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Sec. 42-335. Statement of intent.

This district 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 characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This district shall include such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns and garages and service stations. In view of the extensive application of the district and the variety of conditions which may be anticipated, residential uses are permitted with a conditional use permit.

(Code 1972, § 30-77; Code 1992, § 30-99; Ord. No. 2004-4, § 30-77, 9-7-2004)

Sec. 42-336. Permitted uses.

In the B-3 General Business District, structures to be erected, or land to be used, may be for one or more of the following uses (Note: Activities or uses which instruct the reader to see a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to see also another permitted use or section of the zoning ordinance or town code are intended to refer the reader to additional information that is relevant to that permitted use.)

- (1) Any principal use permitted in the R-3 Multiple-Family Residential District, with a conditional use permit, except that uses permitted as conditional uses in the R-3 District, but permitted as of right in the B-3 District, shall not require a conditional use permit. Dwellings are subject to the same requirements as in the R-3 District, except that a single-family dwelling in association with a permitted office, business or commercial use, in the same building or on the same premises for use by the proprietor or an employee of said business shall be permitted, but not subject to said requirements, including a family and one unrelated individual per unit; and for multifamily dwellings, the density of development shall not exceed the ratio of 20 dwelling units per gross acre.
- (2) Animal hospital, pet shop or pet grooming establishment.
- (3) Retail stores, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, gifts, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.
- (4) Bakeries.
- (5) Banks and other financial institutions.
- (6) Dry cleaners, laundries and laundromats.
- (7) Barber and beauty shops.
- (8) Fitness center or health club.
- (9) Auto, truck and home appliance services. Also see Service stations and Commercial garages.
- (10) Theaters and assembly halls.
- (11) Hotels and motels, tourist homes and bed and breakfast inns.
- (12) Offices, business, professional or administrative.
- (13) Churches and other places of worship.
- (14) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private buildings to consist of schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.
- (15) Hospitals, general.
- (16) Funeral homes and crematories.
- (17) Service stations with major repair under cover. Also see Commercial garage.
- (18) Clubs and lodges, with a conditional use permit.
- (19) Auto and truck rental, sales and service. Also see Service stations and Commercial garages.
- (20) Restaurants, food handlers and caterers.
- (21) Shoe repair or tailor shop.
- (22) Plumbing and electrical supply with storage under cover.
- (23) Printing and duplicating services.
- (24) Rental of household items, tools and appliances.
- (25) Lumber and building materials store, wholesale or retail, but not a lumberyard or manufacturer of brick or concrete blocks.
- (26) Self-service storage compartments commonly known as miniwarehouses.
- (27) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power

distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping and regulatory stations; substations. Communications monopoles and major transmission lines are permitted with a conditional use permit.

- (28) Off-street parking and loading; parking garages, with a conditional use permit.
- (29) Signs in accord with the sign ordinance in chapter 4, Advertising.
- (30) Dancehalls, with a conditional use permit.
- (31) Mobile home parks, with a conditional use permit. Also see article XVIII, Mobile Home Parks.
- (32) Mobile home sales, single- or double-wide, with a conditional use permit.
- (33) Machinery and equipment sales, service and storage (but not junk), with a conditional use permit.
- (34) Commercial garage and/or towing service, with major repair and related storage under cover, with a conditional use permit. Also see Auto, truck sales and home appliance services and Service stations.
- (35) Contractors equipment storage yard or plant or rental of equipment commonly used by contractors (but not material storage), with a conditional use permit.
- (36) Radio and television stations and studios or recording studios.
- (37) Industrialized building units for business, institutional, security or construction purposes, with a conditional use permit. Conditional use permits shall not be required for construction trailers on active construction sites.
- (38) The following listed uses, provided not more than 50 persons are engaged in actual production work, with a conditional use permit:
 - a. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs and the manufacture of small parts, such as coils, condensers, transformers and crystal holders.
 - b. Commercial cabinet or woodworking shops; blacksmith shops and welding or machine shops.
 - c. Pharmaceutical, medical or dental laboratories.
- (39) Carnival or fairgrounds, with a conditional use permit.
- (40) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses and similar forms of public amusement, with a conditional use permit.
- (41) Greenhouse or nursery, commercial, wholesale or retail.
- (42) Convalescent homes, rest homes, nursing homes and housing for the elderly and handicapped.
- (43) Rooming and boarding houses serving one through four persons. Rooming and boarding houses serving five through 14 persons, with a conditional use permit.
- (44) Child day care center.
- (45) Campground, overnight, with a conditional use permit. Other permitted B-3 uses located upon the same property as the campground are permitted, provided that non-campground users do not traverse the campground areas to have access to these non-campground uses. Provided further that a fence or other suitable barricade and screening separates the campground from adjacent properties or uses.
- (46) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the

town planning commission or health official, or both, for their advice as to the desirability, practicability or health effects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

- (47) Recycling, post-collection separation facilities, with a conditional use permit and a plan of operation approved by the administrator. In cases of doubt regarding the nature of a process or use, the administrator may require an engineering report describing the process or use and the probable impacts of the facility.
- (48) Auction house, business, with a conditional use permit.
- (49) Family day homes, with a conditional use permit.
- (50) Kennels with a conditional use permit.
- (51) Automobile upholstery shops, with a conditional use permit.
- (52) Railroad yards and terminals, with a conditional use permit.
- (53) Farmers' markets or flea markets, with a conditional use permit.
- (54) Automobile auctions, with a conditional use permit.
- (55) Tattoo parlors and body piercing establishments with approval of the county health department.
- (56) Portable storage containers, in accordance with section 42-662.
- (57) Janitorial services.
- (58) Exterminating services with a conditional use permit.
- (59) Personal service establishments.

Note: The following activities or uses serve only as a cross reference to permitted uses listed above which may or may not have conditions attached to the use. The listing of the following cross reference in no way implies that they are a permitted use or activity unless permitted elsewhere within this section.

Appliance service, see Auto, truck and home appliance services.

Bed and breakfast inns, see Hotels, motels.

Building material sales, see Lumber and building materials sales.

Equipment sales, service, etc., see Machinery and equipment sales and services.

Pet shops, see Animal.

Tourist homes, see Hotels, motels.

(Code 1972, § 30-78; Code 1992, § 30-100; Ord. of 9-6-1988; Ord. of 10-24-1989; Ord. of 7-2-1991; Ord. of 12-3-1991; Ord. of 12-17-1991(1); Ord. of 6-15-1993; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2001-4, 8-7-2001; Ord. No. 2004-4, § 30-78, 9-7-2004; Ord. No. 2005-1, 1-18-2005; Ord. No. 2006-1, 1-17-2006; Ord. No. 2006-6, 12-19-2006; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-4, 11-18-2008; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-3, § 30-100, 2-12-2012; Ord. No. 2012-6, § 30-100, 6-19-2012; Ord. No. 2012-10, § 30-100, 11-20-2012)

Sec. 42-337. Area.

There shall be no minimum area required; except that the required area for permitted uses utilizing individual sewage disposal systems shall be approved by the health official and except that residential

uses shall comply with the lot area and width requirements of the R-3 District. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-79; Code 1992, § 30-101; Ord. No. 2004-4, § 30-79, 9-7-2004)

Sec. 42-338. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building setback from any common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-80; Code 1992, § 30-102; Ord. of 4-3-1990; Ord. No. 2001-5, 11-6-2001; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-80, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-339. Frontage and yards.

- (a) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.
- (b) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.
- (c) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.
- (d) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.
- (e) No business or commercial building or structure, temporary or permanent, shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way. Residential development shall comply with all frontage, lot, yards and development standards for similar development in the R-3 Multiple-Family Residential District, unless such residence is part of the business building or structure.

- (f) A minimum of 20 percent of the site shall be reserved for greenspace landscaping with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height, at time of planting, of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas.
- (g) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.
- (h) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.
- (i) Sidewalks shall be required for all new development. In lieu of sidewalks, an owner or developer may provide a paved multi-use trail if approved by the town manager. The trail must be a minimum of ten feet in width and adjoin the street right-of-way. A trail must run the entire road frontage of the parcel. In the absence of unreasonable hardship, the town manager will not approve a trail for parcels whose adjoining parcels have sidewalks such that a trail connects to a sidewalk. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(Code 1972, § 30-81; Code 1992, § 30-103; Ord. of 5-2-1989; Ord. of 6-20-1989; Ord. of 7-2-1991; Ord. of 6-2-1998; Ord. No. 2001-5, 11-6-2001; Ord. No. 2004-4, § 30-81, 9-7-2004; Ord. No. 2013-6, § 30-103, 5-7-2013)

Sec. 42-340. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

- (1) The height limit may be increased up to 70 feet, provided the building is set back from all lot lines at least two feet for each one foot of height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.
- (3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(Code 1972, § 30-82; Code 1992, § 30-105; Ord. No. 2004-4, § 30-82, 9-7-2004; Ord. No. 2007-1, 4-3-2007)