

Chapter 113. Land Use

Part 5. Zoning

Article 36. R-1, R-2, R-3, R-5 and R-10 Zones

§ 113-243. Permitted uses.

Within the R-1, R-2, R-3, R-5 and R-10 Zones, no lot or building shall be used, and no building shall be erected or altered to be used, in whole or in part, unless it complies with Schedule I^[1] and the following regulations:

- A. A single-family detached dwelling used as a residence for not more than one family and with not more than one house per lot.
- B. An apartment in an accessory structure on the same lot as the principal dwelling is permitted, provided that:
- (1) The lot is at least 10 acres in size.
 - (2) Such apartment shall be within an accessory structure which is customarily incidental to the principal residential use.
 - (3) The principal dwelling does not contain an accessory apartment.
 - (4) Only one such apartment shall be permitted on a single lot.
 - (5) The floor area of the apartment shall comprise the lesser of 50% of the aggregate floor area of the accessory structure or 1,000 square feet. In no case shall the apartment contain less than 350 square feet.
 - (6) The accessory structure containing the apartment shall conform to the bulk standards for the zone district within which it is located.
 - (7) The apartment shall be provided with an exterior entrance separate from the nonresidential portion of the structure. The apartment shall have direct access to the outdoors. If the dwelling unit is located above the second floor, there shall be at least two such means of access to the outdoors, and they shall be approved by the Construction Official. No apartment shall be located above the third floor.
 - (8) There shall no sign, separate driveway access, separate exterior entrance or other visible evidence of the apartment observable from any abutting street.
 - (9) Off-street parking shall be provided for any vehicles used by the occupants of the apartment. A minimum of two parking spaces shall be provided for each dwelling unit on the lot. On-street parking is prohibited.
 - (10) The apartment shall include living/sleeping space, cooking facilities and complete sanitary facilities for the exclusive use of its occupants. It shall consist of not less than two rooms, one of which shall be a full bathroom, but shall have no more than two bedrooms.
 - (11) Prior to the issuance of a construction permit for any work related to the creation of an apartment, the owner of the principal dwelling shall obtain approval from the Chester Township Board of Health of a subsurface sewage disposal system. The system shall be of a design and capacity determined by the Board of Health to adequately accommodate anticipated wastewater flows.^[2]
- [2] *Editor's Note: See Ch. 192, Sewage Disposal.*
- C. Accessory apartments.
- (1) An accessory apartment may be located in a single-family dwelling in R-1, R-2, R-3, R-5 and R-10 Districts, provided that it is created in accordance with and conforms to all provisions of this subsection. An accessory apartment may be incorporated in a new dwelling or may be created within an existing dwelling constructed in accordance with all ordinances and regulations applicable to an addition to a dwelling. An accessory apartment may be occupied only by a family of three persons of whom at least one shall be either a person who is related by blood or marriage to the owner-occupant or the tenant of the dwelling in which the accessory apartment is located or an employee working on the premises on a full-time basis for the owner-occupant or the tenant of the dwelling in which the accessory apartment is located.
 - (2) Prior to the issuance of a construction permit for any work related to the creation of an accessory apartment within an existing dwelling or by an addition to an existing dwelling, the applicant shall obtain a determination from the Township Board of Health as to whether modifications to any existing individual subsurface sewage disposal system will be necessary by reason of the creation of the accessory apartment. Any required modifications to such a system shall be made in compliance with all applicable laws, ordinances, rules and regulations.
 - (3) Only one accessory apartment shall be permitted in any dwelling, and the floor area of the accessory apartment shall not comprise more than 25% of the aggregate floor area of the dwelling in which it is located.
 - (4) Access to any accessory apartment shall be provided from within the dwelling in which it is located, regardless of whether or not the accessory apartment has a separate exterior entrance.
 - (5) There shall be no sign, separate driveway access, separate exterior entrance or other visible evidence of an accessory apartment which is observable from any abutting street.
 - (6) Off-street parking shall be provided for any vehicles used by occupants of the accessory apartment.
 - (7) An accessory apartment shall not be occupied except in accordance with a currently valid accessory apartment permit issued by the Zoning Official.
 - (8) Every accessory apartment permit shall be valid for a term ending on December 31 of the year in which it is issued and shall upon application be renewed annually so long as the accessory apartment is occupied in accordance with the provisions of this subsection; provided, however, that an initial permit or any renewal thereof shall expire immediately in the event that:

- (a) Title to the premises is transferred to a new owner; or
 - (b) A change occurs in the composition.
- (9) If an accessory apartment permit expires by reason of Subsection **C(8)(a)** or **(b)** above, the accessory apartment shall be vacated and shall not again be occupied unless and until a new initial accessory apartment permit is applied for and issued by the Zoning Official.
- (10) Every application for an initial or renewal accessory apartment permit shall be made upon a form provided by the Zoning Officer and shall be accompanied by the fee required by Part 6, Fees and Deposits. The application shall require the name of each member of the family who will occupy the accessory apartment as well as details of the relationship between any family member and the owner-occupant or the tenant of the dwelling which entitles the family to occupy the accessory apartment.
- (11) Prior to the issuance of any initial accessory apartment permit, the owner-occupant of the dwelling or, in the event that the dwelling is leased, the owner and tenant of the dwelling shall execute an accessory apartment occupancy agreement with the Township in recordable form which shall provide that the accessory apartment shall be occupied only in accordance with the provisions of a currently valid accessory apartment permit and that the Township may take appropriate legal action to enforce the provisions of the agreement.
- (12) Any dwelling in which an accessory apartment is located in compliance with the provisions of this Subsection **C** shall be considered a single-family dwelling for all purposes, notwithstanding the existence of the accessory apartment, use of the accessory apartment being limited by the provisions of this subsection and incidental to the single-family residential use of the dwelling.
- (13) Violations and penalties. The foregoing shall be enforced by the Zoning Officer. See § **113-220** of this chapter.
- D. Accessory uses on the same lot customarily incidental to the principal residential use, such as garages, swimming pools, greenhouses, the keeping of fowl and livestock and recreational vehicles are subject to the limitations set forth in Subsections **G**, **H**, and **L** of this section.
[Amended 6-4-2008 by Ord. No. 2008-9; 8-17-2021 by Ord. No. 2021-03]
- E. Where cluster development takes place in the R-2, R-3, R-5 or R-10 Zones, recreational and conservation uses in common open areas, on a nonprofit basis, serving and supporting the residential use to which they relate.
- F. A farm stand or building containing a retail display area is permitted for the sale of agricultural products, provided that:
- (1) Any building or farm stand from which agricultural or horticultural products will be offered for sale shall be located on a lot that is farmland assessed and is part of a commercial farm operation within the Township or an adjoining municipality, except as provided for by Subsection **F(17)** below.
[Amended 6-4-2008 by Ord. No. 2008-9]
 - (2) The outdoor display of retail products is permitted, provided that:
 - (a) No outdoor display area shall be permitted within 60 feet of a street right-of-way, except that the outdoor display area of a farm stand may be permitted within 30 feet of a street line.
 - (b) The outdoor display shall be located a minimum of 100 feet from any side or rear property line.
 - (c) The area shall be adequately screened from neighboring residences.
 - (3) A farm stand shall not be fully enclosed.
 - (a) The portion of the farm stand utilized for retail display shall be open to the air on at least one wall during business hours.
 - (b) The farm stand shall not be heated either with a permanent or portable heating system.
 - (c) Within the farm stand, an area may be fully enclosed to provide area for the preparation and/or storage of products offered for sale.
 - (d) A farm stand may not be permitted within 30 feet of a street line.
 - (4) Maximum building height shall be regulated by Schedule I of this Part 5^[3], except that a farm stand shall not exceed 20 feet in height or contain more than 1 1/2 stories.
[3] *Editor's Note: Schedule I is included at the end of this chapter.*
 - (5) The following standards shall apply:
 - (a) A building containing a retail display area, including farm stands, shall not be located within 100 feet of any side or rear lot line.
 - (b) A building containing a retail display area shall not be located closer to a street line than twice the required minimum front yard setback for that zone, except in the case of properties fronting Route 206, which shall comply with Footnote 1 of Schedule I of this Part 5.
 - (c) A building shall not contain a retail sales area greater than 1,500 square feet.
 - (d) The maximum allowed improved lot coverage shall not exceed 10% of the lot area.
 - (6) Notwithstanding other sections of this Part 5, no building containing a retail display area or a farm stand of more than 150 square feet of gross floor area shall be erected within a two-hundred-foot radius of any existing residence located on an adjoining property.
 - (7) The parking area shall conform with the following:
 - (a) The parking area shall be of sufficient size to accommodate all patrons. No parking shall be permitted within a public road right-of-way. Parking must be set back a minimum of 75 feet from the road right-of-way.
 - (b) No portion of a parking area shall be closer than 100 feet to the nearest side and rear property line.
 - (c) No parking area shall be located within a two-hundred-foot radius of an existing residence located on adjoining property.
 - (d) The parking area surface shall consist of three-fourths-inch roadstone, not less than four inches thick. Parking for sale periods of short duration shall be permitted on grassed areas.
 - (e) The parking area shall be graded for adequate drainage without erosion. Surface water runoff shall not cause a nuisance or damage to adjacent properties or public roads.
 - (8) Driveways shall conform with the following:

- (a) No driveway entrance shall be closer than 200 feet from any street intersection, and all entrances shall have adequate sight distance so as to conform with generally accepted safety standards.
- (b) No driveway shall be closer to the side yard than 75 feet.
- (9) The operation of the retail activities must not result in traffic congestion on abutting streets or endanger the public by interfering with the safe and convenient flow of traffic on the public streets.
- (10) Outdoor lighting shall be designed to provide for safety and security without illuminating adjacent properties. There shall be no glare when observed from adjacent properties or public roads. Nothing herein shall be construed to require outdoor lighting.
- (11) There shall be no loudspeakers or playing of amplified music that is audible beyond the limits of the property line.
- (12) No sales shall occur before 6:30 a.m. nor later than 9:00 p.m. Adequate lighting is to be installed.
- (13) Any agricultural or horticultural product grown and processed on the farm operation may be offered for sale. In addition, fresh fruits, fresh vegetables, cider, honey, jams and jelly, and cut evergreen trees grown and processed off-site may be sold. Retail activities such as the preparation and sale of fast food or the sale of products associated with convenience stores are expressly prohibited. It is the primary intent of these regulations to provide farmers with an outlet to sell their agricultural products and to make those farm products accessible to the public for purchase.
- (14) Minor site plan approval shall be required only for the construction, expansion or change of use of any building or permanent structure (meaning a building with a foundation) in excess of 700 square feet where such building or structure offers public access. Public access shall not include invitees of the owners of the property, or vendors or persons delivering and/or providing goods and service. Where larger farm buildings contain specific areas that are devoted to general public access, as well as other areas that are separated by a permanent wall and are not accessible to the general public, the latter areas shall not be included in the calculation of square footage. The intent of this filing requirement is to demonstrate compliance with this subsection. Map requirements for minor site plans which do not address the compliance issue may be waived by the Planning Board.
[Amended 7-8-2021 by Ord. No. 2021-10]
- (15) Not more than one building containing a retail display area or detached farm stand shall be permitted on a lot.
- (16) If the commercial agricultural activities are discontinued, the retail display area or farm stand, and the associated parking area, shall be reduced or removed accordingly within 180 days.
- (17) The retail sales of farm products may be permitted on lots of less than five acres and which are not farmland assessed or operated as a commercial farm, provided that:
 - (a) The products provided for sale are grown on the property.
 - (b) No building containing a permanent retail display area or farm stand is constructed and all temporary display area or farm stands are removed from public view when not utilized for the display of merchandise.
 - (c) The retail display area within a building or a farm stand shall not exceed 150 square feet of gross floor area.
 - (d) Any building containing a retail display area or farm stand shall not be located within 50 feet of a side or rear property line nor within a street right-of-way.
[Amended 7-8-2021 by Ord. No. 2021-10]
 - (e) The operation of the retail activities does not result in traffic congestion on abutting streets or endanger the public by interfering with the safe and convenient flow of traffic on the public streets. If located on a street where parking is not permitted, a safe location for customer parking must be available.
[Amended 7-8-2021 by Ord. No. 2021-10]
 - (f) The operation of retail activities will be limited, as defined in Subsection **F(11), (12) and (13)**.
[Amended 6-4-2008 by Ord. No. 2008-9]
- (18) For properties that are subject to a preservation easement held by the Morris County Agriculture Development Board, the New Jersey Department of Agriculture, the New Jersey Department of environmental protection, or the United States Department of Agriculture, or other governmental entity, the applicant shall affirm that to the best of his/her knowledge or ability that the proposed development or its intended use will not violate the terms of such easement, deed restriction, or similar encumbrance affecting the property.
[Added 7-8-2021 by Ord. No. 2021-10]

G. The keeping of fowl, livestock and horses is permitted, provided:

[Amended 3-1-2005; 6-4-2008 by Ord. No. 2008-9]

- (1) The number of horses, cattle, sheep, goats and pigs on any one lot does not exceed one animal per unimproved acre in the case of horses and cattle and five per unimproved acre in the case of sheep, goats and pigs. All fowl regardless of the number shall be housed within an enclosed building or a fenced yard.
- (2) Any buildings used in the keeping of fowl and livestock shall be subject to the yard requirements for accessory buildings as set forth in Schedule I^[4] of this chapter.
[4] Editor's Note: Schedule I is included at the end of this chapter.
- (3) Adequate fencing to contain all livestock shall be provided.
- (4) The keeping of horses shall conform to the following regulations and standards:
 - (a) The keeping of horses shall be limited to the following activities:
 - [1] The riding, boarding, breeding, caring, training, buying, selling and brokering of horses;
 - [2] The training of horse riders and horse handlers; and
 - [3] Medical care and treatment of horses which are located at the equestrian farm by reason of ownership or by reason of being regularly boarded thereon.
 - (b) Equestrian events shall be permitted as an accessory use subject to the following terms and conditions:

- [1] Permitted activities, structures and buildings shall be as follows: Horse training and other equine-related activities; tents, portable restroom facilities and other structures for temporary event use; equine-related jumps, obstacles or other event appurtenances; and off-street parking.
 - [2] All equestrian events and activities including the provision of adequate off-street parking shall be confined to the property upon which the events are being held.
 - [3] Horse shows and horse competitions are prohibited.
- (c) Equine-related buildings and temporary structures shall be permitted, provided:
- [1] The total floor space of equine-related buildings, structures and arenas shall not exceed 3 1/2% of the total area of the lot. Floor space shall not include loft space utilized for animal feed or hay storage.
 - [2] One indoor arena, not to exceed 20,000 square feet, shall be permitted provided that no indoor arena shall be located within 100 feet of a residence on an abutting property or the minimum required yard for a principal building, whichever is greater.
 - [3] The square footage of equine-related structures shall be calculated by measuring the outside dimension of the equine structure.
 - [4] The height of equine-related structures shall conform to the zone district within which it is located.
 - [5] Equine-related buildings and structures other than an indoor arena shall be located on a lot in conformance with the zone district requirements for accessory uses.
 - [6] Portable restroom facilities shall not be located within 100 feet of a residence and shall be removed from the site within 48 hours of the conclusion of an equestrian event.
- (5) Outdoor lighting shall be designed to provide for safety and security without illuminating adjacent properties subject to the design and performance standards set forth in Part 9, Outdoor Lighting, of this chapter. Nothing herein shall be construed to require outdoor lighting.
- (6) Off-street parking shall be provided to accommodate all patrons. On-street parking or parking within a public street right-of-way is prohibited.
- (7) Manure shall be managed in conformance with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide, Rutgers Cooperative Extension (RCE) fact sheets on horse manure management and RCE "AMPS for Commercial Equine Operations."
- H. A greenhouse of 500 square feet or less is permitted as an accessory use to a principal residential structure located on a lot. A greenhouse totaling more than 500 square feet in total floor area or a greenhouse or greenhouses that are not accessory to a residential structure shall be permitted on a lot, provided such greenhouse or greenhouses shall be located on a lot of 10 acres or greater and set back a minimum of 100 feet from a residence on an abutting property or the minimum required yard for a principal building, whichever is greater.
[Amended 6-4-2008 by Ord. No. 2008-9]
- I. Nonprofit bird sanctuaries and wildlife preserves.
- J. Home occupation or professional business office of a resident occupant, provided that:
- (1) Such occupation or office is conducted entirely within the completely enclosed dwelling and is clearly an accessory use to the principal use of the premises for living purposes.
 - (2) Such occupation or office does not change the external appearance of the dwelling or premises from residential.
 - (3) There shall be no illuminating devices, and a residence used for home occupation shall be limited to one sign, either a home occupation or nameplate sign, not to exceed two square feet in size.
 - (4) Not over 1/3 of the floor area of one floor shall be used for such occupation or office. For the purpose of this subsection, a basement and a cellar shall each be considered a floor.
 - (5) Not more than one person not a member of the resident family is engaged in such occupation or office.
 - (6) No material, equipment or commercial vehicle related to such occupation of office is stored or parked, except in a fully enclosed building.
 - (7) Not more than one dwelling on a lot may be used for such occupation or office.
 - (8) There shall be no significantly greater external evidence of noise, light, electronic interference or activity, pedestrian or vehicular traffic or parking, or the like from such occupation or office beyond that which would be incident to the use of the premises solely for a one-family residence.
 - (9) No stock-in-trade is kept at the premises.
 - (10) There is in effect for the particular occupation or professional business office a valid home business permit.
- K. Agricultural labor housing provided that:
[Added 6-4-2008 by Ord. No. 2008-8]
- (1) The agricultural labor housing is part of a commercial farm and located on a lot of at least 10 acres in size.
 - (2) All agricultural labor housing units shall be utilized for laborers employed by the agricultural operation where the housing is located and their dependents. The agricultural labor housing unit shall not be used as a rental property.
 - (3) All agricultural labor housing facilities shall be located not less than 100 feet from any street line, not less than 300 feet from any adjoining property line, not less than 500 feet from any residential dwelling located on an adjacent property and not more than 2,000 feet from the lot's principal dwelling, except that an existing building not meeting the setback requirements set forth in Subsection **K(3)** may be utilized for such labor housing provided it is not enlarged or located within 500 feet of a residential dwelling located on an adjacent property.
 - (4) Agricultural labor housing facilities shall comply with all applicable regulations of the State of New Jersey, the U.S. Occupational Safety and Health Administration and any other governmental agency having competent jurisdiction.
 - (5) All said facilities shall be maintained in good structural and mechanical condition. Whenever a structure is deemed to be structurally unsafe or dilapidated, the Township Construction Official shall order the owner, in writing, to remove or repair the structure.
 - (6) Site plan review and approval is required for agricultural labor housing. As part of site plan review, the Board shall determine or require that adequate off-street parking for said facilities is provided and that access to said facilities is provided over properly designed and maintained driveways or farm roads.

- (7) Agricultural labor housing shall have access to a public roadway, and any access roadway or driveway shall be constructed and maintained in a safe, sufficient manner to enable vehicles, including emergency vehicles, to reach said housing. Areas shall be provided for the parking of vehicles owned by residents of said housing in close proximity thereto.
 - (8) All living quarters shall consist of sleeping quarters with associated bathroom and kitchen facilities. A minimum of 200 square feet of living space shall be provided for the first person occupying such space and an additional 100 square feet of living space for each additional person. All such living quarters shall be constructed so as to provide a fire resistance barrier between such living quarters and other portions of any building in which they are located, such barrier to have a fire rating meeting the International Building Code and the International Residential Code for such uses.
 - (9) All occupants of living quarters shall be bona fide employees of a farm(s) located in Chester Township or a family member of a bona fide employee. Such living quarters shall be used or occupied only at such time as the farm management unit is in operation and any use or occupancy at any other time shall constitute a violation of this subsection.
 - (10) A list of the names of all occupants of the living quarters shall be maintained by the owner of the agricultural labor housing and shall be made available for inspection upon request of the Township. The list shall include the employment status of such occupants and if not employed at the farm shall set forth the basis upon which such occupants qualify to reside at the farm, e.g., family member. The information shall be kept current. Failure of the owner of the agricultural labor housing to maintain such information shall result in the revocation of the occupancy permit for such housing.
 - (11) Prior to the issuance of a construction permit for any work related to the creation of agricultural labor housing, the owner of the property shall obtain approval from the Chester Township Board of Health for a subsurface sewage disposal system. The system shall be of a design and capacity determined by the Board of Health to adequately accommodate anticipated wastewater flows.
 - (12) When agricultural labor housing is proposed on permanently preserved farmland, the landowner shall obtain the approval of the Morris County Agriculture Development Board (Morris CADB) and the State Agriculture Development Committee (SADC) if SADC funding was used to purchase the development easement.
 - (13) Agricultural labor housing shall not be used as a residence for the landowner, landowner's spouse, landowners parents, landowner's linear descendants, adopted or natural, landowners spouse's parents or landowners spouse's lineal descendants, adopted or natural.
- L. The parking of recreational vehicles shall be permitted as an accessory use, provided that they are not used for living, sleeping, or housekeeping purposes unless otherwise permitted herein.
[Added 8-17-2021 by Ord. No. 2021-03]
- (1) Any such vehicle shall be owned or leased by a resident of the premises, or a short-term guest of the resident of the premises who may reside in the RV during that time. For the purposes of this section, short-term shall be defined as 60 days within with the caveat that it could be extended to 90 days if the purpose was that the recreational vehicle's use was as a result of construction on the main dwelling of the property.
 - (2) No such vehicle shall be utilized for commercial purposes.
 - (3) Any such vehicle shall be in good working condition, operable, insured, and not abandoned. Vehicles shall also be registered and licensed.
 - (4) In no event shall recreational vehicles used for storage of items not typically associated with the intended use of the vehicle be permitted in residential districts, unless said recreational vehicle meets the definition of a temporary storage container, as defined in § 113-214, which shall be permitted only as provided for and regulated by § 113-237.1 herein.
 - (5) Recreational vehicles may be permitted, on a temporary basis, for residential purposes while repairs are being made to a dwelling damaged by fire or other disaster which has been deemed by the Administrative Officer to be temporary uninhabitable, subject to the issuance of a zoning permit.

[1] *Editor's Note: Schedule I is included at the end of this chapter.*

§ 113-244. Accessory building or structure setbacks.

[Amended 9-3-2002]

- A. The minimum required setback or yard for accessory buildings and structures shall be as specified in Schedule I, Schedule of Area, Yard and Building Requirements, and Schedule II, Schedule of Requirements for Conditional Uses in R-1, R-2, R-3, R-5 and R-10 Zones.^[1]
[1] *Editor's Note: Said schedules are included at the end of this chapter.*
- B. An entranceway shall be permitted at the lot line, but not within the road right-of-way. As part of an entranceway, no pillar or gate shall exceed six feet in height and no wall or fence shall exceed four feet in height. Gates across a driveway shall be at least 25 feet from the street line and shall not open toward the street.
- C. Nothing contained herein shall change the regulations in this Part 5 governing pillars, gates, walls or fences not used in entranceways.

§ 113-245. Usable lot area.

[Added 3-5-2002]

- A. A usable lot area shall be shown for each lot. It shall be formed within the required building envelope and contain an area square in shape and at least 100 feet on each side. Such area shall be free of:
 - (1) Easements that restrict development, including but not limited to easements for conservation, tree protection, stormwater detention/retention, steep slopes, utilities, and access; and
 - (2) Wetlands and their transition areas and open bodies of water or courses, as approved by NJDEP; and
 - (3) Special flood hazard areas (FEMA-designated one-hundred-year special flood hazard areas).
- B. A lot with a one-hundred-foot square within the building envelope, which is not free of such areas, and was lawfully approved and created prior to adoption of this section, is to be considered a conforming lot with respect to this provision.
- C. The principal building shall be constructed within the usable lot area.

[1] *Editor's Note: Former § 113-245, Open space and recreational facilities, was repealed 3-5-2002.*