reduce the parking requirements for the principal residential use.
- (b) One (1) parking space for the non-residential employee.
- (c) One (1) parking space per two hundred (200) square feet of floor area dedicated to the home occupation.

(12) The home occupation shall not reduce the area, yard and bulk requirements for the principal residential use.

L. Hospitals and healthcare facilities.

- (1) Minimum lot area shall be five (5) acres.
- (2) Minimum lot width shall be five hundred (500) feet.
- (3) Minimum lot depth shall be five hundred (500) feet.
- (4) Minimum front yard shall be fifty (50) feet.
- (5) Minimum side yards shall be fifty (50) feet.
- (6) Minimum rear yard shall be fifty (50) feet.
- (7) Maximum building and structure height shall be four (4) and sixty-five (65) feet.
- (8) Maximum lot coverage shall be sixty-five percent (65%).
- (9) Minimum onsite parking. One and one-half (1-1/2) spaces per bed.
- (10) Minimum onsite loading. One (1) loading space per facility.
- (11) Landscape buffer areas shall be designed and installed pursuant to § 20-15.

M. Laundromats.

- (1) Minimum lot area shall be 20,000 square feet.
- (2) Minimum lot width shall be one hundred (100) feet.
- (3) Minimum lot depth shall be two hundred (200) feet.
- (4) Minimum yard requirements shall conform to those established for the C-2 zoning district.
- (5) Maximum height shall be thirty-five (35) feet and two and one-half (2-1/2) stories for principal buildings and structures, and fifteen (15) feet and one (1) story for accessory buildings and structures.
- (6) Maximum lot coverage shall be seventy percent (70%).
- (7) Landscape buffer areas shall be designed and installed pursuant to § 20-15.
- (8) Minimum onsite parking. One (1) parking space per two hundred (200) square feet of gross floor area.

N. Microwave and cellular communications towers and antennae.

- (1) Minimum setback for microwave and cellular communications tower and antenna to property line abutting residential zones and uses shall be one hundred (100) feet.

- (2) Minimum landscape buffer width shall be twenty (20) feet, shall extend along the entire length of the property lines abutting residential zoning districts and uses, and shall be designed and installed pursuant to § 20-15.
- (3) Microwave and cellular communications tower and antenna sites shall be secured with a six-foot (6-foot) high chain link fence and locked gate to which the Beverly City Police Department shall be given access, i.e., keys, electronic passes, etc., for emergency purposes.
- (4) Microwave and cellular communications tower and antenna shall be designed and colored to blend into the skyline as reasonably as possible.

O. New and used automobile and truck sales and dealerships.

- (1) Minimum lot area shall be 40,000 square feet.
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) Minimum lot depth shall be two hundred (200) feet.
- (4) Minimum front yards.
 - (a) To buildings and structures shall be twenty (20) feet.
 - (b) To vehicle display, parking and storage areas shall be ten (10) feet.
- (5) Minimum side yards.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To vehicle display, parking and storage areas abutting residential zoning districts and uses shall be twenty (20) feet.
 - (c) To vehicle display, parking and storage areas abutting non-residential zoning districts shall be ten (10) feet.
- (6) Minimum rear yards.
 - (a) To buildings and structures shall be ten (10) feet.
 - (b) To vehicle display, parking and storage areas abutting residential zoning districts and uses shall be twenty (20) feet.
 - (c) To vehicle display, parking and storage areas abutting non-residential zoning districts shall be ten (10) feet.
- (7) Maximum building and structure height shall be thirty-five (35) feet and two and one-half (2-1/2) stories.
- (8) Maximum lot coverage shall be eighty percent (80%).

(9) No wrecked or inoperable vehicles shall be stored on site.

(10) Minimum landscape buffer areas.

(a) Along side and rear yards abutting residential zoning districts and uses shall be fifteen (15) feet in width and shall have a solid six-foot (6-foot) high fence ending twenty (20) feet from the street line.

(b) Along side and rear yards abutting non-residential zoning districts and uses shall be ten (10) feet in width.

(c) Along the street line shall be five (5) feet in width and shall consist of plant material that is maintained at a height no greater than three (3) feet.

(d) All landscape buffer areas shall be designed and installed pursuant to § 20-15.

(11) Minimum onsite parking. One (1) parking space for each employee during peak shift; one (1) parking space per three hundred (300) square feet of building floor area; and one (1) parking space per twenty (20) outdoor vehicle display spaces.

(12) Minimum onsite loading. One (1) loading space for the first 10,000 square feet of gross floor area; one (1) additional loading space for gross floor area in excess of 10,000 square feet up to 40,000 square feet; and one (1) additional loading space for gross floor area in excess of 40,000 square feet.

P. Nursing homes, convalescent centers, assisted living and congregate care facilities, and age-restricted housing.

(1) Minimum lot area shall be 40,000 square feet.

(2) Minimum lot width shall be two hundred (200) feet.

(3) Minimum lot depth shall be two hundred (200) feet.

(4) Minimum front yard shall be the same as required for the zoning district in which the lot is located.

(5) Minimum side yard shall be the same as required for the zoning district in which the lot is located.

(6) Minimum rear yard shall be the same as required for the zoning district in which the lot is located.

(7) Maximum building and structure height shall be forty (40) feet and three (3) stories.

(8) Maximum lot coverage shall be sixty-five percent (65%).

(9) Minimum onsite parking. One (1) parking space per one and one-half (1-1/2) beds.

(10) Minimum onsite loading. One (1) loading space per facility.

(11) Landscape buffer areas shall be designed and installed pursuant to § 20-15.

Q. Quasi-public buildings.

- (1) Minimum lot area shall be 20,000 square feet.
- (2) Minimum lot width shall be one hundred (100) feet.
- (3) Minimum front yard shall be the same as required for the zoning district in which the lot is located.
- (4) Minimum side yard shall be ten (10) feet.
- (5) Minimum rear yard shall be twenty-five (25) feet.
- (6) Maximum building and structure height shall be two and one-half (2-1/2) stories and thirty-five (35) feet.
- (7) Maximum lot coverage shall be eighty percent (80%).
- (8) Off-street parking. One (1) parking space per sixty (60) square feet of floor devoted to patron use.
- (9) Minimum onsite parking. One (1) parking space for each employee at peak shift; one (1) parking space per two hundred (200) square feet of display and sales area inside buildings; and one (1) parking space per 5,000 square feet of outdoor parts storage area.
- (10) Minimum onsite loading. One (1) loading space per 10,000 square feet of outdoor parts storage area.

R. Recreation areas.

- (1) Minimum landscape buffer area adjacent to residential zoning districts or residential use shall be fifteen (15) feet wide.

S. Schools, for-profit and not-for-profit.

- (1) Minimum lot area shall be 60,000 square feet.
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) Minimum lot depth shall be three hundred (300) feet.
- (4) Minimum front yard setback to buildings and structures shall be thirty-five (35) feet.
- (5) Minimum side yard setback to buildings and structures shall be twenty-five (25) feet.
- (6) Minimum rear yard setback to buildings and structures shall be thirty-five (35) feet.

- (7) Maximum lot coverage shall be eighty percent (80%).
- (8) Minimum onsite parking. One and one-half (1-1/2) spaces per classroom.
- (9) Minimum onsite loading. One (1) space per facility.
- (10) Minimum landscape buffer shall be designed and installed pursuant to § 20-15.

T. Tattoo parlors and body piercing facilities.

- (1) Minimum lot area shall be 40,000 square feet.
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) Minimum lot depth shall be two hundred (200) feet.
- (4) Minimum front yard setback to buildings and structures shall be seventy-five (75) feet.
- (5) Minimum side yard setback to buildings and structures shall be seventy-five (75) feet.
- (6) Minimum rear yard setback to buildings and structures shall be seventy-five (75) feet.
- (7) Maximum lot coverage shall be fifty percent (50%).
- (8) Minimum landscape buffer shall be designed and installed pursuant to § 20-15.
- (9) Minimum onsite parking shall be one (1) parking space per one hundred (100) square feet of customer service area and one (1) parking space for each employee during peak shift.
- (10) Minimum onsite loading. One (1) loading area per 10,000 square feet of gross floor area.
- (11) No tattoo parlor or body piercing facility shall display more than two (2) exterior signs, consisting of one (1) identification sign and one (1) sign giving notice that the premises are off limits to minors. The identification sign shall be no more than forty (40) square feet in size.

U. Townhouses.

- (1) Minimum lot area shall be 20,000 square feet for townhouses sharing a common lot or prior to being subdivided into lots for individual dwelling units.
- (2) Minimum lot width shall be two hundred (200) feet for townhouses sharing a common lot or prior to being subdivided into lots for individual dwelling units.
- (3) Minimum lot depth shall be one hundred (100) feet.
- (4) Minimum front yard for principal buildings shall be twenty-five (25) feet.
- (5) Minimum side yard for end dwelling units in principal buildings shall be six (6) feet.

- (6) Minimum rear yard for principal buildings shall be twenty-five (25) feet.
- (7) Minimum yard requirements for accessory buildings and structures.
 - (a) Side yard shall be four (4) feet.
 - (b) Rear yard shall be four (4) feet.
- (8) Maximum building height for principal buildings shall be thirty-five (35) feet and two and one-half (2-1/2) stories.
- (9) Maximum building height for accessory buildings and structures shall be fifteen (15) feet and one (1) story.
- (10) Maximum number of dwelling units in each townhouse building shall be eight (8).

V. Utility structures and facilities.

- (1) Minimum side and rear yards.
 - (a) Fifteen (15) feet for structures and buildings twenty (20) feet high or less.
 - (b) Twenty-five (25) feet for structures and buildings greater than twenty (20) feet high and less than thirty-five (35) feet high.
 - (c) For structures and buildings greater than thirty-five (35) feet high, twenty-five (25) feet plus one (1) foot per each foot in excess of thirty-five (35) feet high.
- (2) Minimum landscape buffer area along property lines.
 - (a) Five (5) feet wide for structures and buildings twenty (20) feet high or less.
 - (b) Ten (10) feet wide for structures and buildings greater than twenty (20) feet and less than thirty-five (35) feet high.
 - (c) Fifteen (15) feet wide for structures and buildings greater than thirty-five (35) feet high.
 - (d) All landscape buffer areas shall be designed and installed pursuant to § 20-15.

§ 20-11. Agricultural uses.

In any district, those areas undeveloped or unimproved may be used for agricultural purposes until such time as such areas are developed or improved, provided that the keeping and maintaining of poultry, pigeons and livestock, except for a combined total of three (3) adult dogs and/or adult cats, is expressly prohibited.

§ 20-12. Accessory structures.

Prior to the construction or placement of an accessory structure, a zoning permit shall be issued by

the Zoning Officer.

- A. Setback. Any accessory building attached to a principal building is part of the principal building and shall adhere to the yard requirements for the principal building.
- B. Height and area. The number of accessory buildings shall not exceed one (1) per lot in Residential zoning districts; the maximum gross floor area of an accessory building shall not exceed five hundred (500) square feet.
- C. Satellite dish receiving antennae.
 - (1) Satellite dish receiving antennae shall be permitted on the ground, located in side or rear yards only, except that rooftop antennae shall be permitted if they are less than three (3) feet in diameter, do not extend above the roof-line and are not visible from the street. Such ground antennae shall be set back a minimum of ten (10) feet from any property line.
 - (2) The ground-level satellite dish receiving antennae, its foundation pad and supportive structure shall not exceed a maximum height of six (6) feet above the ground level and shall not exceed a maximum of twelve (12) feet of surface area.
 - (3) Screening. The satellite dish receiving antennae shall be screened on all sides from public view by use of opaque fencing to a height not to exceed six (6) feet or shrubbery, or both.

§ 20-13. Fences and walls.

Prior to the construction of a fence or wall, a zoning permit shall be issued by the Zoning Officer.

- A. Plans and detailed information shall be submitted with each application for a fence or wall permit, setting forth the dimensions and materials incorporated in construction and the exact location on the premises. All plans shall comply with the Uniform Construction Code.
- B. Fences and walls shall be located within the property lines and shall not be located in any required sight triangle, nor shall they be located within any public right-of-way or drainage, utility or conservation easement.
- C. Fences and walls located between the street line and the required front yard setback line in Residential zoning districts shall not exceed four (4) feet in height. This regulation shall apply to all street frontages on corner lots. Fences located in the front yard shall have a minimum of fifty percent (50%) of their surface area open to permit visible penetration allowing for light and air to pass through. This regulation shall not apply to reverse frontage lots and lots fronting along alleys where the portion of the lot fronting along said public right-of-way serves as a back yard.
- D. Fences and walls located along side and rear yards in Residential zoning districts and for residential uses permitted as conditional uses shall not exceed six (6) feet above the finished grade.
- E. Fences and walls for lots located in Commercial and Industrial zoning districts shall comply with the provisions set forth in this chapter. The maximum height for fences in Commercial and Industrial zoning districts shall be seven (7) feet.

F. General regulations.

- (1) Applicability. The standards and regulations herein set forth shall apply to all fences and walls hereinafter erected, altered or reconstructed, or which are presently existing and are not considered a preexisting nonconforming use under any present or former ordinance of the City.
- (2) Height. No fence or wall, except as provided herein, shall exceed six (6) feet in height at the highest point above ground level, except that fences or walls located within twenty-five (25) feet of any dedicated street line shall not exceed four (4) feet at the highest point. At least fifty percent (50%) of the entire area of any fence or wall located within twenty-five (25) feet of any dedicated street line shall be open space, uniformly distributed.
- (3) Fences and walls, Rear yard; Height; Location. Fences and walls in the rear yard of any property shall be no higher than six (6) feet, except that no six-foot high fence or wall shall be closer than forty (40) feet from a right-of-way.
- (4) Recreational area fences and walls; Height. Fences or walls enclosing athletic and recreational areas shall not exceed twelve (12) feet in height above ground level. All such fences in excess of six (6) feet in height shall be of wire mesh construction. Baseball backstops shall not exceed seventeen (17) feet in height.
- (5) Material. No fence or wall shall be fabricated, constructed or built of any material other than wood, wire, metal, brick, stone or masonry.
- (6) Prohibited fences and walls. The following fences, fencing materials and walls are specifically prohibited:
 - (a) Barbed or razor wire fences.
 - (b) Sharp pointed fences or walls.
 - (c) Electrically charged fences.
 - (d) Temporary fences, except snow fences for the purpose of controlling snow drifting.
 - (e) Expandable fences.
 - (f) Collapsible fences.

§ 20-14. Off-street parking and loading.

A. Off-street parking requirements.

- (1) The required parking shall be measured exclusive of interior driving lanes and maneuvering areas. All required parking shall be provided off the street and on site.
- (2) When the computation of the number of required parking spaces results in a fraction, such fractions shall be resolved to the next highest whole number.

- (3) All parking areas shall be paved, curbed and provided stormwater management drainage improvements and appurtenances in accordance with sound engineering practice.
- (4) Dimensions. Off-street parking spaces shall be a minimum of nine (9) feet wide and eighteen (18) feet long, except parallel spaces shall be twenty-five (25) feet long.
- (5) Design. Off-street parking areas shall be designed pursuant to § 231.
- (6) American with Disabilities Act. Off-street parking areas including, but not limited to, the number of parking spaces designated for the disabled, the design of such parking spaces and the signage for such parking spaces shall comply with the requirements of the American with Disabilities Act, Public Law 101-336 and all subsequent amendments.
- (7) Required parking spaces. The number of parking spaces required for each use shall be determined by the number of dwelling units, the amount of gross floor area as defined in this chapter or such other measure indicated below. Where a particular site or facility contains more than one (1) use, the total parking requirements shall be the sum of the component parts, unless indicated otherwise.

Use:	Parking spaces required:
Bowling alley	Four (4) spaces per alley
Car wash	Eight (8) spaces per washing lane
Commercial recreation	One (1) space per employee at peak shift and one (1) space per one hundred (100) square feet of gross floor area, and in the case of outdoor facilities, one (1) space per 100 hundred (100) square feet of area in which patrons use (e.g., golf driving range: area used by patrons is the tee area from which golf balls are driven; and batting cage: area used by patrons is the entire cage)
Community swimming pool	One (1) space per fifteen (15) square feet of surface area
Day-care center	One (1) space per sixty (60) square feet of gross floor area
Dwelling units:	
Studio/One-bedroom unit	One (1) space
Two-bedroom unit	One and one-half (1-1/2) spaces
Three-or-more bedroom unit	Two (2) spaces

Financial institution, bank
and other related businesses

One (1) space per two hundred fifty (250) square
feet of gross floor area

Home Occupation:

Non-resident employee
Floor area dedicated to
home occupation

One (1) space per non-resident employee

One (1) space per two hundred (200) square feet
of floor area dedicated to the home occupation

Hospital

One and one-half spaces per bed

Manufacturing, assembly and
fabrication

One (1) space per one thousand (1,000) square
feet of gross floor area

Medical professional, excluding
Home occupation; see home
occupation for parking requirement

One (1) space per one hundred fifty (150)
square feet of gross floor area

Mortuary and funeral home

Ten (10) spaces per viewing room and chapel

Movie and performing arts theaters

One (1) space per three (3) seats

Nightclub

One (1) space per sixty (60) square feet of gross
floor area

Professional office and office building,
excluding home occupation; see
home occupation for parking require-
ment

One (1) space per two hundred fifty (250) square
feet of gross floor area

Personal service, excluding home
occupation; see home occupation
for parking requirement

One (1) space per two hundred square feet of
gross floor area

Research facility

One (1) space per eight hundred (800) square
feet of gross floor area

Restaurant

One (1) space per three (3) seats

Retail store

One (1) space per two hundred (200) square feet
of gross floor area

Veterinary hospital

Six (6) spaces per examination room

Warehouse, shipping and receiving

One (1) space per five thousand (5,000) square
feet of gross floor area

(8) Location.

(a) Parking spaces shall be located on the same lot as the use being served. No

off-street parking space shall have direct access from a street.

- (b) No parking space shall be located in any required landscape buffer area.
- (c) Parking spaces for residential uses shall be located within a reasonable distance to a residential dwelling.
- (d) No commercial motor vehicle, school bus, dump truck, walk-in van or construction equipment shall be parked or stored anywhere in a Residential zoning district, except when the vehicle is being used in the transaction of business with the owner or occupant of the property. Commercial motor vehicles shall include all commercially licensed vehicles and all trucks or vans with a gross registered weight in excess of eleven thousand (11,000) pounds. The provisions of this subsection shall not apply to the parking or storage of school buses and school vans on public school, private school or parochial school property.

C. Off-street loading.

- (1) The required loading shall be measured exclusive of interior driving lanes and maneuvering areas. All required loading shall be provided off the street and on site.
- (2) When the computation of the number of required loading spaces results in a fraction, such fractions shall be resolved to the next highest whole number.
- (3) All loading areas shall be paved, curbed and provided stormwater management drainage improvements and appurtenances in accordance with sound engineering practice.
- (4) Dimensions. Off-street loading spaces shall be a minimum of twelve (12) feet wide and forty-five (45) feet long with at least fifteen (15) feet of vertical clearance.
- (5) Design. Off-street loading areas shall be designed pursuant to § 18-13.
- (6) Required loading spaces. The number of loading spaces required for each use shall be determined by the amount of gross floor area as defined in this chapter or such other measure indicated below. Where a particular site or facility contains more than one (1) use, the total loading requirements shall be the sum of the component parts, unless indicated otherwise.

Use:

Loading spaces required:

Hospital

One (1) space for the first ten thousand (10,000) square feet of gross floor area
One (1) space for each additional one hundred thousand (100,000) square feet of gross floor area

Manufacturing, assembly and fabrication

One (1) space for the first five thousand (5,000) square feet of gross floor area

	One (1) space for each additional forty thousand (40,000) square feet of gross floor area
Mortuary and funeral home	One (1) space per 10,000 square feet of gross floor area
Nightclub and restaurant	One (1) space for the first ten thousand (10,000) square feet of gross floor area One (1) space for each additional twenty-five thousand (25,000) square feet of gross floor area
Research	One (1) space for the first five thousand (5,000) square feet of gross floor area One (1) space for each additional forty-thousand (40,000) square feet of gross floor area
Retail store	One (1) space for the first ten thousand (10,000) square feet of gross floor area One (1) space for each additional forty thousand (40,000) square feet of gross floor area
Warehouse, shipping and receiving	One (1) space for the first five thousand (5,000) square feet of gross floor area One (1) space for each additional forty thousand (40,000) square feet of gross floor area

(7) Location.

- (a) Loading spaces shall be located on the same lot as the use being served.
- (b) No loading space shall be located in any required landscape buffer area.

§ 20-15. Landscape buffer areas.

Landscape buffer areas are required between residential and non-residential development as provided herein, unless specified otherwise in this chapter.

- A. Landscape buffer areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass by owner. Any screen planting shall be maintained permanently, and any plant material which does not survive shall be replaced within one (1) year or one (1) growing season.
- B. No structure, activity, storage of materials or parking or loading of vehicles shall be permitted in a landscape buffer area. Sidewalks shall be permitted in landscape buffer areas.
- C. Landscape buffer areas shall extend along the full length of the respective yards in which they are required.
- D. Required landscape buffer areas. The width of landscape buffer areas required for uses permitted in each zoning district are provided below. Requirements for conditional uses set forth in this chapter provide for required landscape buffer areas. In the event that no landscape buffer area is specifically provided in § 20-10, the landscape buffer area required for the zoning district

in which such conditional use is conditionally permitted shall apply. Further, in the event a use is permitted by the granting of a use variance, the landscape buffer area shall be determined as a result of the use variance approval process, while applying the landscape buffer area required for the zoning district in which the use variance is sought.

Zoning district:	Landscape buffer area required:
R-1	None
R-2	None
R-3	None
C-1	Five (5) feet in side and rear yards
C-2	Three (3) feet in rear yards
C-3	Ten (10) feet in front, side and rear yards
I	Ten (10) feet in front, side and rear yards

- E. Plantings. A landscape buffer area shall be planted and maintained by the owner to conceal parking and loading areas, to eliminate the glare of vehicle lights throughout the year and to screen buildings and structures from adjoining residential uses and areas. The landscape buffer area shall create a screen consisting of evergreen trees and shrubs acceptable to the City or Planning Board Engineer. For landscape buffer areas ten (10) feet in width or greater shall, evergreen trees shall be planted in a staggered double row with spacing in each row not to exceed ten (10) feet. For landscape buffer areas five (5) feet in width, evergreen trees shall be planted in a single row with spacing not to exceed ten (10) feet. Evergreen trees shall be a minimum of five (5) feet high when planted, shall be balled and burlapped and shall have the lowest branches no more than one (1) foot above the finished grade. In areas where established vegetation is to be incorporated into the landscape buffer area, supplemental plantings may be required to achieve the desired screening results. Where a side yard meets a front yard, the landscape buffer area shall consist of evergreen shrubs extending twenty (20) feet from the street line into the property. Evergreen shrubs shall be planted in front yards to screen parking areas and to enhance aesthetics. Evergreen shrubs shall be a minimum of two (2) feet high when planted and may be balled and burlapped or be in containers of two (2) gallons or greater. Solid fences may be used to enhance the ability of the landscape buffer area to screen non-residential uses from adjoining residential uses.

§ 20-16. Performance standards.

- A. Air, water and environmental pollution. No use shall emit heat, odor, vibrations, noise or any other pollutant into the ground, water or air that exceeds the most stringent applicable state and federal regulation. No permit shall be issued for any use where a state permit is required until the state has ascertained and approved the level and quality of emission, type and quality of emission control and the level of monitoring to be conducted.
- B. Storage and waste disposal. No materials shall be deposited so they can be transferred off the lot, directly or indirectly, by natural forces such as precipitation, surface water, evaporation or

wind. All materials that might create a pollutant or be a safety hazard or a health hazard shall be stored indoors and/or be enclosed in appropriate containers to eliminate such pollutant or hazard. No flammable or explosive substance shall be stored on a property except under conditions approved by the Fire Inspector/Department. No bulk storage of materials or equipment shall be in any front yard. Each site shall provide appropriate area(s), properly screened from adjacent property, for the orderly deposit and pickup of trash, refuse and recyclables.

§ 20-17. Signs.

- A. No person shall erect, alter or relocate any sign without a sign permit, unless exempted under the following provisions. Applications for a sign permit shall be made to the Construction Official. The permit fee for such signs shall be as provided in the schedule set forth in §23-7 of the Beverly City ordinances. Whenever a sign is changed, the fee for such change shall be as provided in the schedule set forth in §23-7 of the Beverly City ordinances. Normal maintenance and the removal of a sign shall not require a permit.
- B. General regulations shall be as follows:
- (1) Animated, flashing and illusionary signs. Signs using mechanical and/or electrical devices to revolve, flash, change intensity of illumination or display movement or the illusion of movement are prohibited.
 - (2) Attached signs. Signs parallel to walls shall be no more than fifteen (15) inches from the surface of the wall. Signs perpendicular to walls shall extend no more than five (5) feet from the surface of the wall, shall not exceed ten (10) square feet in area, shall be supported in a structurally sound manner approved by the City Engineer and Construction Official and shall have a clearance of at least nine (9) feet between bottom of the sign to the finished grade.
 - (3) Height. The height of a sign shall be measured from the finished grade to the uppermost part of the sign. The lowest portion of any sign which projects over a driveway shall be at least fourteen (14) feet above the finished grade and projects over a sidewalk shall be at least nine (9) feet above the finished grade. Roof mounted signs are prohibited. Freestanding signs shall not exceed a height of twenty (20) feet.
 - (4) Illuminated signs. All lighted signs shall have the light source shielded from adjoining or nearby lots, streets and interior drives and shall have translucent fixtures.
 - (5) Sign area and dimension. "Sign area" shall include all lettering, wording, coloring and accompanying designs and symbols, together with the background, whether open or closed, but not including the supporting framework and bracing incidental to the display itself. All internally illuminated panels or translucent fixtures, whether or not they contain lettering, wording, designs or symbols, shall be considered to be part of sign area.
 - (6) Exemptions from sign permits. Street number designations, highway signs, postal boxes, family names on residences, onsite traffic directional and parking signs, signs posting property as "private property," "no hunting," "danger," "warning" or for similar purposes are permitted but are exempt from other sign area limits as set forth in this chapter, so long as said signs do not exceed two (2) square feet each.

(7) Temporary signs.

- (a) Construction signs, non-residential. No more than one (1) sign naming the project under construction and the participating firms and individuals is permitted on the construction site, beginning with the issuance of a building permit and terminating with the issuance of a certificate of occupancy or the expiration of the building permit, whichever comes first. Such signs shall not exceed an area of thirty-two (32) square feet.
- (b) Construction sign, residential. Not more than two (2) temporary ground signs for an approved residential development shall be permitted, provided that each sign does not exceed twelve (12) square feet, shall be no closer than fifteen (15) feet to any street or side lot line and shall be removed within thirty (30) days after all lots or units have been sold or rented.
- (c) Real estate signs. Real estate signs shall be set back at least ten (10) feet from the edge of the street paving and ten (10) feet from all property lines and shall not exceed four (4) square feet on each side. Signs shall be removed at the expense of the advertiser within fifteen (15) days after the termination or completion of the matter being advertised. They do not require a permit. No more than one (1) sign shall be permitted along each street. Real estate signs shall be permitted only on the lot that the sign is advertising.
- (d) Political signs.
 - [1] Political signs shall not exceed sixteen (16) square feet in area. There shall be no more than one (1) sign per lot, and the sign shall have the consent of the owner of the lot. No such sign shall be erected more than forty-five (45) days prior to the election and shall be removed within fourteen (14) days following such election.
 - [2] If a sign is located within a public right-of-way and has not been registered with the City Clerk or Administrator as to the person responsible for the removal of the sign or does not carry the identification of the person responsible for the removal of the sign, the Zoning Officer shall be empowered to remove such sign at anytime.
- (e) Mechanics and artisans. Each mechanic and artisan is permitted to erect one (1) sign during the period when the mechanic or artisan is actively performing work on the lands or premises where the sign is placed. The sign shall have a maximum of six (6) square feet, and it shall not be placed in such a way that it interferes with visibility for motorists exiting the premises.
- (8) Public and quasi-public uses. One (1) wall or ground sign not exceeding twelve (12) square feet may be located on the premises of places of worship, school buildings, libraries, parish houses, government buildings and public recreational and community center buildings and grounds. No fee shall be required in connection with the permit for such a sign.

- (9) Automotive service stations. Automotive service stations may display the following special signs:

- (a) One (1) freestanding sign advertising the name of the station, including the company or brand name, insignia or emblem, provided that such sign shall not exceed fifty (50) square feet on a side and shall be at least fifteen (15) feet from the property line. Said sign shall not exceed the height requirements established herein for freestanding signs. One (1) freestanding sign shall be permitted for each street frontage. The freestanding sign may have a supplementary price sign, provided that it is mounted on the same support structure as the freestanding sign, that the price sign does not exceed twenty-five (25) square feet in sign area and that the lowest part of the price sign is at least eight (8) feet above the finished grade.
- (b) Incidental signs advertising services, trade information, credit cards, prices and information other than product advertising are permitted, provided that no one (1) sign exceeds ten (10) square feet, there is no more than one (1) such sign per street frontage and all are set back at least twenty (20) feet from the curbline.
- (c) In addition to the freestanding sign permitted herein, gasoline service stations that have a canopy over the fuel dispensing islands shall be permitted one (1) sign on the canopy, with the area of the sign limited to no more than ten percent (10%) of the longest facade of the canopy.
- (d) In addition to the freestanding sign, the incidental sign and the sign on the canopy, the principal building shall be permitted to have one (1) attached or wall sign in accordance with the provisions of § 20-17.C.(2).

(10) Prohibited signs.

- (a) Bare-bulb external sign illumination.
- (b) Banner-type signs, except in celebration of public events and erected with the approval of the governing body.
- (c) Billboards.
- (d) Mobile signs, including signs that are not permanently attached to a building, or not placed in the ground in such a fashion as to be permanent in a manner conforming to the Uniform Construction Code, or signs mounted on wheels, trailers or unregistered motor vehicles. A registered vehicle that has as its principal purpose the advertising of a business from a site as opposed to serving as a delivery or service vehicle for other business purposes of this section.

C. Signs within each zoning district shall be permitted as follows:

(1) Residential zoning districts.

- (a) Townhouses. One (1) freestanding sign giving the name of the project, not

exceeding twelve (12) square feet, and a maximum height of four (4) feet, and no closer than ten (10) feet to any right-of-way.

- (b) Home occupations. One (1) sign providing only the name and occupation, not exceeding two (2) square feet and attached flush with the facade of the dwelling. Such sign shall not be illuminated. A home occupation sign shall be provided in lieu of a separate residential sign that is exempted in the provisions set forth in § 20-17.B.(6).

(2) Commercial zoning districts.

- (a) Freestanding businesses not part of a multiple-tenanted commercial facility . There shall be no more than two (2) business signs per freestanding business. No more than one (1) sign shall be permitted to be an attached or wall sign, and no more than one (1) sign shall be permitted to be freestanding.

- [1] Parallel signs attached to a wall or wall signs. Maximum sign area shall be forty (40) square feet.

- [2] Perpendicularly attached signs. Maximum sign area shall conform to § 20-17.B.(2), and sign height shall conform to § 20-17.B.(3).

- [3] Freestanding signs. Maximum sign area shall be forty (40) square feet, and sign height shall conform to § 20-17.B.(3). Such signs shall be set back at least fifteen (15) feet from the curbline.

- [4] Awning, canopy and marquee signs. Awning, canopy and marquee signs may be permitted in lieu of parallel signs attached to a wall or wall signs and perpendicularly attached signs and in addition to freestanding signs permitted in this subsection provided that such signs meet the following requirements set forth in this subsection. Multiple perpendicularly attached signs and awning, canopy and marquee signs shall not be permitted on a wall or facade.

- [a] Signs may be permitted as part of an awning provided that the sign does not exceed twenty percent (20%) of the surface area of the awning.

- [b] Signs may be permitted on each vertical face of a canopy provided that the sign does not exceed ten percent (10%) of the surface area of each vertical face of the canopy on which the sign is to be located.

- [c] Signs may be permitted on each vertical face of a marquee provided that the sign does not exceed ten percent (10%) of the surface area of each vertical face of the marquee on which the sign is to be located.

- (c) Multiple-tenanted commercial facilities. Multiple-tenanted commercial facilities consisting of two (2) or more businesses in a building shall be permitted to

have one (1) attached or wall sign per business. No more than one (1) freestanding sign shall be permitted on the premises. Such signs shall be business signs.

- [1] Parallel signs attached to a wall or wall signs. Maximum sign area shall be forty (40) square feet.
- [2] Perpendicularly attached signs. Maximum sign area shall conform to § 20-17.B.(2), and sign height shall conform to § 20-17.B.(3).
- [3] Freestanding signs. Maximum sign area shall be sixty (60) square feet, and sign height shall conform to § 20-17.B.(3). Such signs shall be set back at least fifteen (15) feet from the curblane.
- [4] Awning, canopy and marquee signs shall comply with the provisions set forth in § 20-17.C.(2)(a)[4].

(3) I Industrial zoning district.

- (a) Not more than one (1) freestanding sign shall be allowed for each street frontage and each freestanding sign shall meet the following requirements. such signs shall be business signs.

- [1] Maximum sign area shall be forty (40) square feet.
- [2] Sign height shall conform to § 20-17.B.(3).
- [3] Such signs shall be set back at least twenty (20) feet from the curblane.

- (b) No more than two (2) attached parallel to the wall signs or wall signs shall be permitted. Such signs shall be limited to one (1) sign per side of the main building and shall meet the following requirement.

- [1] Maximum sign area shall not exceed two hundred (200) square feet or ten percent (10%) of the area of the wall to which it is attached or located, whichever is less.

§ 20-18. Decks, patios and swimming pools.

- A. Decks, patios and swimming pools shall be considered impervious and shall be included in the calculation for maximum lot coverage.
- B. Decks, patios and swimming pools shall not be permitted in the front yard.
- C. Decks, patios and swimming pools shall be set back in accordance with the side and rear yard set requirements of the respective zoning district in which the premises is located. For swimming pools, the set back shall be measured from the lot line to the nearest inside wall of the pool.
- D. No person shall erect, alter or relocate any deck, patio or swimming pool without a zoning permit

and, when applicable, a building permit. Decks, patios and swimming pools shall conform to the Uniform Construction Code of the State of New Jersey.

E. All swimming pools shall be enclosed with a fence approved by the Construction Official.

§ 20-19. Utility sheds and private garages.

All utility sheds and private garages shall be considered accessory structures and shall comply with the area and bulk requirements provided for the respective zoning district in which the premises is located.

§ 20-20. Trailers, campers and boats.

No trailer, auto trailer, trailer coach, travel trailer, camper or boat shall be used for dwelling purposes, sleeping quarters or the permanent conduct of any business, profession, occupation. Such equipment may also be used for a temporary construction office located on a construction site, provided that the approving authority has specifically authorized the temporary construction office and approved its location as part of its approval of a subdivision or site plan. Prior to use for a temporary construction office, a temporary permit shall be issued by the Construction Official. This section shall not be constructed to prohibit the parking or storage of such equipment on private premises only. Such equipment shall not be parked on a public street in a residential zoning district for a period exceeding twenty-four (24) hours.

§ 20-21. Lighting.

The objective of this section is to minimize undesirable off-site effects from site lighting. All area lighting, such as parking lots or for security, shall provide translucent fixtures with shields around the light source. The light intensity at ground level shall be a maximum of one and zero-tenths (1.0) footcandle. The total quantity of light radiated above a horizontal plane passing through the light source shall not exceed seven and five-tenths percent (7.5%). For recreation and commercial purposes, more intense lighting may be permitted, provided that the shielding and possible required planting buffer are approved as part of the plat. No lights shall shine or reflect into windows or onto streets and driveways. No lights shall be of a rotating, pulsating or other intermittent frequency. Wall-mounted exterior light fixtures that produce off-site glare shall be prohibited.

§ 20-22. Homeowners' associations.

Homeowners' associations shall be established for the purpose of owning and maintaining, repairing and reconstructing all common buildings, improvements and real property that are part of a residential development. Such associations shall be established pursuant to New Jersey law.

ARTICLE IV District Regulations

§ 20-23. R-1 Single-Family Residential District.

A. Permitted Principal Uses. In an R-1 Single-Family Residential District, land shall be used only for the following permitted uses:

- (1) Single-family detached dwellings.
- (2) Public parks and recreational facilities.

(3) Governmental buildings and facilities.

B. Permitted Accessory Uses. Only the following accessory uses on the same lot with and customarily incidental to the foregoing permitted uses:

(1) Private garages.

(2) Utility sheds.

(3) Private swimming pools, including above and below ground.

(4) Private greenhouses.

(5) Fences and walls.

(6) Decks and patios.

C. Conditional Uses. The following conditional uses shall meet the requirements set forth in § 20-10:

(1) Churches and other places of worship.

(2) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas, production facilities, processing facilities or similar commercially or industrially related operations of such companies.

(3) Quasi-public buildings and recreation areas.

(4) Home occupations.

(5) Bed-and-breakfast facilities.

D. Area and Bulk Regulations. The area and bulk regulations for this district shall be in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements.

E. Other Regulations. All other regulations of this ordinance shall be applied accordingly.

§ 20-24. R-2 Single-Family Residential District.

A. Permitted Principal Uses. In an R-2 Single-Family Residential District, land shall be used only for the following permitted uses:

(1) Single-family detached dwellings.

(2) Public parks and recreational facilities.

(3) Governmental buildings and facilities.

B. Permitted Accessory Uses. Only the following accessory uses on the same lot with and customarily incidental to the foregoing permitted uses:

- (1) Private garages.
- (2) Utility sheds.
- (3) Private swimming pools, including above and below ground.
- (4) Private greenhouses.
- (5) Fences and walls.
- (6) Decks and patios.

C. Conditional Uses. The following conditional uses shall meet the requirements set forth in § 20-10:

- (1) Churches and other places of worship.
- (2) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas, production facilities, processing facilities or similar commercially or industrially related operations of such companies.
- (3) Quasi-public buildings and recreation areas.
- (4) Home occupations.
- (5) Nursing homes, assisted living and congregate care facilities, and age restricted housing
- (6) Hospitals and health care facilities.
- (7) Schools, for-profit and not-for-profit.
- (8) Funeral homes.

D. Area and Bulk Regulations. The area and bulk regulations for this district shall be in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements.

E. Other Regulations. All other regulations of this ordinance shall be applied accordingly.

§ 20-25. R-3 Single-Family and Two-Family Residential District.

A. Permitted Principal Uses. In an R-3 Single-Family and Two-Family Residential District, land shall be used only for the following permitted uses:

- (1) Single-family detached dwellings.
- (2) Single-family attached dwellings.
- (3) Two-family detached dwellings.

- (4) Rowhouse having no more than four dwelling units attached in a row.
- (5) Public parks and recreational facilities.
- (6) Governmental buildings and facilities.

B. Permitted Accessory Uses. Only the following accessory uses on the same lot with and customarily incidental to the foregoing permitted uses:

- (1) Private garages.
- (2) Utility sheds.
- (3) Private swimming pools, including above and below ground.
- (4) Private greenhouses.
- (5) Fences and walls.
- (6) Decks and patios.

C. Conditional Uses. The following conditional uses shall meet the requirements set forth in § 20-10:

- (1) Churches and other places of worship.
- (2) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas, production facilities, processing facilities or similar commercially or industrially related operations of such companies.
- (3) Quasi-public buildings and recreation areas.
- (4) Home occupations.
- (5) Nursing homes, assisted living and congregate care facilities, and age-restricted housing.

D. Area and Bulk Regulations. The area and bulk regulations for this district shall be in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements.

E. Other Regulations. All other regulations of this ordinance shall be applied accordingly.

F. Overlay Zone. Block 64 shall be subject to the following provisions for creating a Municipal/Commercial/Industrial Overlay Zone:

- (1) The minimum lot size shall have at least 20,000 square feet.
- (2) The minimum front yard, side yard and rear yard setbacks for all principal structures shall be at least ten (10) feet.

- (3) The minimum side yard and rear yard setbacks for all accessory structures shall be at least four (4) feet.
- (4) The maximum height for all principal structures shall be two (2) stories or 30 feet.
- (5) The maximum height for all accessory structures shall be one (1) story or 15 feet.
- (6) The maximum lot coverage shall be 70 percent.
- (7) Permitted principal uses shall include:
 - (a) Federal, State, county and municipal offices.
 - (b) Municipal community center.
 - (c) Uses permitted for the C-2 Downtown Commercial Zoning District as set forth in § 20-27.A., excluding funeral homes and mortuaries, movie theaters and performing arts theaters and nightclubs.
 - (d) Uses permitted for the I Industrial Zoning District as set forth in § 20-29.A., excluding warehouses and distribution facilities.

(8) Other Regulations. All other regulations of this ordinance shall be applied accordingly.

§ 20-26. C-1 Neighborhood Commercial District.

A. Permitted Principal Uses. In a C-1 Neighborhood Commercial District, land shall be used only for the following permitted uses:

- (1) The retail sale of consumable goods and products, apparel and general and sundry merchandise, excluding sexually oriented businesses.
- (2) Restaurants and cafes.
- (3) Funeral homes and mortuaries.
- (4) Office of an architect, engineer, land surveyor, planner, landscape architect or related professional.
- (5) Office of an attorney, accountant, insurance broker, real estate broker or related professional.
- (6) Studio or facility of an artist, photographer, florist, teacher, musician or related professional or business.
- (7) Office of a doctor, dentist, chiropractor or related medical professional or physician.
- (8) Facility of a tailor, dressmaker, cobbler or related professional or business.
- (9) Facility of a hairdresser, barber, beauty parlor or related professional or businesses, excluding tattoo parlors and body piercing facilities.

(10) Day-care centers.

(11) Single-family detached dwellings pursuant to the provisions for the R-3 Single-Family and Two Family District.

(12) Single-family attached dwellings pursuant to the provisions for the R-3 Single-Family and Two Family District.

(13) Two-family detached dwellings pursuant to the provisions for the R-3 Single-Family and Two-Family District.

(14) Public parks and recreational facilities.

(15) Governmental buildings and facilities.

B. Permitted Accessory Uses. Only the following accessory uses on the same lot with and customarily incidental to the foregoing permitted uses:

(1) Private garages.

(2) Refuse enclosures.

(3) Utility sheds.

(4) Private swimming pools, including above and below ground.

(5) Private greenhouses.

(6) Fences and walls.

(7) Decks and patios.

(8) Off-street parking and loading.

C. Conditional Uses. The following conditional uses shall meet the requirements set forth in § 20-10:

(1) Churches and other places of worship.

(2) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas, production facilities, processing facilities or similar commercially or industrially related operations of such companies.

(3) Quasi-public buildings and recreation areas.

(4) Home occupations.

(5) Apartments over first floor of commercial establishments, offices and facilities permitted as principal uses in this district.

D. Area and Bulk Regulations. The area and bulk regulations for this district shall be in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements. More than one business shall be permitted per lot.

E. Other Regulations. All other regulations of this ordinance shall be applied accordingly.

§ 20-27. C-2 Downtown Commercial District.

A. Permitted Principal Uses. In a C-2 Downtown Commercial District, land shall be used only for the following permitted uses:

- (1) The retail sale of consumable goods and products, apparel, drug stores, pharmacies, furniture stores, hardware stores, jewelers and watchmakers, and general and sundry merchandise, excluding sexually oriented businesses.
- (2) Restaurants, cafes and eating and drinking establishments, including brew pubs and coffeehouses.
- (3) Funeral homes and mortuaries.
- (4) Movie theaters and performing arts theaters., excluding sexually oriented businesses.
- (5) Office of an architect, engineer, land surveyor, planner, landscape architect or related professional.
- (6) Office of an attorney, accountant, insurance broker, real estate broker, travel agent or related professional.
- (7) Studio or facility of an artist, photographer, florist, teacher, musician or related professional or business.
- (8) Office of a doctor, dentist, chiropractor or related medical professional or physician.
- (9) Facility of a tailor, dressmaker, cobbler or related professional or business, excluding tattoo parlors and body piercing facilities.
- (10) Day-care centers.
- (11) Financial institutions, banking facilities or related business, excluding cash checking facilities.
- (12) Administrative and managerial offices.
- (13) Nightclubs, excluding adult entertainment establishments.
- (14) Dry cleaning facilities.
- (15) Electronics and appliance goods sales, rentals and repair, including video rentals.
- (16) Bakeries, fish markets, butchers and meat markets, produce markets, supermarkets

and other related businesses.

(17) Public parks and recreational facilities.

(18) Governmental buildings and facilities.

B. **Permitted Accessory Uses.** Only the following accessory uses on the same lot with and customarily incidental to the foregoing permitted uses:

(1) Private garages.

(2) Refuse enclosures.

(3) Fences and walls.

(4) Decks and patios.

(5) Off-street parking and loading.

C. **Conditional Uses.** The following conditional uses shall meet the requirements set forth in § 20-10:

(1) Churches and other places of worship.

(2) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas, production facilities, processing facilities or similar commercially or industrially related operations of such companies.

(3) Quasi-public buildings and recreation areas.

(4) Apartments over first floor commercial establishments, offices and facilities permitted as principal uses in this district.

(5) Laundromats.

D. **Area and Bulk Regulations.** The area and bulk regulations for this district shall be in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements.

E. **Other Regulations.** All other regulations of this ordinance shall be applied accordingly.

§ 20-28. C-3 Waterfront Development District.

A. **Permitted Principal Uses.** In C-3 Waterfront Development District, land shall be used only for the following permitted uses:

(1) Marina and marine-related uses, including boat sales and repair, boat storage, boat launch, retail of marine supplies, fabrication of sails and marine accessories, and bait and tackle shops.

(2) Restaurants and cafes, with or without outdoor dining.

- (3) Convenience stores.
- B. Permitted Accessory Uses. Only the following accessory on the same lot with and customarily incidental to the foregoing permitted uses:
 - (1) Private garages.
 - (2) Refuse enclosures.
 - (3) Off-street parking and loading.
- C. Conditional Uses. The following conditional uses shall meet the requirements set forth in § 20-10:
 - (1) Townhouses. Townhouse development may be combined with a marina to create a mixed-use development.
 - (2) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas, production facilities, processing facilities or similar commercially or industrially related operations of such companies.
 - (3) Quasi-public buildings and recreation areas.
- D. Area and Bulk Regulations. The area and bulk regulations for this district shall be in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements.
- E. Other Regulations. All other regulations of this ordinance shall be applied accordingly.
- F. The Delaware River Heritage Trail shall be incorporated into the development of land in the C-3 zoning district.

§ 20-29. I Industrial District.

- C. Permitted Principal Uses. In an I Industrial District, land shall be used only for the following permitted uses:
 - (1) Warehouses.
 - (2) Distribution facilities.
 - (3) Wholesale facilities.
 - (4) General offices and office buildings.
 - (5) Tradesman and artisan shops, offices and showrooms.
 - (6) Manufacture, fabrication and assembly of products from previously processed and prepared materials. Such operations shall occur within completely closed buildings and structures.

- (7) Research, testing and experimentation.
- (8) Brewery and micro-brewery.
- D. Permitted Accessory Uses. Only the following accessory on the same lot with and customarily incidental to the foregoing permitted uses:
 - (1) Private garages.
 - (2) Refuse enclosures.
 - (3) Cafeteria.
 - (4) Off-street parking and loading.
- E. Conditional Uses. The following conditional uses shall meet the requirements set forth in § 20-10:
 - (1) Utility structures and facilities needed to provide the direct service of gas, electricity, telephone, water and sewerage, but not offices, garages, warehouses, maintenance areas, production facilities, processing facilities or similar commercially or industrially related operations of such companies.
 - (2) Microwave and cellular towers and antennae.
- F. Area and Bulk Regulations. The area and bulk regulations for this district shall be in accordance with the requirements set forth in the Schedule of Area and Bulk Requirements.
- G. Other Regulations. All other regulations of this ordinance shall be applied accordingly.

ARTICLE V

Administration and Enforcement

§ 20-32. Enforcement official.

- A. The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Zoning Officer who shall have such powers as are conferred on him in accordance with its literal terms. The Zoning Officer shall not have the power to permit any construction or any use or change of use which does not conform to this chapter. The Zoning Officer shall be appointed by the governing body.
- B. The duties of the Zoning Officer shall be:
 - (1) To examine all applications for construction, use and sign permits.
 - (2) To issue permits only for construction, uses and signs which are in accordance with the regulations of this chapter and other applicable ordinances as may be subsequently amended.
 - (3) To record and file all applications for zoning permits with the accompanying plans.

- (4) To issue permits for conditional uses only after such uses and buildings are approved by the appropriate body.
- (5) To issue all necessary stop orders.
- (6) To inspect nonconforming uses, buildings and signs.
- (7) Upon the request of the governing body, to present to such body facts, records and any similar information on specific requests to assist such body in reaching its decision.
- (8) To give written notice of violation.
- (9) To sign written complaints against violators in Municipal Court.
- (10) To cause any building, plans or premises to be inspected or examined and order in writing the remedying of any conditions found to exist in violation of this chapter.
- (11) To enter any building or premises during the daytime in the course of his duties, with the permission of the owner.

§ 20-33. Complaints and notice of violation.

- A. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written and signed complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Officer. He shall record promptly such complaint, immediately investigate and take action thereon as provided by this chapter.
- B. If the Zoning Officer shall find that any of the provisions of this chapter are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and order the action necessary to correct it.

§ 20-34. Issuance of permits.

This ordinance shall be enforced by the designated Zoning Officer of the City. No permit of any kind as provided in this chapter shall be granted by him for any purpose except in compliance with the provisions of this chapter or a decision of the Planning Board or the courts.

§ 20-35. Violations and penalties.

- A. Violations. Failure to secure the required zoning permit or building permit previous to the erection, construction, alteration or addition to a building shall be a violation of this chapter. Structures erected without a permit or not in conformity with this chapter shall be removed.
- B. Notice of violation. When written notice of a violation of any provision of this chapter has been served by the Zoning Officer on the owner, owner's agent, occupant, contractor or builder, such violation shall be discontinued and/or removed immediately.
- C. Fines and penalties. Any person, firm or corporation violating any provisions of this chapter shall, for each violation upon conviction thereof, be subject to one (1) or more of the following: a fine not exceeding one thousand dollars (\$1,000); a term of imprisonment not exceeding ninety

(90) days; or a period community service not exceeding ninety (90) days. Each day that a violation is permitted to exist shall constitute a separate offense.

ARTICLE VI Permits and Fees

§ 20-36. Building and zoning permits.

- A. Requirements for zoning permits. A zoning permit shall be required prior to the erection or structural alteration of any building, structure or portion thereof and prior to the use or change in use of a building or land, and prior to the change or extension of a nonconforming use.
- B. Application for permits. Application for permits, including temporary permits, shall be made in writing to the Zoning Officer on such forms as may be furnished by the City. No permit shall be considered complete or permanently effective until the Zoning Officer has certified that the work meets all the requirements of applicable codes and ordinances.
- C. Plot plans for building permits. All applications for building permits shall be accompanied by five (5) copies of a true and accurate plot plan, and all applications for a zoning permit shall be accompanied by one (1) such plot plan. All such plot plans shall be drawn to scale, showing the location and size of each building to be erected upon each lot, the actual dimension of each lot to be built upon and such other information as may be necessary to enable the Construction Official and Zoning Officer to determine whether the proposed structure and use of land will conform to the Uniform Construction Code and the provisions of this chapter. The Zoning Officer shall keep a record of all applications for zoning permits and a record of all permits issued with a notation of all special conditions involved. He shall also file and safely keep copies of all plans submitted and the same shall become a part of the records of his office for the use of the governing body and other officials of the City.
- D. Issuance of permits. Zoning and building permits shall be granted or refused within thirty (30) days after the written application has been filed with the Zoning Officer. Upon completion of the erection or alteration of any building or portion thereof authorized by any permit, and prior to occupancy or use, the holder of such permit shall notify the Zoning Officer of such completion. No permit shall be considered complete or permanently effective until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this chapter and other applicable ordinances.
- E. Expiration of permits. No permit for the erection, razing, change, alteration or removal of buildings shall be valid or effective after one (1) year from the date of issuance thereof and shall thereafter be void, unless the work authorized by such permit shall have been substantially commenced within one (1) year from the date of issuance and proceeded with due diligence. One (1) six-month renewal of a valid permit that is about to expire shall be permitted without additional cost to the applicant. If, however, the applicant has been delayed in proceeding with the work for which the permit was granted by reason of any reasonable cause not due to his own negligence, the permit may be renewed without additional cost to the applicant.

§ 20-37. Certificates of occupancy.

- A. Applications. Excavation for a foundation or erection, construction or structural alteration of any building or structural alteration of any building or structure, or part thereof, or temporary buildings

or structures, for construction purposes, shall not be undertaken until a building permit therefor shall have been issued by the Construction Official and a zoning permit therefor issued by the Zoning Officer.

- B. Certificate of occupancy required. No vacant land shall be occupied or used, and no building or structure hereafter erected, structurally altered or changed in use, except for agricultural uses, shall be used or changed in use, until a certificate of occupancy shall have been issued, which certificate of occupancy must have upon it the signatures of the Construction Official and Zoning Officer.
- C. New and existing buildings. A certificate of occupancy either for the whole or part of a new building or for the alteration of an existing building shall be applied for coincident with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building or part shall have been completed in conformity with the provisions of this chapter.
- D. Vacant land, change of use. A certificate of occupancy for the use or occupancy of vacant land or for a change in the use of land or for a change in the use of an existing building shall be applied for and be issued within ten (10) days after the application has been made and before any such land or building shall be occupied or used, provided that such are in conformity with the provision of this chapter.

§ 20-38. Inspections.

No zoning permit required by this chapter shall be issued by the Zoning Officer until he shall have made such examination of the application and plot plan and such inspection of the property as are necessary to enable him to determine whether the proposed structure or use of land will conform to the provisions of this chapter. No certificate of occupancy required by this Article shall be issued until the Construction Official and Zoning Officer have made such inspection as is necessary to determine whether the erection or alteration of the building or structure has been completed in conformity with the provisions of this chapter, or that the proposed use of occupancy of land will conform to the provisions of this chapter. It shall be the duty of the Construction Official and Zoning Officer, upon request of the owner, to make an inspection at any stage of the erection or alteration of a building or structure for the purpose of determining whether such erection or alteration is being made in conformity with the Uniform Construction Code and the provisions of this chapter, but the failure of the Construction Official or the Zoning Officer to make any such inspection shall not in any manner entitle such owner to a certificate of occupancy if such erection or alteration when completed does not conform to the Uniform Construction Code or the provisions of this chapter.

§ 20-40. Fees.

- A. Fee for copies of certificates of occupancy. Fees for copies of certificates of occupancy shall be determined by the schedule set forth in § 21-7 of the City of Beverly ordinances and shall be remitted to the City Treasurer by the issuing officer in accordance with the manner of reporting and payment as is generally provided.
- B. Filing fees and escrow funds.

At the time of submitting an application for site plan approval, subdivision approval, bulk variance, use variance or conditional use permit, the applicant shall comply with the following provisions:

- (1) The applicant shall execute a form of agreement with the City of Beverly agreeing to pay all application fees, professional charges and any other cost of fee related to the processing and review of his or her application, including, but not limited to, the cost of site inspections and appeals by the applicant, if necessary.
- (2) Payment of fees and escrow.
 - (a) The applicant shall pay application fees and the applicant shall deposit in cash a certain sum with the Secretary of the Planning Board to be placed in escrow by the City to cover the cost of professionals employed by the Planning Board to make reviews and inspections of the applications and plans submitted as well as site inspection, if necessary, in accordance with the schedule set forth in § 21-7 of the City of Beverly ordinances.
 - (b) In the event that an application is denied, certified incomplete or withdrawn by the applicant and the application is subsequently resubmitted or a second application is submitted by the same applicant for the same use and on the same site as the original application within sixty (60) days of the denial, incomplete certification or withdrawal, then a new escrow amount must be submitted with such application in accordance with the above schedules, with the exception of the application fee escrow. Should an application be refiled after the application has been denied without prejudice, no new application fee need be submitted. Upon receipt of a formal, written request, the Planning Board reviewing the application may recommend to the governing body that the unencumbered balance of the original escrow be refunded to the applicant or credited toward the escrow amount required for any subsequent application or resubmitted application.
 - (c) Sums not utilized in the review and inspection process or other costs of administration shall be returned to the applicant. If additional sums should be deemed necessary, the applicant shall be notified of the required additional amount and shall add such sum to the escrow within fourteen (14) days of the date of said notice.
- C. Within thirty (30) days of the Planning Board's adoption of a resolution memorializing its approval or denial of an application for development or the conclusion of an appeal, the City professionals shall submit final vouchers for services performed in connection with the application or appeal to the Chief Financial Officer of the City. Within seven (7) business days of receipt of final vouchers from the City, the applicant may file with the City Administrator a written protest with the respect to any such voucher; in the absence of a timely protest, the City shall proceed to pay said vouchers in accordance with the procedure set forth in N.J.S.A. 40A:4-87. If the applicant shall file a timely protest, the governing body or its designee shall conduct a hearing at which time the applicant's protest may be heard; at the conclusion of said hearing, the governing body or its designee may order that the voucher be paid in the full amount, a lesser amount or not at all.
- D. Within forty-five (45) days of the Planning Board's Engineer's completion of inspection of improvements installed at the behest of the applicant, the Board Engineer shall submit a voucher for services which shall be processed in accordance with the preceding subsection.
- E. Fees of professionals employed by the Planning Board shall be those determined annually by

the Board.

ARTICLE VII Planning Board

§ 20-41. Establishment of Planning Board.

The Planning Board shall serve as a planning board and a zoning board of adjustment pursuant to the provisions of N.J.S.A. 40:55D-25.c. and shall be established in accordance with the provisions set forth in N.J.S.A. 40:55D-1 et seq.

§ 20-42. Powers of Planning Board.

The Planning Board shall exercise the powers of a planning board set forth in the provisions of N.J.S.A. 40:55D-25 and the powers of a zoning board of adjustment set forth in the provisions of N.J.S.A. 55D-34 and 70.

§ 20-43. Promulgation of rules and regulations.

The Planning Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

§ 20-44. Meetings.

- A. Regular meetings. The Planning Board at its annual reorganization meeting shall determine the dates when it will hold its regular meetings, which shall occur not less than once a month.
- B. Change of regular meeting. Where it becomes necessary during the holidays or for other cause to change the date of a regularly scheduled meeting, the Planning Board shall by resolution provide for an alternate date, causing proper notice to be provided to a newspaper of general circulation within the City.
- C. Special meetings. Special meetings of the Planning Board will be held at the call of the Chairperson, which call shall conform to the procedures outlined by the Board in its rules and regulations.
- D. Conduct of meeting. The Chairperson or, in his/her absence, a member of the Planning Board selected at the meeting to be the Acting Chairperson shall during the meeting of the Board act as its presiding officer, and in this connection, he/she may administer oath and compel the attendance of witnesses. The Chairperson shall see that the minutes of the meeting show the vote of each member upon questions or if the member is absent or fails to vote that the minutes reflect this act. The Board shall in addition keep records of its examinations and other official action, all of which shall be immediately filed in the office of the Board and constitute a public record. Specifically, action by the Board in the conduct of its meetings and the holdings of hearings shall conform with the procedural requirements of N.J.S.A. 40:55D-1 et seq.

§ 20-45. Appeals, application and fees.

- A. Appeals to the Planning Board, which require the Board to invoke its powers as a zoning board

of adjustment, may be taken by any interested party affected by any decision of an administrative officer of the City based on or made in the enforcement of this chapter. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Planning Board all the papers constituting the record upon which the action appealed was taken.

- B. Modification on appeal. In exercising its powers as a zoning board of adjustment, the Planning Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the administrative officer from whom the appeal is taken.
- C. Stay of proceedings by appeal. An appeal to the Planning Board, which requires the Board to invoke its powers as a zoning board of adjustment, shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the officer from whose action the appeal is taken certifies to the Planning Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown.
- D. Time for decision. The Planning Board acting in the capacity as a zoning board of adjustment shall render its decision not later than one hundred twenty (120) days after the date an appeal is taken from the decision of an administrative officer or after the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-72.b, or within such further time as may be consented to by the applicant. Failure of the Board to render a decision within such period shall constitute a decision favorable to the applicant. In the event the developer submits separate consecutive applications, pursuant to this chapter, the aforesaid time period shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this chapter. Failure of the Board to render a decision within the prescribed period constitute a decision favorable to the applicant.
- E. Except as otherwise provided by the general ordinances of the City of Beverly, each application made for a variance or appeal shall be accompanied by a fee as provided in the fee schedule set forth in § 21-7 of the City of Beverly ordinances and payable to the Secretary of the Planning Board.
- F. Expiration of variance. Any variance from the terms of this chapter hereafter granted by the Planning Board, functioning in the capacity as a zoning board of adjustment, permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by the limitation within one (1) year from the date of entry of the judgement or determination of the Planning Board, or in the case where a variance was granted in conjunction with the approval of a development application for a minor subdivision or site plan, preliminary major subdivision or site plan or a final subdivision or site plan, the expiration period for the variance shall run concurrently with the expiration period for the respective development application, unless the applicable construction permits have been obtained or the permitted uses has actually been commenced by that date; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Planning Board to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

§ 20-46. Personnel, experts and staff.

The Planning Board may also employ or contract for and fix compensation of such experts and other staff and services as may be necessary, provided that the positions and services are more particularly described within this chapter and funds have been provided for the services to be rendered. The Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use. The Board shall specifically have the power to appoint the following positions:

A. Board Attorney.

- (1) Generally. In accordance with the requirements of law, the Planning Board shall have the power, right and responsibility to employ an attorney to advise the Board as to its legal rights. Said appointee shall be answerable and responsible to the Board that appoints him. Said attorney shall take action independent of any action taken by the City Solicitor in accordance with the principles of law.
- (2) Term. The Board Attorney shall be appointed for a term of one (1) year, commencing on January 1 of the year of appointment and terminating on December 31 of the year of appointment.
- (3) Qualifications. The person appointed Board Attorney shall be a licensed attorney within the State of New Jersey and possess such other qualifications of ability and experience which the Board shall deem necessary to perform the duties of his office.
- (4) Compensation. The Board Attorney shall receive reasonable fees and charges for legal services as fixed by the City Council of the City of Beverly.
- (5) Duties. The Board Attorney shall be the legal advisor to the Planning Board and shall prosecute and defend actions by and against the Board.

B. Administrative Officer. The Construction Code Official of the City of Beverly shall be deemed the Administrative Officer to perform the services that the position entails under the provisions of N.J.S.A. 40:55D-1 et seq.

C. Board Engineer.

- (1) Generally. In accordance with the requirements of law, the Planning Board shall have the power, right and responsibility to employ a licensed professional engineer to advise the Board as to engineering matters. Said appointee shall be answerable and responsible to the Board that appoints him. Said Engineer shall take action independent of any action taken by the City Engineer in accordance with the prevailing principles of law.
- (2) Term. The Board Engineer shall be appointed for a term of one (1) year commencing on January 1 of the year of appointment and terminating on December 31 of the year of appointment.
- (3) Qualifications. The person appointed Board Engineer shall be a licensed professional engineer within the State of New Jersey and possess other qualification, ability and experience which the Board shall deem necessary to perform the duties of his office.

- (4) Compensation. The Board Engineer shall receive reasonable fees and charges for engineering services as fixed by the City Council of the City of Beverly.
- (5) Duties. The Board Engineer shall be the advisor on engineering matters to the Planning Board. In this connection, he shall review all plans and documents received by the Planning Board for its action and make specific recommendations concerning said matters.

ARTICLE VIII

Repealer, Severability and Effective Date

§ 20-47. Repealer.

All ordinances inconsistent with or in conflict therewith are hereby repealed.

§ 20-48. Severability.

If any section, subsection or paragraph of this chapter shall be declared to be unconstitutional, invalid, or inoperative in whole or in part by a court of competent jurisdiction, such section, subsection or paragraph shall to the extent that is not unconstitutional, invalid or inoperative remain in full force and effect, and no such determination shall be deemed to invalidate the remaining sections, subsections or paragraphs of this chapter. To this end, the provisions of each section, subsection, paragraph of this chapter are hereby declared to be severable.

§ 20-49. Effective date.

This ordinance shall take effect twenty (20) days subsequent to passage and publication according to law.