

- (4) Accessory buildings over one story in height shall be at least ten feet from any lot line. All accessory buildings shall be less than the main building in height.

(Ord. of 6-11-1996, § 23-9)

Sec. 50-69. General commercial district C.

(a) *Statement of intent.* The general commercial district C covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not normally characterized either by constant heavy trucking, other than stocking and delivery of retail goods, or by any nuisance factors, other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns, garages and service stations, and multifamily dwellings.

(b) *Uses permitted by right.* In business district C, structures to be erected or land to be used shall be for one or more of the following uses:

(1) Antique shops.

(2) Assembly halls.

(3) Bakeries.

(4) Banks and financial institutions.

(5) Barbershops and beauty shops.

(6) Bed and breakfasts, boardinghouses.

(7) Carwashes.

(8) Churches.

(9) Department stores.

(10) Drugstores.

(11) Dry cleaners.

(12) Fire and rescue squad stations.

(13) Fraternal and auxiliary organizations.

(14) Funeral homes.

(15) Furniture sales and repair.

(16) Garages, public and commercial. All vehicles shall be operable except for vehicles needing immediate repair which may be temporarily stored for a period of time not exceeding 30 days.

(17) Greenhouses and plant nurseries.

(18) Hardware stores.

(19) Home appliance sales and service.

(20) Hospitals, nursing homes, convalescent homes, rest homes.

(21) Hotels or motels.

(22) Laundries.

(23) Libraries.

(24) Motor vehicle parking lot, commercial.

(25) Motor vehicle sales, rental, and service. All vehicles to be sold or leased must be operable.

(26) Motor vehicle service stations, with major repair under cover. Inoperable vehicles may be temporarily stored for a period of time not exceeding 30 days.

(27) Newspaper office buildings, including printing and publishing facilities incidental to such uses.

(28) Office buildings, private or governmental.

(29) Personal and professional services.

(30) Pet shops, but excluding kennels.

(31) Printing shops.

(32) Radio and TV broadcasting stations and studios, or offices.

(33) Restaurants.

(34) Retail stores and shops.

(35) Theaters, indoor.

(36) Wearing apparel stores.

(37) Residential uses are allowed above the first floor.

(38) Off-street parking for permitted uses in the district as set forth in section 50-103.

(39) Pipes, meters, and other facilities necessary for the provision and maintenance of town water and sewer services and poles and lines for electric service to properties adjoining such facilities.

(40) Signs as set forth in section 50-105.

(41) Fences as set forth in section 50-101.

(42) Accessory uses clearly incidental to the principal use of the lot.

(c) *Uses permitted by special use permit.* Uses permitted by special use permit are as follows:

(1) Shopping centers as set forth in section 50-106.

(2) Conversion of residential and/or commercial structures into buildings with a greater number of dwelling units.

(3) Public billiard parlors and pool rooms, bowling alleys, dancehalls, health spas and clubs, and similar forms of public amusement only after a public hearing shall have been held by the town council on an application submitted to the council for such use. The planning commission shall submit a recommendation to the council concerning such use applications. In approving any such applications, the town council may establish such special requirements and regulations for the protection of adjacent property, set the hours of operations, and make requirements as it may deem necessary in the public interest, before granting approval to the application.

(4) Wholesale and distributive establishments which do not create hazards for traffic or adverse impacts on the surrounding area, or involve explosives.

(5) Artisan, crafter and other businesses with significant tourist value, in the commercially zoned downtown district target area, for the purposes of assembly, light manufacturing and retail sales of such products or promotional items advertising such products. Products are to include, but not be limited to, candlemaking, soapmaking, basketry, furniture and cabinetmaking and repair, upholstery, pottery, novelties, distilleries, etc. Restrictions and conditions are as follows:

a. Items delivered to the business must be used in the manufacturing or assembly process for which the business was created.

b. The business shall have five or less employees.

c. At least 50 percent of products made shall be sold on site unless state or federal law prohibits the product from being sold on-site. If state or federal law prohibits the product from being sold on-site, the business shall have a significant tourist value and shall have a retail area in which promotional items shall be sold in order to qualify for a special use permit.

d. Ample off-street employee parking shall be provided.

(6) Motorsports facility pursuant to section 50-117.

(d) *Area regulations.* Area regulations are as follows:

(1) There are no requirements for commercial uses.

(2) For permitted residential units, area requirements shall be the same as in the R-3 district.

(e) *Frontage and yards.* There are no requirements for frontage and yards. However, if the property is adjacent to a residential district, each minimum side yard for the main and accessory buildings shall be ten feet, and the minimum rear yard for the main and accessory buildings shall be 20 feet.

(f) *Height.* Buildings may be erected up to 45 feet in height from grade, except that:

(1) A public or semipublic building such as a church, library, or hospital may be erected to a height of 60 feet from grade, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 45 feet.

(2) Church spires, belfries, cupolas, water towers, chimneys, flues, flagpoles, parapet walls, television antennae and radio aerials are exempt.

- (3) All accessory buildings shall be less than the main buildings in height.

(Ord. of 6-11-1996, § 23-10; Ord. of 6-27-2000; Ord. of 2-24-2004; Ord. of 3-8-2005)

Cross References: Businesses, ch. 18.

Sec. 50-70. Industrial district I.

(a) *Statement of intent.* The primary purpose of the industrial district I is to permit the location of certain industries which do not in any way detract from the residential desirability of nearby areas and to permit industries to locate near a labor supply. No junkyards or automobile wrecking yards shall be permitted.

(b) *Uses permitted by right.* In industrial district I, any structure to be erected or land to be used shall be for one or more of the following uses:

(1) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs; also, the manufacture of small parts, such as integrated circuits, circuit boards and minor assemblies.

(2) Bottling works and plants.

(3) Building material sales yards, plumbing supplies storage.

(4) Carpenter, cabinet, furniture and upholstery shops.

(5) Carwash.

(6) Coal, wood and fuel storage yards, feed and seed stores.

(7) Construction equipment sales.

(8) Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.

(9) Furniture moving and storage.

(10) Greenhouse and plant nurseries.

(11) Laboratories (pharmaceutical and/or medical).

(12) Manufacture, compounding, assembling or treatment of articles of merchandise from previously prepared materials which do not involve explosives.

(13) Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products.

(14) Manufacture of pottery and figurines or other similar ceramic products.

(15) Manufacture of musical instruments, toys, novelties and rubber and metal stamps.

(16) Motor vehicle assembling; tire vulcanizing, retreading or recapping; battery manufacturing.

(17) Motor vehicle sales lot.

(18) Motor vehicle service stations, with major repair under cover.

(19) Office buildings.

(20) Packing plants.

(21) Precision instrument manufacture.

(22) Printing and publishing shops.

(23) Veterinary hospitals, kennels.

(24) Textile manufacturing.

(25) Welding or machine shops.

(26) Wholesale businesses, storage warehouses.

(27) Off-street parking for permitted uses in the district as set forth in section 50-103.

(28) Public utility generating, booster, or relay stations; transformer substations; transmission lines and towers; and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewer installations.

(29) Signs as set forth in section 50-105.

(30) Fences as set forth in section 50-101.

(31) Accessory uses which are incidental to the principal use.

(c) *Uses permitted by special use permit.* Uses permitted by special use permit are wholesale and distributive establishments which do not create hazards for traffic or adverse impacts on the surrounding area or involve explosives.

(d) *Requirements for permitted uses.* Requirements for permitted uses are as follows:

(1) Before a building permit shall be issued or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the administrator for study. The administrator shall refer these plans to the planning commission for its recommendation. Modifications of the plans may be required. Such plans shall comply with section 50-111.

(2) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or evergreen hedge six feet in height, or other screen deemed appropriate by the planning commission. Fencing shall be required only when the administrator and planning commission feel such treatment is necessary to screen the use from public view.

(3) The planning commission may require landscaping within any established or required front setback area. The plans and execution must take into consideration traffic circulation. Landscaping may be permitted up to a height of three feet or more, where deemed desirable by the planning commission, and only to within 50 feet from the corner of any intersecting streets.

(4) Sufficient area shall be provided to adequately separate permitted uses from adjacent business and residential districts. Areas for off-street parking, which shall be in accordance with section 50-103, may be used for this separation.

(5) The administrator shall act on any application received within 30 days after receiving the complete application. If formal notice in writing is given to the applicant, the time for action may be extended for a 30-day period.

(e) *Area.* The minimum lot area shall be 10,000 square feet.

(f) *Frontage and yards.* Frontage and yards shall be provided as follows:

(1) Buildings shall be located 30 feet or more from any street right-of-way.

(2) Minimum lot width at the setback line shall be 50 feet.

(3) The side and rear yard adjoining or adjacent to a residential district shall be 50 feet. Within the industrial district, each side and rear yard shall be a minimum of 20 feet.

(g) *Height.* Buildings may be erected up to a height of 45 feet. Chimneys, flues, cooling towers, flagpoles, parapet walls, radio or communication towers or their accessory facilities not normally occupied by workers are excluded from this limitation.

(Ord. of 6-11-1996, § 23-11)

Cross References: Businesses, ch. 18.

Sec. 50-71. Floodplain conservation.

(a) *Statement of intent.* The intent of this section is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

(2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.

(3) Requiring all those uses, activities and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage.

(4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(b) *Applicability.* This section shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Insurance Administration or known to be subject to flooding.

(c) *Compliance and liability.*

(1) No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms of this section and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.

(2) The degree of flood protection sought by this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

(3) This section shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made under this section.

(4) Records of actions associated with administering this article will be kept on file and maintained in the offices of the zoning administrator for the town.

(d) *Abrogation and greater restrictions.* This section supersedes any ordinance in effect in floodprone districts. However, any underlying ordinance provisions shall remain in full force and effect to the extent that its provisions are more restrictive.

(e) *Penalties.* Penalties for violation of this section are as follows:

(1) Any person who fails to comply with any of the requirements of this section or directions of the zoning officer or any other authorized town employee shall be guilty of a class 1 misdemeanor.

(2) In addition to the penalties in subsection (e)(1) of this section, all other actions are hereby reserved, including an action in equity for the proper enforcement of this section. The imposition of a fine or penalty for any violation of or noncompliance with this section shall not excuse the violation or noncompliance to permit it to continue, and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this section may be declared by the town council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this section.

(f) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Base flood and *100-year flood* mean a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

Base flood elevation (BFE) means the 100-year water surface elevation designated by the Federal Emergency Management Agency.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Board of zoning appeals means the board appointed to review appeals made by individuals with regard to decisions of the administrator in the interpretation of this section.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Flood means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters.
- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (f)(1)b of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or by some similarly unusual an unforeseeable event which results in flooding as defined in subsection (f)(1)a of this definition.

Floodplain means:

(1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;

(2) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

Floodprone area means any land area susceptible to being inundated by water from any source.

Floodway means the designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this article, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area (including basement).

Manufactured home park or subdivision means a parcel or contiguous parcels of land divided into two or more lots for rent or sale.

New construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures of which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the town and includes any subsequent improvements to such structures.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes

structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(g) *Establishment of floodplain districts.* Floodplain districts are established in accordance with the following:

(1) *Basis of district.* The floodplain district shall include areas subject to inundation by waters of the 100-year flood. The basis for the approximated floodplain district shall be the flood insurance rate map prepared by the Federal Emergency Management Agency, Federal Insurance Administration, for the town and dated January 5, 2007, as amended.

(2) *Zone A criteria.* The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as zone A on the flood insurance rate map. For these areas, the 100-year flood elevations and floodway information from federal, state, or other acceptable sources shall be used, when available. Where specific 100-year flood elevations cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers' Floodplain Information Reports, U.S. Geological Survey Floodprone Quadrangles, etc., the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town.

(3) *Overlay concept.*

a. The floodplain districts described in this subsection shall be overlays to the existing underlying area as shown on the official zoning map, and, as such, the provisions for the floodplain district shall serve as a supplement to the underlying district provisions.