

## **SECTION 7.00 MODIFICATIONS**

### **7.01 HEIGHT**

The height limitations stipulated elsewhere in this Ordinance may be modified as follows:

- A. Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Ordinance.
- B. Special Structures, such as elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, manufacturing equipment and necessary mechanical appliances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.
- C. Essential Services, utilities, water towers, electric power and communication transmission lines, and wind energy conversion systems are exempt from the height limitations of this Ordinance.
- D. Communication Structures, such as radio and television transmission and relay towers, aerials, radio and television receiving and transmitting antennas shall not exceed in height their distance from the nearest lot line. See Section 4.08.I for requirements and modifications for wireless communication facilities.
- E. Public or Semipublic Facilities, such as schools, churches, hospitals, monuments, sanatoriums, libraries, governmental offices and stations, may be erected to a height of 85 feet, provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.

### **7.02 YARDS**

The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

- A. Uncovered Stairs, landings, ramps, and fire escapes may project into any yard but shall not exceed 6 feet nor be closer than 3 feet to any lot line.
- B. Architectural Projections, such as chimneys, flues, sills, bays, eaves, and ornaments, may project into any required yard, but such projection shall not exceed 2 feet. Overhangs or eaves greater than 4 feet shall be included in the square footage of the structure.
- C. Off-Street Parking is permitted in all yards of all districts provided that commercial and industrial parking shall not be located closer than 25 feet to a residential district. All areas designated as parking areas must be surfaced with asphalt, concrete, brick, or crushed stone.
- D. Landscaping and vegetation are exempt from the yard requirements of this Ordinance, provided that such landscaping and vegetation shall not interfere with the vision clearance triangle as set forth in Section 5.01 of this Ordinance.

### **7.03 ACCESSORY USE REGULATIONS**

Accessory uses are permitted as specified herein or under the zoning district regulations in Section 3.00. A building permit shall be required where specifically noted in this Section.

Accessory uses are permitted only after their principal structure is present or under construction. The use and/or location requirements stipulated elsewhere in this Ordinance may be modified for accessory uses as follows:

- A. In an R-1, R-2, R-3, or R-4 District, no more than 2 accessory buildings shall be erected on a lot. One structure shall not exceed 1600 square feet and the second structure shall not exceed 500 square feet.

B. Accessory Structures Permitted in the Side or Rear Yard. The following accessory structures may be permitted in the side or rear yard only:

1. Accessory buildings, such as garages, gardening, tool, or storage sheds, playhouses, or gazebos, upon the issuance of a building permit. Accessory buildings shall be located at least 10 feet from the principal structure; shall be located not closer than 10 feet to a lot line; and shall not exceed 25 feet in height and not to exceed the height of the primary residence in R-1, R-2, R-3, or R-4 districts, and shall not exceed 35 feet in A-2 district.. Any accessory building for motor vehicles shall be placed on a concrete floor or pad. Accessory structures 120 square feet or less in area may be permitted up to 5 feet from a side or rear property line.
2. Patios, constructed at or below yard grade, may be erected, without a building permit, adjacent to the principal structure, and shall be located not closer than 5 feet to a lot line.
3. Decks located adjacent to a principal structure shall be located not closer to a lot line than the required side yard and rear yard requirements for the district in which they are located and shall require the issuance of a building permit. Freestanding decks or decks surrounding private swimming pools separated from the principal structure shall be located at least 10 feet from the principal structure and shall be regulated in the same manner as an accessory garage, tool shed, or gazebo.
4. Central air conditioning compressors, children's swing sets, compost piles, and gardens are permitted without a building permit, provided that such uses shall be located at least 5 feet from a lot line.
5. Accessory dog enclosures, runs, or housing shall be a minimum of 15 feet from the rear or side lot line in any residential district and shall not be permitted in the street yard. Dog houses shall not exceed 50 square feet in area.
6. Private swimming pools, upon the issuance of a building permit, provided that:
  - a. All private swimming pools shall be surrounded by a fence not less than 4 feet or more than 8 feet in height designed to prevent unguarded entry to the pool. Pool fences shall be solid fences as defined in Section 15.02 of this Ordinance.
  - b. Access to private swimming pools shall be controlled to prevent unguarded entry into a pool. Access to in-ground pools shall be controlled by a self-closing and self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner is not present at the pool. For an above-ground pool, a tip-up ladder may be provided in lieu of the gate.
  - c. In lieu of a fence a pool cover meeting the standards of ASTM F13246-91 (American Society of Testing Materials) may be used. The cover shall be motorized. The switch to operate the cover shall be located a minimum of 4 feet above the pool deck and in the line of site of complete cover. Switching devices shall be key operated, lockable, or be able to be deactivated, or otherwise located in an inaccessible location. If the switch is located in an inaccessible location, the switch shall be at a height of at least 5 feet above the deck. When a pool is not in use, the pool cover shall be placed securely over the pool. Pool covers shall be inspected periodically for mechanical issues or compromises to the cover, and shall

be maintained per the manufacturer's specifications. All new or replacement covers shall meet the standard of ASTM F1346-91.

- d. Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. All electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or surrounding fence.
- e. No water drained from swimming pools shall be discharged onto adjacent properties without written consent of the owner, or into a municipal sanitary sewerage system, or directly into a navigable body of water.
- f. Equipment shall be provided for the disinfection of all pool water. No gaseous chlorination shall be permitted.
- g. Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located not closer than 10 feet to a lot line.
- h. There shall be an unobstructed walkway around all pools of at least 3 feet in width.
- i. No private swimming pool shall be located closer than 10 feet to a lot line. No walkway surrounding a private swimming pool shall be located closer than 5 feet to a lot line.
- j. No lighting installed around swimming pools shall throw any rays onto adjacent properties.

- 7. Private tennis courts and private volleyball courts accessory to a residential use may be placed in the side or rear yard in any residential district provided that the use is located not closer than 3 feet to any rear or side lot line; and provided that no lighting installed around a private recreation facility shall throw rays onto adjacent property. The Board may permit the construction of a fence around the court when it is determined that such a fence is needed for safety purposes or to prevent the court from being a nuisance to neighbors.
- 8. Greenhouse upon the issuance of a building permit.
- 9. Shipping containers are not allowed in R1, R2, R3, R4. All other zoned properties are allowed one. The container must be painted to aesthetically match the property. A building permit is required. If more than one is put on the allowed zoned properties, then a conditional use permit is required.

- C. Accessory Uses Permitted in Any Yard. The following accessory uses and structures may be placed in any yard without a building permit provided that such use does not interfere with the vision clearance triangle as set forth in Section 5.01 of this Ordinance; shall not be located closer than 5 feet to a side or rear lot line and shall not exceed 15 feet in height: basketball hoops, bird baths, fountains, lawn furniture, religious statues, and wishing wells. Flag poles shall not be located closer than 5 feet to a side or rear lot line and shall not exceed the height limitation for the zoning district in which they are located.
- D. Rummage Sales may be conducted in any district provided that the rummage sale does not exceed 4 consecutive days in length and is not conducted more often than 3 times per year. Rummage sales do not require the issuance of a building permit. Rummage sale signs shall be limited as provided in Section 6.03.E of this Ordinance.
- E. Fences are a permitted accessory use in any district and may be erected upon the issuance of a building permit, unless otherwise specified. No solid fences shall be

located within 100 feet of a highway or street centerline or within 15 feet of the pavement on the street side yard of a corner lot. All fences shall comply with the following requirements:

1. Fences in Agricultural and Conservancy Districts are permitted up to the lot line and shall not exceed 4 feet in height in the street yard or 6 feet in height in the side yard or rear yard. All fences in agricultural and conservancy districts erected in a street yard shall be "open fences" as defined in Section 15.02 of this Ordinance. Barbed wire and electric fences are permitted in the A-1, A-2, C-1, and C-2 zoning districts. No permit is required for agricultural fences in the A-1 and A-2 districts.
  2. Residential Fences are permitted up to the lot line in the side and rear yards of residential districts, but shall not exceed a height of 6 feet, and shall not extend into the street yard. Residential fences may be "solid fences" as defined in Section 15.02 of this Ordinance. Residential fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property.
  3. Ornamental Fences, as defined in Section 15.02 of this Ordinance, are permitted in the street yard in any district, but shall not be erected in a street right-of-way and shall not exceed a height of 4 feet. Ornamental fences shall comply with the traffic visibility requirements set forth in Section 5.01 of this Ordinance. Ornamental fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property.
  4. Security Fences or screening fences are permitted up to the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be "open fences" as defined in Section 15.02 of this Ordinance when located in the street yard. Security fences may include up to 4 strands of barbed wire on the top of the fence provided that the barbed wire is at least 8 feet above grade with the vertical supports for the barbed wire slanting inward away from the property line. Security and screening fences shall comply with the traffic visibility requirements set forth in Section 5.01 of this Ordinance. Security fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property.
- F. Antennas. The Town of Wayne recognizes that the development of various antennas, including satellite dish antennas, and their increased use poses questions of regulation not often addressed in local zoning ordinances. In developing antenna regulations, the interest of the antenna owner in the use of the device must be balanced with the interest of adjoining property owners and the general public. To protect the health and safety of all citizens, as well as the aesthetic values embodied in this Ordinance, the following regulations shall apply to all terrestrial and satellite dish antennas, with the exception of satellite antennas with a diameter of 4 feet or less:
1. Terrestrial antennas and satellite dish antennas may be located in the side or rear yard or on any structure in all zoning districts.
  2. All freestanding terrestrial antennas and roof antennas shall meet the height requirements for the district in which they are located, except as provided in Section 7.01 of this Ordinance.
  3. Ground-mounted satellite dish antennas shall not exceed 15 feet in height.

4. All free standing terrestrial antennas shall be located not less than one foot from a lot line for each one foot of height above the surrounding grade. (See Appendix B, Illustration No. 3).
  5. Roof mounted antennas may be mounted one foot above the roofline for each one foot from the nearest lot line.
  6. All satellite dish antennas shall be located not less than 5 feet from a side or rear lot line. (See Appendix B, Illustration No. 3).
  7. All antennas, including satellite dish antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and cor-rosive resistant materials.
  8. All antennas, including satellite dish antennas, shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
  9. Not more than two terrestrial and three satellite dish antennas per dwelling unit shall be permitted on a lot or parcel in a residential zoning district.
  10. Satellite dish antennas shall be located and designed to reduce their visual impact on surrounding properties.
  11. Portable or trailer-mounted antennas are not permitted with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed 2 days at any one location.
  12. In the event the property owner of a parcel of land located in a residential district determines and documents that the placement of an antenna in a side or rear yard would prevent its use for its intended purpose, the property owner may apply to the Zoning Board of Appeals for a variance to allow for the installation of the antenna in a front yard location. The procedure for issuing the variance shall follow the procedure set forth in Section 12.00 of this Ordinance.
- G. Home Occupations and Professional Home Offices are permitted accessory uses in any residential district, not requiring a zoning permit, provided that:
1. The use of the residential dwelling for the home occupation or professional home office shall be clearly incidental and subordinate to its residential use and shall not occupy more than 25 percent of the floor area of one floor.
  2. No home occupation or professional home office shall be located in or conducted in an accessory structure.
  3. No person other than members of the family residing on the premises shall be employed or engaged in such home occupation or professional home office.
  4. Home occupations shall use only household equipment.
  5. No traffic shall be generated by the home occupation or professional home office in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation or use shall be provided off the street and other than in the required street yard.
  6. On-site retail sales shall be limited to goods made on the premises.
  7. No outdoor storage of equipment or products shall be permitted.

8. Home occupations, which comply with the conditions set forth above, may include, but are not limited to baby sitting, barber or beauty shops for no more than 2 customers, canning, crafts, dance studios, desktop publishing and other computer services, dressmaking, insurance or real estate agencies, laundering, millinery, photographic studios, piano teaching, telephone marketing, and word processing.
9. Home occupations shall not include auto body or engine repair or construction trades.

#### **7.04 COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT**

Modifications to requirements of this Ordinance may be granted by the Town Board for the purpose of complying with the requirements of Title II Public Services and Title III Public Accommodations and Commercial Facilities of the Federal Americans with Disabilities Act. Such compliance may require the waiving or modifications to setback and yard requirements; parking requirements; sign requirements; and site design and landscaping requirements. Modifications granted by the Town Board shall be limited to the minimum extent necessary to make structures and uses accessible and barrier free.

#### **7.05 ADDITIONS**

Additions in the front yard of existing structures shall not project beyond the average of the existing setbacks on the abutting lots or parcels.

#### **7.06 AVERAGE SETBACKS**

The required setbacks for structures may be increased or decreased in any district to the average of the existing setbacks of the abutting structures on each side but in no case shall the front yard setback be less than 25 feet, unless a lesser setback is permitted by the zoning district within which the property is located.

#### **7.07 CORNER LOTS**

Corner lots shall provide a street yard on each street that the lot abuts. The remaining yards shall be a rear yard behind the main entrance to the structure and one side yard.

#### **7.08 EXISTING SUBSTANDARD LOTS**

A lot in any residential district which does not contain sufficient area to conform to the dimensional requirements of this Ordinance but which is at least 100 feet wide and 40,000 square feet in area may be used as a single-family building site provided that the use is permitted in the zoning district, providing the lot is of record in the County Register of Deeds Office prior to the effective date of this Ordinance, and provided that the lot is in separate ownership from abutting lands. Substandard lots shall be required to meet the setbacks and other yard requirements of this Ordinance.

#### **7.09 PUBLIC UTILITY BUILDINGS**

Any building any portion of which will be above the grade of the lot on which it is erected which will be used by a public utility may be erected in any district in the Town, provided the provisions of this chapter, except the purpose for which the building is to be used, are complied with, and provided further the application for the building permit is referred by the Building Inspector to the

Plan Commission and the Plan Commission determines that the building, when erected, is reasonably necessary for the public convenience and welfare and in harmony with the general purpose and intent of this chapter. The Plan Commission may authorize the issuance of a permit subject to appropriate conditions and safeguards to accomplish such purpose, provided that this shall not be interpreted to apply to telecommunications facilities that are separately regulated by this Code.