

ARTICLE XXII
Use District Regulations: Business 3 District

§ 68-301. Legislative intent. [Amended 7-3-1973¹; 12-18-1979; 1-20-1987; 3-19-1991; 4-8-1997; 4-21-1998; 3-23-1999; 4-5-2005; 8-14-2007; 5-28-2008; 6-8-2010; 12-17-2019; 7-20-2021; 7-12-2022]

These provisions are intended to provide for appropriate minimum requirements for large-scale retail and automobile-dependent uses, including, but not limited to, retail fuel stations, motor vehicle dealerships, and fast-food restaurants. Said properties shall be large enough to accommodate any proposed outdoor storage, outside retail sales, and vehicle queuing as necessary along with other minimum site requirements. Sites are most appropriately located on arterial highways, at signalized intersections, and reasonably located away from single-family dwellings and schools.

§ 68-301.1. Permitted uses. [Added 8-14-2007; amended 7-12-2022]

In a Business 3 District, no building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be so erected or altered, except for one or more of the following purposes:

- A. Museum.
- B. Accessory restaurant, as defined in § 68-3.
- C. Store, office, medical office, delicatessen, bank, broadcasting studio, and community building. **[Amended 3-14-2023]**
- D. The operation of any retail business will be permitted which is allowed in Business 1 and Business 2 Districts, except as otherwise provided herein.
- E. Child day-care center.
- F. Personal service establishments, including, but not limited to, barbershop, beauty parlor, shoe repair shop.
- G. Craft trade shop.
- H. Nonprofit fraternity or lodge.
- I. Historical or memorial monument.
- J. Church or other similar place of worship or parish house, provided that a minimum buffer area of 25 feet in width in accordance with Town standards is provided and maintained adjacent to any residential use or zone and a site plan is submitted to and approved by the Planning Board or its designee indicating compliance with all applicable land development standards.
- K. Automobile parking field, provided that a site plan is submitted to and approved by the Planning Board or its designee indicating compliance with all Town standards.
- L. Health club.
- M. Veterinarian, provided that a minimum setback of 50 feet is maintained for any outside activity and that buffers and fencing are maintained in accordance with Town standards.

¹ Editor's Note: This amendment is to take effect and be in force on and after 7-21-1973.

- N. Public school.
- O. Private or parochial school, including preschool programs, elementary and secondary schools, vocational schools and other non-degree-granting schools, including self-defense, dance, swimming, gymnastics and similar instruction/programs, except those associated with manufacturing or truck driving.
- P. Restaurant, minor.
- Q. Municipal building or use.
- R. Laundromat. **[Added 3-14-2023]**

§ 68-302. Uses permitted by special permit from Town Board after public hearing.

- A. Outdoor storage of primary goods accessory to a permitted retail use. The outdoor and overnight parking of vehicles, including construction equipment, shall not be permitted in conjunction with this special permit. Outdoor storage shall be screened from public view of any right-of-way at the direction of the Town Board. **[Amended 6-8-2010; 3-14-2023]**
- B. (Reserved)²
- C. Gasoline service station. (See Article XXVII.)³ **[Added 12-12-2006]**
- D. (Reserved)⁴
- E. ⁵ University or college dormitory or similar residential use. **[Added 3-23-1999]**
- F. Motor vehicle dealership.⁶ **[Added 12-12-2006]**
- G. Restaurant, fast-food.⁷ **[Added 12-12-2006]**
- H. Animal exhibit, display or farm when conducted as a commercial attraction.⁸ **[Added 12-12-2006]**
- I. Regional theater, subject to a determination by the Planning Board and Town Board that the site is in conformance with the following minimum site conditions:⁹ **[Added 12-12-2006]**
 - (1) The site maintains a minimum lot area of 25 acres.
 - (2) The theater use shall be a component of a mixed-use development consisting of retail, food service and/or public assembly uses.
 - (3) A site plan indicating public amenities such as plazas, open space, arcades, walkways, fountains and/or similar features is submitted to and approved by the Planning Board.

2. Editor's Note: Former Subsection B, which designated outdoor displays as permitted uses by special permit from the Town Board after a public hearing, was repealed 6-8-2010.

3. Editor's Note: Former Subsection C, Supply house and wholesale establishment, was repealed 9-12-2000.

4. Editor's Note: Former Subsection D, regarding car washes, was repealed 12-17-2019.

5. Editor's Note: Former Subsection E, which listed automobile repair as a use permitted by special permit, was repealed 4-5-1977, effective 4-23-1977.

6. Editor's Note: Former Subsection F, which listed public garage, was repealed 4-8-1997.

7. Editor's Note: Former Subsection G, which listed automobile laundry or car wash, was repealed 4-8-1997.

8. Editor's Note: Former Subsection H, Printing plant, was repealed 9-12-2000.

9. Editor's Note: Former Subsection I, Lithographic establishment, was repealed 9-12-2000.

- J. Public transportation terminal facility, including airports.
- K. Lumberyard or building materials establishment.
- L. Taxi station.¹⁰ [Added 12-12-2006]
- M. Racetracks or exhibition tracks of any kind.¹¹ [Added 12-12-2006]
- N. Commercial boat storage, indoor or outdoor.¹² [Added 12-12-2006]
- O. Commercial shipyard or boat repair yard.¹³ [Added 12-12-2006]
- P. Ferry terminal, slip, landing or facility.¹⁴ [Added 12-12-2006]
- Q. (Reserved)¹⁵
- R. Marina or marine wharf.¹⁶ [Added 12-12-2006]
- S. Farmers' market, provided that the following minimum requirements are complied with:¹⁷ [Added 12-12-2006]
 - (1) A lot area of not less than 15 acres shall be provided.
 - (2) No vending or selling of produce, merchandise, wares, foods or other materials shall be permitted outside any building or structure used or intended to be used as farmers' market without specific approval of the Town Board.
 - (3) Adequate off-street parking shall be provided on a suitably paved area for such use, in a ratio of not less than four square feet of parking space for each one square foot of usable floor area.
 - (4) No structure shall be erected or used for the operation of any farmers' market unless it shall conform in all respects with the Building Code of the Town of Islip.
 - (5) The use of a public address system or systems for the purpose of vending any produce, wares or other materials is hereby forbidden.
- T. Psychiatric clinics or similar health-related facilities, excluding overnight residential treatment facilities. [Added 4-8-1997]
- U. (Reserved)¹⁸
- V. (Reserved)¹⁹

10. Editor's Note: Former Subsection L, which listed automobile muffler or brake repair or installation, was repealed 4-8-1997.

11. Editor's Note: Former Subsection M, which listed automobile radiator repair or installation, was repealed 4-8-1997.

12. Editor's Note: Former Subsection N, Assembly and social recreation hall or dance hall, as amended, was repealed 9-12-2000.

13. Editor's Note: Former Subsection O, which designated hotels as a use permitted by special permit from the Town Board after public hearing, added 12-7-1971, repealed 9-16-1986.

14. Editor's Note: Former Subsection P, which designated motels or boatels as a special use permitted by special permit from the Town Board after public hearing, added 12-7-1971 was repealed 9-16-1986.

15. Editor's Note: Former Subsection Q, regarding boardinghouses or lodging houses, was repealed 12-17-2019 and 9-15-2020.

16. Editor's Note: Former Subsection R, Restaurant, added 6-5-1973, as amended, was repealed 9-12-2000.

17. Editor's Note: Former Subsection S, listing convenience market, added 9-16-1986, was repealed 4-8-1997.

18. Editor's Note: Former Subsection U, regarding kennels for dogs and cats requiring a special permit, added 4-8-1997, was repealed 2-28-2017.

19. Editor's Note: Former Subsection V, regarding bars, taverns and nightclubs, added 4-8-1997, was repealed 10-25-2011, and former Subsection W, regarding bars, taverns and nightclubs, added 9-12-2000, and which immediately followed this subsection, was repealed 9-11-2001.

§ 68-302.1. Uses permitted by special permit from Planning Board after public hearing. [Added 11-14-1995; amended 4-8-1997; 4-21-1998; 3-23-1999; 9-12-2000]

- A. ²⁰ Vehicle fleet parking field for registered vehicles, including but not limited to ambulettes, buses, livery vehicles, and taxis. Tractor trailers, box trucks, pickup trucks, construction vehicles, ice cream/food trucks are expressly prohibited. The use of the parking field shall be for active vehicles and shall not be used for vehicle storage. At no time shall any vehicle be parked in such a position as to obstruct the free ingress and egress of vehicles. All such vehicle parking fields shall be completely screened from view with fencing, landscaping, and berms at the direction of the Planning Board. **[Added 7-20-2021]**
- B. Billiard hall.
- C. Vehicle repair shop, except as otherwise provided herein.
- D. Convenience market, subject to the lot having a minimum of 20,000 square feet. **[Amended 6-8-2010]**
- E. Outside seating as an accessory use to a permitted bar, tavern, nightclub, restaurant or minor restaurant use, provided the site otherwise complies with all applicable Code requirements and subject to the following requirements: **[Amended 9-11-2001]**
 - (1) Outside seating shall be permitted for dining purposes only. The service and consumption of alcohol shall only be permitted as clearly accessory and incidental to the service of food. No outside bar shall be permitted. In no case shall the service of alcohol be permitted off site.
 - (2) Outdoor loudspeakers, exterior live entertainment or dancing of any kind shall not be permitted.
 - (3) Outside seating shall only be permitted to operate between the hours of 8:00 a.m. and 11:00 p.m.
 - (4) Outside seating shall be permitted on the subject parcel or on the sidewalk area adjacent to a dedicated roadway, provided it does not encroach onto the sidewalk by more than 50% and further provided there is a minimum unobstructed sidewalk area of eight feet.
- F. Game room.
- G. Private or parochial college or university excluding dormitories and other college or university residential uses.
- H. Restaurant.
- I. Assembly and social recreation hall or dance hall.
- J. A walk-up counter or service window as an accessory use to a restaurant or minor restaurant use, provided the site otherwise complies with all applicable code requirements and subject to the following requirements: **[Added 9-11-2001]**
 - (1) A walk-up counter or service window shall be permitted for food purposes only. Service of alcoholic beverages from a walk-up counter or service window shall not be permitted.
 - (2) Outdoor loudspeakers, exterior live entertainment or dancing of any kind shall not be permitted.

20. Editor's Note: Former Subsection A, regarding minor restaurants, was repealed 9-15-2020.

- (3) A walk-up counter or service window shall only be permitted to operate between the hours of 8:00 a.m. and 11:00 p.m.
 - (4) A minimum unobstructed sidewalk area of at least eight feet shall be maintained in front of any walk-up counter or service window.
- K. Taxi office. **[Added 1-14-2003]**
 - L. Any single-user freestanding retail use in excess of 10,000 square feet of gross floor area. **[Added 4-5-2005]**
 - M. A drive-through window for a bank, as an accessory to said use, subject to the lot having a minimum of 35,000 square feet. **[Added 4-5-2005; amended 12-12-2006; 5-28-2008; 6-8-2010]**
 - N. Animal care center.²¹ **[Added 2-28-2017]**
 - O. Outdoor recreation use, including mini-golf, court games, and field sports. Outdoor batting cages and go-kart uses are not allowed as part of this special permit. **[Added 12-2-2008]**
 - P. Any outside display, as defined in § 68-3, exclusive of motor vehicles. **[Added 6-8-2010]**
 - Q. A drive-through window for a pharmacy facility, as an accessory to said use, subject to the lot having a minimum of 35,000 square feet. **[Added 6-8-2010]**
 - R. Indoor recreational use. **[Added 6-8-2010]**
 - S. (Reserved)²²
 - T. (Reserved)²³
 - U. Ambulette office, including the outside storage of ambulette vans, provided that the following criteria are met: **[Added 10-13-2010]**
 - (1) Ambulette van(s) shall not exceed 9,000 pounds in unladen weight or exceed 19 feet in length.
 - (2) No ambulette vans are located within any front yard or second front yard unless hidden or screened from view from any adjoining residential zone or use or from any adjacent right-of-way at the direction of the Planning Board.
 - (3) The number of parked ambulette vans and area for their parking are clearly shown on, and limited by, an approved site plan. The Planning Board shall determine the maximum number of permitted ambulette vans on a property. At no time may the number of parked ambulette vans exceed the number permitted by the Planning Board. Ambulette van parking stalls shall not count towards the overall parking calculation for the entire property.
 - (4) All ambulette vans shall have a current registration and inspection from the New York State Department of Motor Vehicles, shall be licensed by the New York State Department of Transportation and shall be fully operational.
 - (5) Repair, other than routine maintenance, of any ambulette van shall be prohibited, unless a special permit is obtained by the Planning Board.

21. Editor's Note: Former Subsection N, regarding spray booths, added 6-12-2007, as amended, was repealed 6-19-2012.

22. Editor's Note: Former Subsection S, regarding single-family detached dwellings, was repealed 12-17-2019.

23. Editor's Note: Former Subsection T, regarding two-family detached dwellings, was repealed 12-17-2019.

- V. Bar, tavern, or nightclub. [Added 10-25-2011]
- W. Car wash (motor vehicle wash). [Added 12-17-2019]

§ 68-302.2. Uses permitted after review and approval of Planning Board. [Added 9-12-2000]

- A. The following uses are permitted after the review and approval of the Planning Board without complying with the notice requirements of § 68-32, subject to compliance with the following criteria: [Amended 12-17-2019]
 - (1) A parking relaxation of no greater than 20%.
 - (2) A landscaping relaxation of no greater than 20%.
 - (3) Approval will not result in any on- or off-site traffic impacts, as determined by the Planning Board.
 - (4) The use is consistent with the spirit and intent of the Town Code and Comprehensive Plan.
 - (5) The site is not adjacent to any residential use or zone.
- B. Uses.
 - (1) (Reserved)²⁴
 - (2) Vehicle repair shop.
 - (3) Outside seating as an accessory use to a permitted bar, tavern, nightclub, restaurant or minor restaurant use, provided the site otherwise complies with the provisions of Subsection A of this section and subject to the requirements set forth in § 68-302.1E of this article. [Amended 9-11-2001; 4-5-2005]
 - (4) A walk-up counter or service window as an accessory use to a restaurant or minor restaurant use, provided the site otherwise complies with the provisions of Subsection A of this section and subject to the requirements set forth in § 68-302.1J of this article. [Added 9-11-2001; 4-5-2005]

§ 68-303. (Reserved)²⁵

§ 68-304. Uses permitted as special exception by Board of Appeals after public hearing. [Amended 4-8-1997; 4-21-1998; 12-12-2006]

- A. Gambling vessel.

§ 68-305. Accessory uses.

- A. The following accessory uses shall be permitted when located on the same lot with the authorized use:
 - (1) Signs as regulated and permitted in Article XXIX.

24. Editor's Note: Former Subsection B(1), regarding minor restaurants, was repealed 12-17-2019.

25. Editor's Note: Former § 68-303, Uses permitted in B3 District only, and in no other business or industrial district, by special permit from Town Board after public hearing, as amended, was repealed 12-12-2006.

- (2) Other customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business.
 - (3) A single live-work unit as an accessory use to a permitted marina. **[Added 8-19-1980; amended 12-17-2019]**
 - (4) Spray booth when operated as an accessory to a primary permitted use, provided the booth has received a permit from the New York State Department of Environmental Conservation or evidence is submitted demonstrating exemption for said permit. **[Added 5-28-2008; amended 6-19-2012]**
 - (5) Minor restaurant accessory to a retail use of no less than 25,000 square feet in gross floor area, subject to the conditions in § 68-274. **[Added 2-28-2017]**
 - (6) The sale and filling of propane exchange tanks. **[Added 3-14-2023]**
- B. Except with regard to construction on property principally used for agriculture, any accessory building shall be located on the same lot with the principal building, and no accessory building shall be constructed on a lot until the construction of the main building has actually been commenced, and no accessory building shall be used unless the main building on the lot is completed and used.
 - C. Wherever a use has been authorized by a special permit pursuant to §§ 68-302 and 68-303 or special exception pursuant to § 68-304, no accessory use shall be permitted unless the same shall have been specifically authorized by the Board which authorized the use.

§ 68-305.1. Prohibited uses. [Added 4-9-1997]

All uses not expressly permitted are prohibited.

§ 68-306. Height.

- A. Buildings and structures.
 - (1) In a B3 District, no building or structure shall be erected or altered to a height in excess of 35 feet.²⁶
- B. (Reserved)²⁷
- C. Accessory buildings. **[Amended 11-1-1988; 4-5-2005]**
 - (1) Accessory structures shall not exceed 18 feet in height.
- D. Flagpoles shall not exceed 35 feet in height. **[Added 9-11-2001]**

§ 68-307. Percentage of lot occupancy.

- A. The total building area, including all buildings, shall not exceed an FAR of 0.25. **[Amended 11-1-1988]**
- B. (Reserved)²⁸

26. Editor's Note: Former Subsection A(2), Exception, which immediately following this subsection, was repealed 11-1-1988.

27. Editor's Note: Former Subsection B, Dwellings, was repealed 9-15-2020.

28. Editor's Note: Former Subsection B, regarding motion picture theaters, as added 3-19-1991 and amended 4-8-1997, was repealed 3-23-1999.

- C. (Reserved)²⁹
- D. (Reserved)³⁰
- E. Accessory buildings shall not occupy more than 25% of the total lot area nor more than 25% of the total rear yard area.

§ 68-308. Area density.

- A. (Reserved)³¹
- B. (Reserved)³²
- C. The minimum required plot area for business uses, shall be 20,000 square feet except as otherwise provided herein. **[Amended 11-1-1988; 9-11-2001; 12-17-2019]**
- D. (Reserved)³³
- E. The minimum required plot area for nonprofit fraternity or lodge, church or other similar place of worship or parish house, public school, private or parochial school, university or college dormitory, public transportation terminal facility, psychiatric clinics or similar health-related facilities, animal care center, and private or parochial college or university shall be 20,000 square feet. **[Amended 9-11-2001; 7-20-2021]**
- F. The minimum required plot area for a car wash (motor vehicle wash), or fast-food restaurant shall be 40,000 square feet. **[Added 4-8-1997; amended 12-17-2019]**
- G. The minimum required plot area for a vehicle repair shop shall be 20,000 square feet. **[Added 4-8-1997]**
- H. The minimum required plot area for a regional theater shall be 25 acres. **[Added 4-8-1997]**
- I. The minimum required plot area for a marina shall be 80,000 square feet. **[Added 9-11-2001]**
- J. The minimum required plot area for a lumberyard or building materials establishment shall be 40,000 square feet. **[Added 9-11-2001]**
- K. The minimum required plot area for a motor vehicle dealership shall be 160,000 square feet. **[Added 12-17-2019]**

§ 68-309. Living area. [Amended 4-5-2005]

The minimum living area requirements shall be the same as those required in the Business District.

§ 68-310. Width of lot.

- A. Minimum requirements.

29. Editor's Note: Former Subsection C, regarding other permitted buildings, was repealed 11-1-1988.

30. Editor's Note: Former Subsection D, regarding two-family dwellings, was repealed 11-1-1988.

31. Editor's Note: Former Subsection A, which provided for the minimum required plot area for a single-family detached dwelling or two-family dwelling, was repealed 9-15-2020.

32. Editor's Note: Former Subsection B, which provided for a minimum plot area for two-family dwellings, was repealed 9-11-2001.

33. Editor's Note: Former Subsection D, which provided for the minimum required lot area for a lodging house or boardinghouse, was repealed 9-15-2020.

- (1) (Reserved)³⁴
- (2) The minimum width of lot for all permitted buildings shall be 65 feet, except as otherwise provided herein.
- (3) (Reserved)³⁵
- (4) The minimum width of lot for a community building, church or other similar place of worship or parish house shall be 100 feet throughout. **[Amended 4-8-1997]**
- (5) The minimum width of lot for all uses permitted pursuant to §§ 68-302, 68-303 and 68-304 shall be 100 feet throughout.
- (6) The minimum width of lot for all other permitted uses shall be 100 feet throughout.
- (7) The minimum width of lot for a regional theater shall be 500 feet.³⁶ **[Added 4-8-1997]**

§ 68-311. Front yard.

- A. Main building. All buildings, except one-family and two-family residences, hereafter erected, shall have a minimum front yard setback of 25 feet from all streets, unless arterial highway setback is greater (see Article XXXII), and except as otherwise provided (see § 68-311F).
- B. Corner lots. All main buildings hereafter erected on a corner lot shall have a front yard facing the side street. This front yard shall be at least 15 feet except as otherwise provided herein, unless arterial highway setback is greater (see Article XXXII).
- C. (Reserved)³⁷
- D. Other permitted buildings. Buildings permitted in a B3 District shall have a minimum front yard setback of 25 feet from all streets, unless arterial highway setback is greater (see Article XXXII).
- E. Accessory buildings. Accessory buildings in a B3 District shall have a minimum setback of 35 feet from all streets, unless arterial highway setback is greater (see Article XXXII).
- F. Front yard transition. Wherever any side yard of a plot in a B3 District abuts the side yard of a plot in a residence district, the minimum front yard setback for the building on the plot in a B3 District shall be the minimum requirement for the front yard setback in the residence district.
- G. (Reserved)³⁸

§ 68-312. Side yards.

- A. All main and accessory buildings hereafter erected shall have a side yard along each lot line other than a street or a rear line. Side yards shall be 10 feet, except where a greater side yard shall be required to accomplish side yard transition. **[Amended 2-28-2017]**
- B. Side yard transition. Wherever any side yard of a plot in a Business 3 District abuts a plot or plots in

34. Editor's Note: Former Subsection A(1), which provided for the minimum width of lot for a single-family detached dwelling, a two-family detached dwelling, lodging house or boardinghouse, was repealed 9-15-2020.

35. Editor's Note: Former Subsection A(3), regarding minimum lot width for a hotel, motel or boathouse, was repealed 5-15-2018.

36. Editor's Note: Former Subsection B, Separate ownership, which immediately followed, was repealed 9-15-2020.

37. Editor's Note: Former Subsection C, One-family and two-family dwellings, was repealed 9-15-2020.

38. Editor's Note: Former Subsection G, Display setback, added 4-8-1997, was repealed 12-9-1997.

one or more use districts other than B3, then the minimum required side yard for all buildings in a B3 District shall be the more restrictive side yard so abutted.

§ 68-313. Rear yard.

- A. Main buildings. All main buildings hereafter erected shall have a minimum rear yard of not less than 10 feet, except where a greater depth shall be required to accomplish rear yard transition.
- B. Rear yard transition. Whenever any rear yard of a plot in a B3 District abuts a plot or plots in one or more residence use districts, the minimum required rear yard of all main or accessory buildings in a B3 District shall be 35 feet. **[Amended 7-20-2021]**
- C. Accessory buildings.
 - (1) Accessory buildings hereafter erected shall have a minimum rear yard of not less than 10 feet, except where a greater depth shall be required to accomplish rear yard transition.
 - (2) Accessory buildings shall occupy not more than 25% of the rear yard area.

§ 68-314. Permitted encroachments.

No encroachments shall be permitted.

§ 68-315. Exterior site improvements and parking. [Amended 4-8-1997]

- A. Parking, curbing, sidewalks, drainage, screen planting, buffers, street trees, dumpster enclosures, lighting, public improvements and all other applicable requirements of the Town Code and the Subdivision and Land Development Regulations shall be maintained unless otherwise modified or waived by the Planning Board or Town Board.
- B. The exterior site improvements and improvement of property shall be regulated under Article XXXI of this ordinance. **[Amended 8-12-2003]**
- C. A minimum buffer area of 25 feet in width in accordance with Town standards shall be provided and maintained adjacent to any residential zone or use.

§ 68-316. Fences.

(See Article XXX.)