

[arrow_back](#)

City of Summit, NJ / Municipal Code / Development Regulations / Zoning

Article IX

General Zoning Provisions

[arrow_forward](#)

§ 35-9.1 General.

§ 35-9.2 Prohibited uses.

§ 35-9.3 Conditional uses.

§ 35-9.4 Schedule of space regulations.

§ 35-9.5 Nature and extent of uses of land.

§ 35-9.6 Requirements to be met on lot and within zone district.

§ 35-9.7 Principal buildings.

§ 35-9.8 Accessory structures and uses.

§ 35-9.9 Certain accessory structures and uses.

§ 35-9.10 Yard regulations; corner lots and through lots; buildable area.

§ 35-9.11 Height.

§ 35-9.12 Attics and attic stories.

§ 35-9.13 Public utilities.

§ 35-9.14 Performance standards for nonresidential uses.

§ 35-9.15 Green building development bonus incentives.

§ 35-9.1 General.

A. No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner other than as specified among the uses listed as permitted, accessory or conditional in the district in which such building or land is located.

B. No building or structure shall be erected, reconstructed or structurally altered to exceed in height the limit designated in the district in which such building or structure is located.

C. No building or structure shall be erected, no existing buildings or structures shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, building location, coverage and floor area ratio regulations hereinafter designated for the district in which such building or open space is located.

D. The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this article, and if already less than the minimum required by this chapter, said area or dimension shall not be further reduced.

§ 35-9.2 Prohibited uses. [Amended 12-1-2020 by Ord. No. 20-3225]

A. Where a use is not specifically permitted in a zone district, it is prohibited.

B. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in Section 3 of P.L.2021, c. 16, are prohibited in all zones, but not the delivery of cannabis items and related supplies by a delivery service. Cannabis does not include: medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L.2009, c.307 (N.J.S.A. 24:6I-1 et al.) and P.L.2015, c.158 (N.J.S.A. 18A:40-12.22 et al.) and this provision shall not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, physician, registered dispensary or other person acting in accordance with the New Jersey Compassionate Use Medical Cannabis Act. [Amended 6-1-2021 by Ord. No. 21-3236]

C. Marijuana plants, products, accessories, and associated paraphernalia contained in any medical marijuana dispensary shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable marijuana shall comply with 21 CFR 1301.72. No consumption or smoking of any medical marijuana products shall be allowed or permitted on the premises or adjacent grounds of a medical marijuana dispensary.

§ 35-9.3 Conditional uses. Notwithstanding compliance with specific conditional use standards hereinafter set forth, conditional uses shall require site plan approval by the appropriate board.

§ 35-9.4 Schedule of space regulations. The Schedule of Area and Bulk Requirements, dated October 6, 2020, located in the Appendix at the end of this chapter,[1] is hereby made part of this chapter. The area, yard and building requirements set forth therein shall be considered the minimum standards and requirements governing the use of land in the City, and should there be a similar regulation which is more restrictive in this chapter or any other City ordinance or statute affecting any application hereunder, the more restrictive provision shall apply. [1] Editor's Note: The Appendixes are included as attachments to this chapter.

§ 35-9.5 Nature and extent of uses of land. The control and regulation of the uses of buildings and structures, as herein provided, shall equally apply to the nature and extent of the use of the land.

§ 35-9.6 Requirements to be met on lot and within zone district.

A. Unless otherwise provided herein, all yard, open spaces, vehicular access and off-street parking must be contained on the lot and within the zone district in which the use is located.

B. All lots in single-family zones having less area or width than required, of record at the time of the effective date of this ordinance, may be used for a single-family house and its permitted accessory uses, except as modified in § 35-9.6C below.

C. Any nonconforming unimproved lots in common ownership that are shown on an old filed map, filed prior to the time of the adoption of a land subdivision ordinance pursuant to the Municipal Land Use Law of 1975, and in common ownership, are considered merged into one lot, and the separating lot lines are to be ignored. The owner of such lots may not sell less than the whole number of such lots owned without obtaining subdivision approval from the Planning Board or Zoning Board of Adjustment.

D. Where there is a question as to suitability of a lot or lots for their intended use due to such features, such as, but not limited to, wetlands, rock formations, steep slopes, flood conditions, wellhead protection areas or similar circumstances, the Planning Board or Zoning Board of Adjustment may, after adequate investigation, withhold approval of such lots.

E. Neighborhood average calculation. When computing the neighborhood averages referred to in this chapter, the neighborhood shall consist of the three lots on both sides of the subject property and three nearest lots across the street from the property having common street frontage(s) and regardless of zone designation. In cases where there are fewer than three lots on one or both sides of the subject property, or three lots across the street, for purposes of neighborhood average calculations as provided in this chapter, the average calculation shall be based on the greatest number of applicable lots up to an intervening street or street terminus. Lots with principal buildings having front yard setbacks equal to or greater than two times the minimum required front yard setback of their respective zones shall not be included in any neighborhood average calculation.

§ 35-9.7 Principal buildings.

A. No more than one principal building shall be permitted on one lot except that a shopping center, apartment, or townhouse complex, condominium project, hospital complex, institution or industry, all receiving site plan approval, may be permitted to have more than one principal building on a lot in accordance with the standards of the zoning district in which it is located and with all buildings sited to comply with all yard standards.

B. Any accessory structure shall be considered part of the principal building for the purposes of determining setbacks when attached by any means to the principal building, or greater than 100 square feet in area and located within five feet of the principal building.

§ 35-9.8 Accessory structures and uses. Structures which are accessory to a principal building or use shall be subject to the regulations of this section.

A. General requirements.

1. No accessory building shall be constructed on any lot on which there is not a principal building.

2. Any accessory structure shall be considered part of the principal building for the purposes of determining setbacks when attached by any means to the principal building, or greater than 100 square feet in area and located within five feet of the principal building.

3. Accessory uses prohibited in all zones include, but are not limited to, the following:

a. Carports.

b. Aboveground storage tanks for combustible, flammable or other liquids, excluding propane tanks up to five gallons for outdoor grills and backup generator diesel storage up to 500 gallons in nonresidential zones and contained within the generator unit.

B. The following requirements shall apply in all residential zones:

1. No accessory building shall be used as a dwelling unit or for the conduct of a home occupation.

2. In residential zones, no accessory building or structure shall have a floor or ground area in excess of 576 square feet, nor shall any dimension be longer than 24 feet.

3. Except as specifically permitted elsewhere in this chapter, no accessory building or structure shall exceed 15 feet in height. Detached garages and pool houses for single- and two-family homes may exceed the maximum fifteen-foot height requirement only when it is determined that such an increase in height is required to match the roof pitch of the principal building for purposes of design continuity, and where the required setbacks of the accessory structure conform to the requirements of this chapter. In no case shall garage or pool house height exceed 18 feet. The two lowest exterior walls of any accessory building or structure shall not exceed a vertical dimension of 10 feet.

4. No detached accessory building or structure shall be permitted in any front yard or side yard, except as otherwise permitted in this chapter.

5. Detached accessory structures such as garages, sheds, and other passive structures shall not be located less than four feet from rear or side property lines in the required rear yard. Structures such as gym or play sets, playhouses, tree houses, decks, pergolas, gazebos, firepits, athletic courts, or other active structures shall not be located less than 15 feet from the rear or side property lines in the required rear yard. All accessory structures are prohibited between any part of the front building facade and the street right-of-way, but on corner lots they may be placed in a side yard, provided the four- or fifteen-foot setback requirement is met, and provided further that the accessory building or structure is set back from the street right-of-way line at least two times the minimum required front yard setback for the zone.

6. Accessory buildings shall be included in building area, lot coverage and floor-area-ratio limitations, except as otherwise excluded in the definition of "floor area, residential."

7. Any accessory building or structure attached to a principal building is part of the principal building and shall adhere to the yard requirements for the principal building.

8. Patios, decks, swimming pools, athletic courts and other accessory structures shall be included when calculating lot coverage.

C. The following requirements shall apply in all nonresidential zones:

1. Accessory uses, buildings and structures shall only be permitted to be located on a lot that contains a principal building.

2. Except as specifically permitted elsewhere in this chapter, no accessory building or structure shall exceed 15 feet or be more than one story in height.

3. No accessory building or structure shall be permitted in any front yard.

4. Accessory buildings and structures shall meet the minimum side yard requirements for principal buildings.

5. Active accessory buildings and structures, including, but not limited to, maintenance buildings, workshops and spaces where work, repairs or maintenance are performed, shall have a minimum rear yard setback of 15 feet. Passive accessory structures such as storage buildings and sheds shall have a minimum rear yard setback of four feet.

6. Accessory buildings and structures shall be located at least 10 feet from another building or structure.

§ 35-9.9 Certain accessory structures and uses.

A. Agricultural uses.

1. Beekeeping.

a. Beehives shall be permitted on lots of at least 25,000 square feet in area, limited to two hives per lot.

b. Beehives shall not be permitted in the front or side yard and shall have minimum required setbacks of 50 feet from all lot lines.

c. No hive shall be within 100 feet of any dwelling unit other than that occupied by the person(s) maintaining the hive(s).

d. No hive shall be kept or maintained within 200 feet of a dwelling occupied by any person systemically allergic to bee stings.

e. No hive shall be kept or maintained on any lot that adjoins another lot that is occupied by a person who is systemically allergic to bees.

B. Attached decks, patios and terraces. Attached decks, patios and terraces must meet the required yard setbacks for principal buildings, except that attached patios may encroach into the required rear yard by no more than 10 feet.

C. Boarders and roomers. In any single-family, owner-occupied residential dwelling, not more than two persons shall be permitted to occupy a portion of the dwelling unit as boarders or roomers in accordance with the following requirements:

1. Not more than one roomer or boarder may occupy a sleeping room, except that a sleeping room that exceeds 200 square feet in floor area or 1,800 cubic feet in volume may be occupied by two persons.

2. Each sleeping room shall be at least 80 square feet in area.

3. There shall be no cooking facilities in any sleeping room.

D. Commercial vehicles, tractors and mechanized equipment. Commercial vehicles, tractors, trailers, mechanized equipment and similar vehicles and equipment shall not be parked or stored in any zone, except as follows:

1. In the NB, ORC, ORC-1, PL, MF, MFT, TH-1, TH-2 and in all residential and overlay zones, one such commercial vehicle and associated equipment less than 7,000 pounds may be stored in an enclosed garage, provided that such vehicle, machinery, trailer or equipment is directly related to the business or is used by the resident of the property.

2. In all other zones, one commercial vehicle, tractor, piece of construction machinery or equipment less than 26 feet in length may be kept on-site, provided that such vehicle, machinery, trailer or equipment is directly related to the business or use of the property. Such vehicles or equipment shall be set back at least five feet from lot lines and screened with solid fencing and or vegetation at least seven feet in height.

3. Equipment and machinery used in connection with the construction, alteration, removal, or demolition of any buildings or structure or the excavation of any land shall be permitted to stand upon the premises where such work is being undertaken and while the same is continuing and ongoing.

E. Electric vehicle charging stations.

1. Nonretail electric vehicle ("EV") charging stations shall be permitted accessory uses in all zones.

2. In off-street parking facilities of 20 spaces or more, a minimum of 7% of such spaces, rounded up to the nearest whole number, shall contain facilities for EV charging.

3. Retail electric vehicle charging stations shall be permitted accessory uses in the B Zone in parking lots of at least 50 spaces of which no more than six parking spaces may be designated for retail vehicle charging, and where the site's parking requirement is satisfied, excluding such designated charging spaces. Site plan approval shall be required for all retail electric vehicle charging station applications.

4. Retail charging stations shall only contain signage on the charging station units, limited to the identification of the charging operator, pricing, safety information and instructions. No other form of advertisement is permitted on the EV charging station equipment.

5. Canopies and other similar roof-like structures shall not be permitted above EV charging stations.

6. All equipment related to EV charging stations/units shall be screened, except for the electrical dispensing units which connect directly to consumer vehicles via power cords.

7. Existing or approved landscape or open space areas shall not be removed to accommodate EV charging facilities.

F. Green roofs. Green roofs shall be permitted in all zone districts, subject to the following provisions:

1. Structural support. The structural roof support must be sufficient to hold the additional weight of the green roof. Generally, the building structure must be adequate to hold an additional 15 pounds to 30 pounds per square foot (psf) saturated weight, including the vegetation and growing medium that will be used (in addition to snow load requirements). An existing rock ballast roof may be structurally sufficient to hold a ten-psf to twenty-psf green roof (if the ballast is removed). Notwithstanding the above provisions, the roof structure and any green roof additions must meet all applicable building codes.

2. Impervious coverage calculation. The area of a green roof shall be excluded from the calculation of impervious coverage at a one square foot to 1/4 square foot or 4:1 ratio, provided the green roof does not receive water from other impervious areas. (One square foot of qualifying green roof coverage = 0.25 square foot impervious coverage credit.)

3. Slope. The maximum roof slope shall be 20%, unless the applicant provides documentation of runoff control on steeper slopes. This provision shall not supersede minimum roof pitch requirements provided in other sections of this chapter.

4. Waterproofing. A sufficient quality waterproofing material, such as modified asphalt, synthetic rubber, or reinforced thermal plastics, shall be used on the roof surface.

5. Root barrier. If a root barrier is used in addition to waterproofing material, it must extend under any gravel ballast and the growing medium and up the side of any vertical elements. Root barriers impregnated with pesticides, metals, or other chemicals that may leach into stormwater are not permitted, unless the applicant can provide documentation that leaching does not occur.

6. Drainage. A method of drainage must be provided, although a manufactured product is not required. The drainage layer may include fabric, gravel, or be the growing medium itself. An approved discharge location must be identified for every green roof and drain provided.

7. Growing medium. A minimum of four inches of growing medium is required, composed of roughly 70% porous material, 20% organic material (i.e., aged compost), and 10% digested fiber or other mix approved by the City Forester or landscape architect. Green roofs with more than six inches of growing medium are acceptable, provided they meet all other requirements.

8. Vegetation and coverage. Drought-tolerant plants must achieve 90% coverage within two years. At least 25% of the green roof must be composed of evergreen species. A maximum of 10% of the green roof may be composed of nonvegetated components such as gravel ballast, pavers for maintenance access, etc. Mechanical units may protrude through the green roof; but are not considered elements of the green roof. Green roof vegetation shall be:

a. Drought-tolerant, requiring little or no irrigation after establishment;

b. Self-sustaining, without the need for fertilizers, pesticides, or herbicides;

c. Able to withstand heat, cold, and high winds;

d. Very low-maintenance, needing little or no mowing or trimming;

e. Perennial or self-sowing;

f. Fire-resistant; and

g. Noninvasive alien plant and tree species.

9. Mulch. A method to protect exposed soil from erosion must be provided, such as gravel mulch.

10. Maintenance. The property deed shall stipulate that green roofs are to be maintained for a period of no less than 10 years. Only nonchemical fertilizers may be used. Pesticides and herbicides of any kind are prohibited on green roofs. During the establishment period (up to three years), irrigation shall not exceed 1/2 inch of water every 10 days, regardless of water source. Post-establishment irrigation shall not exceed 1/4 inch of water every 14 days (May through October), regardless of water source.

11. Access. Convenient elevator access to the roof or other suitable means of access shall be provided to facilitate routine maintenance of green roof facilities where such roof access for maintenance cannot be directly accessed by a mechanized lift.

G. Home occupations. In any dwelling unit, a resident may conduct a business activity, subject to the following:

1. No person other than members of the family residing on the premises shall be engaged in such occupation;

2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation;

4. No home occupation shall be conducted in any accessory building;

5. There shall be no sales or other client visits in connection with such home occupation;

6. No traffic or parking shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;

7. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than single-family residence, nor shall any equipment cause electrical or audible interference in any radio, television receivers, telephone, computer, or other electronic devices off the premises, or cause fluctuations in the line voltage off the premises; and

8. No nuisance factors shall be permitted.

H. Mobile dwellings, trailers and recreational equipment and vehicles. Mobile dwelling, trailer and recreational vehicles (excepting conventional passenger automobiles), whether self-propelled, towed, truck-mounted or licensed as a passenger vehicle, which include but are not limited to all sizes and descriptions of trailers, campers, boats, and buses, shall not be parked outdoors in any zone except that a resident may park such vehicle on said resident's driveway for a period not to exceed 24 hours for the purpose of loading or unloading such vehicle. Upon registration with the Police Department, permission for temporary parking of the above vehicles may be granted for a period not to exceed seven days to non-Summit residents, provided such vehicles are not occupied while parked on the subject premises.

I. Motor vehicle lifts and vehicle stacking facilities.

1. Hydraulic vehicle lifts, pallet parking and other automatic or semiautomatic stacked parking systems shall be permitted in multifamily buildings and mixed-use buildings containing residential uses above the first floor as alternatives to traditional, horizontally oriented, structured garage parking. The feasibility of such parking systems to accommodate their associated land uses shall be subject to Planning or Zoning Board of Adjustment review and approval. This shall include consideration of the total number of required and provided parking spaces, facility operations, procedure and duration of time to drop-off and retrieve vehicles and facility access.

2. All stacked vehicle parking equipment and systems shall be fully enclosed within a garage-like enclosure attached to or within the principal building which it is intended to serve and meet all applicable building and fire code requirements.

3. Given the inherent nature of stacked vehicle parking systems, such parking facilities shall not be subject to minimum parking stall dimensions or hairpin striping parking requirements. However, applicants proposing stacked parking spaces shall demonstrate the ability to accommodate typical consumer vehicle dimensions.

4. Parking facilities containing stacked parking systems shall not be exempt from providing the required number and configuration of ADA-compliant handicap parking stalls.

5. The exterior facade of indoor parking facilities shall be consistent with the design requirements and character of the principal building including such design elements as materials, vertical and horizontal building articulation and fenestration in accordance with the design requirements set forth in Article XIV and design guidelines located in the Appendix of this chapter.[1] [1] Editor's Note: The Appendixes are included as attachments to this chapter.

J. Outdoor dining. Outdoor dining shall be permitted as an accessory component to a permitted restaurant use or retail food establishments and regulated as follows:

1. Section 4-20, Regulating of sidewalk cafes, of the City's Revised General Ordinances sets forth the criteria for seating on sidewalks within the public right-of-way. The outdoor dining regulations provided in this section shall apply to outdoor dining located on private property.

2. Seating for restaurant outdoor dining shall not exceed 20 seats and shall not be deemed to require additional parking. Total indoor and outdoor seating for retail food establishments shall not exceed 12 seats and shall not be deemed to require additional parking.

3. Outdoor eating areas may be located on sidewalks, plazas, and courtyards immediately adjacent to any retail food establishment or restaurant. Such facilities shall be provided in a manner that pedestrian circulation or access to store entrances is not impaired. Outdoor dining facilities may only replace parking spaces if the remaining number of parking spaces complies with the required number of spaces for the use(s) in accordance with this chapter.

4. Outdoor seating areas shall provide an unobstructed pathway of at least four feet between tables, chairs and surrounding fixtures or obstructions. All outdoor dining areas shall be designed in compliance with the Americans with Disabilities Act (ADA)[2] guidelines. [2] Editor's Note: See 42 U.S.C. § 12101 et seq.

5. Outdoor dining areas shall be located a minimum of 10 feet from any driveway.

6. The City Engineer or Police Department shall make a determination as to whether any bollards or other safety mechanisms are required around the perimeter of the dining area exposed to vehicular traffic.

7. Umbrellas, awnings and canopies with a minimum clearance of seven feet and heating units are permitted for outdoor dining areas.

8. Screening in the form of landscaping, fencing and/or walls minimally three feet in height shall be required to provide a visual buffer from outdoor seating areas.

9. Exterior lighting for outdoor dining areas may consist of lighting fixtures mounted to facade walls or the undersides of umbrellas or awnings, freestanding lighting fixtures and/or white/yellow cafe or bistro style string lighting in accordance with § 35-14.1M.

K. Outdoor display of merchandise. The outdoor display of merchandise is prohibited in all zones, except for auto dealerships and during special or holiday events organized by Summit Downtown, Inc. ("SDI"), or other Special Business Improvement District programming for geographically specific areas within the City.

L. Outdoor storage. The storage of materials, products and equipment in unenclosed outdoor areas is prohibited in all zones.

M. Parking garages and structures. The following regulations shall pertain to parking garages and structures as defined in this chapter.

1. Location. Above-grade, structured parking facilities shall only be permitted in the LI, PROD, PROD-2, PI, RO-60, GW I and GW II Zones. In all other zones, only surface parking and below-grade or underground parking facilities shall be permitted, excluding the Broad Street West Redevelopment Area, for which the redevelopment plan shall govern.

2. Building design requirements.

a. Parking structures shall be designed to not be detectable as parking structures or resemble traditional parking structures with monotonous colors and materials, expansive blank walls, lack of regular horizontal and vertical building articulation, devoid of pedestrian scale features, and long uninterrupted rooflines, as further addressed below.
NOTE: The exterior facade of the above parking garage is composed of a single color and building material with no variation in roofline or division in massing with building forms, materials or height. The structure generally lacks architectural detail and ornamentation.

b. The maximum permitted height of a parking structure shall be measured to the uppermost parking level surface if unenclosed or, if enclosed, the top of roof in accordance with the maximum permitted height of the respective zone in terms of feet. The maximum number of stories permitted in any zone shall not apply to the height limitations of detached, stand-alone parking structures.

c. The unenclosed upper level of any above-grade parking structure shall have a solid parapet wall not less than four feet in height, or as may otherwise be required by building code, whichever is greater.

d. All voids in a parking structure shall be architecturally detailed with sculptural elements, murals and/or green-screened with living vegetation to minimize the visibility of vehicles and light from within the structure.

e. Parking structures attached to a principal building shall be designed to reflect the occupied portions of the building (i.e., style, materials, fenestration, etc.).

f. The horizontal planes of above-grade parking structures shall have vertical breaks complementary in scale to the building's overall configuration and mass at least every 50 feet with a minimum width of two feet and depth of one foot. Long horizontal rooflines or parapet walls exceeding an uninterrupted length of 50 feet are prohibited.

g. The facade of a parking structure directly fronting a public right-of-way shall have a delineated floor line between the street level and upper floors in the form of a masonry belt course, concrete lintel, cornice line or similar architectural detail. Such horizontal feature shall have a minimum height of one foot.

h. A minimum of 25% of parking structure facades shall remain open, excluding those facades wrapped or concealed by other buildings or permitted uses. Any architectural feature, mural or living plant wall system designed to conceal voids in the parking structure shall not count against the minimum 25% facade opening requirement.

i. No more than 80% of a parking structure facade may be composed of a single building material or color.

j. Parking structure ramps shall be located internally or fully screened on the sides of the driveway access.

3. Lighting. Lighting fixtures within a parking structure shall be recessed to shield visibility and minimize glare to adjacent properties and public roadways.

4. Ventilation. Parking structures shall be constructed so that no exhaust vents open directly onto any public street or adjacent property.

5. Solar connectivity. All aboveground parking structures shall be designed as solar-ready regardless of the developer's intention to include solar panels when originally constructed.

N. Satellite dishes.

1. Satellite dishes shall be permitted as an accessory use in all zone districts.

2. Satellite dishes may only be used by the occupant(s) of the building located on the site.

3. Satellite dishes not being used for a period of one year shall be removed.

4. Residential satellite dishes.

a. Satellite dishes for residential use shall be limited to one per dwelling unit.

b. Residential satellite dishes shall not exceed 24 inches in diameter.

c. Satellite dishes shall be prohibited on front and side building facades and shall be permitted only on rear building facades.

d. Ground-mounted satellite dishes are prohibited.

e. Satellite dishes shall not extend above the highest peak of the roof of the building to which they are affixed. When mounted on flat roofs, satellite dishes shall not extend above the parapet and shall be fully screened.

f. Satellite dishes shall be prohibited on buildings listed on the Summit Historic Preservation Commission's inventory of historic buildings and structures, National Register of Historic Places and State Register of Historic Places.

5. Multifamily and nonresidential satellite dishes.

a. Only one satellite dish shall be permitted per building.

b. Satellite dishes shall have a maximum diameter of 24 inches.

c. Satellite dishes may be ground-mounted, mounted to a rear building wall or roof-mounted. Ground-mounted satellite dishes shall only be permitted in the rear yard and shall not occupy required parking spaces. Satellite dishes shall not be mounted to the front or side of any building.

d. Roof- or wall-mounted satellite dishes shall not exceed a height of four feet above the highest roof.

e. Ground-mounted satellite dishes shall not exceed a height of four feet above the grade plane and shall be screened with solid fencing, walls and/or evergreen landscaping sufficient to mitigate their visibility from adjacent properties and roadways. Safe and convenient access shall be provided to maintain the satellite dish.

f. Roof-mounted satellite dishes shall be completely screened by the parapet wall, solid fencing and/or paneling within 10 feet of the satellite dish.

g. All multifamily and nonresidential satellite dishes shall have a minimum setback of 15 feet from all lot lines.

O. Solar energy systems, facilities and equipment.

1. Purpose. Solar energy systems shall be primarily designed to provide power to the building or site to which they are affixed and not for the generation of power to be sold for commercial purposes. This provision shall not be interpreted to prohibit the disposition of excess power generated from a solar energy system back to a public electric utility provider by which the principal use is served.

2. Ground-mounted solar energy systems.

a. Ground-mounted solar energy systems shall not be interpreted to include solar array canopies as regulated in this chapter.

b. Ground-mounted solar panels shall be permitted in all residential zones and shall be limited to a maximum area of 10 square feet and height not to exceed six feet. All ground-mounted solar panels in residential zones shall comply with the active accessory structure setback requirements.

c. Except as otherwise provided in this chapter, ground-mounted solar energy systems shall only be permitted in the PROD and PROD-2 Zones, subject to the following standards: (1) Systems shall not be counted in the calculation of maximum impervious coverage as regulated in the Development Regulations Ordinance. (2) Systems shall not be constructed in uninterrupted structures but shall be arranged so no single contiguous panel area exceeds 50 square feet. Contiguous panel arrays shall have a minimum required horizontal spacing of four feet between the longer dimension and six feet between the shorter dimension for purposes of maintenance and emergency access. Any federal or state regulations and/or other safety regulations requiring greater separation between solar panels shall supersede this chapter. (3) Solar energy systems shall conform to the setback requirements for active accessory structures in rear yards, shall conform to the minimum principal building setback in side yards and shall not be located in front yards. (4) Ground mounted solar energy systems shall not exceed six feet in height. (5) Systems shall be located and installed to direct sun glare away from adjoining properties and public rights-of-way. (6) Systems shall be screened year-round from adjoining properties and public rights-of-way with a combination of fencing and landscaping. (7) Systems shall be designed to blend into the existing setting and environment.

3. Roof-mounted solar energy systems.

a. Roof-mounted solar energy systems shall be permitted accessory uses in all zones.

b. Roof-mounted solar energy systems shall adhere to the minimum setback and maximum height requirements of the principal or accessory building to which they are affixed. When affixed to a flat roof, solar energy systems shall have a minimum setback of 10 feet from the exterior of the building wall.

c. All components of a roof-mounted solar energy system shall not extend more than 18 inches above a pitched roof and shall not extend higher than the roof peak of which the panel(s) or system is affixed. On flat roofs, roof-mounted solar energy systems shall not extend more than five feet above the roof to which they are attached.

d. Flat roofs with solar panels and equipment shall have parapets extending to the maximum height of the panels. All accessory equipment shall be screened with solid fencing, walls or panels within 10 feet of the equipment.

4. Solar array canopies.

a. Solar array canopies shall be permitted accessory uses in the B, LI, PROD, PROD-2, PI and RO-60 Zones and for public and private elementary and secondary schools and municipal buildings and facilities. Freestanding solar array canopies are expressly prohibited in residential zones.

b. Solar array canopies shall be permitted solely above pedestrian walkways, parking areas and parking structures and may be freestanding or attached to a principal or accessory building.

c. Solar array canopies shall not be counted in the calculation of maximum impervious coverage as regulated in the Development Regulations Ordinance.

d. Solar array canopies shall have a maximum height of 18 feet, except that solar array canopies installed at grade shall not exceed the height of the principal building. Solar array canopies may be attached to the unenclosed uppermost level of a parking structure, not to exceed 15 feet above the highest floor level of the parking structure, with no horizontal coverage restriction, but must adhere to the minimum required setbacks of the building to which they are attached.

e. Attached and detached solar array canopies shall be permitted in front, side and rear yards with minimum setbacks of 15 feet from all lot lines. Solar array canopies adjacent to a residential use shall have a minimum setback requirement of 50 feet from the shared lot line.

f. Solar array canopies shall not be more than 40 feet wide oriented directly above parking stalls and 15 feet wide above paved pedestrian walkways. The entirety of the pedestrian walkway shall be covered by the solar canopy, while the canopy's supporting elements and any remaining canopy extend beyond the limits of the walkway by a maximum of two feet on each side.

g. Solar array canopies shall have a minimum clearance of nine feet, unless otherwise required by the City of Summit emergency personnel.

P. Swimming pools.

1. Swimming pools shall be located in the rear yard, and no pool or its accessory facilities such as deck, patio or pool equipment including walkways, patios, or other impervious areas associated with the pool shall be closer than 15 feet to any side or rear lot line. Swimming pools on corner lots shall meet the setback requirements for active accessory structures as regulated in this chapter.

2. On any corner lot, no part of any private swimming pool shall be constructed within the front yard area on either street and shall be screened from view. Any buildings or structures erected in conjunction with a swimming pool shall comply with the provisions of accessory structures.

3. Artificial lights used or maintained in connection with a private swimming pool shall be so located and shielded that the illumination therefrom is not directed upon any adjacent property.

4. No private swimming pool shall be used other than as an accessory use of the premises whereon it is located.

5. Swimming pool fences shall meet the height requirements of this chapter and of the Uniform Construction Code.

6. Constructed enclosures composed of solid fencing and/or walls shall provide year-round screening of all mechanical and pool equipment within six feet of the equipment.

Q. Temporary structures.

1. Trailers, port-o-johns or mobile structures used as temporary offices, workshops or for the storage of equipment and materials in connection with permitted construction or renovation of buildings or structures may be temporarily permitted on the same site during the actual period of construction, and shall be located no closer than 10 feet to any lot line.

2. Tents, carports, tarps and other similar coverings or enclosures constructed of plastic, canvas or other fabric material intended to screen or protect motor vehicles, equipment, materials or miscellaneous items from the elements shall be considered temporary and are prohibited. This shall not prohibit the use of fabric canopies, awnings or umbrellas above outdoor seating, decks, patios or walkways.

§ 35-9.10 Yard regulations; corner lots and through lots; buildable area.

A. Required yards.

1. No yard or other open space provided for any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or other open space for any other building on any other lot.

2. Every lot shall include front, side and rear yards having the areas and dimensions required within the particular zone in which said lot is located.

3. All front yards must face upon a dedicated public street or a private street approved by the Planning Board or Zoning Board of Adjustment. Example of yard delineations in accordance with this chapter. NOTE: A complete set of diagrams indicating the locations of front, side and rear yards in a variety of lot configurations is provided in Appendix F at the end of this chapter.[1] [1]
Editor's Note: Appendix F is included as an attachment to this chapter.

B. Front yards.

1. The building setback distance shall be measured from the nearest line of the existing or the proposed street right-of-way perpendicular to the closest point of the building or structure.

2. Front yards in single- and two-family residential zones. In single- and two-family residential zones, a new house or house where more than 50% of the dwelling's total vertical front wall area has been removed shall be set back a distance at least equal to the required setback or the average of the setbacks in accordance with § 35-9.6E, whichever is greater.

C. Corner lots.

1. Every yard of a corner lot which abuts a street shall be considered a front yard, and the front yard setback requirements for the zone in which the lot is situated shall be complied with on every street frontage. All yards not meeting the definition of a front yard shall be considered to be side yards and shall meet the side yard requirements of this chapter. There shall be no requirement for a rear yard on a corner lot.

2. The lot width shall be measured along each required front yard setback line between the side property line and the most nearly opposite street right-of-way line.

3. The combined side yard requirements shall be met on both street frontages separately and shall be calculated for each street frontage using the respective side yard and front yards.

4. Corner lots shall be a minimum of 20% larger than the minimum lot area for the zone.

5. Maintenance of adequate intersection sight triangles shall apply in designing structures, grading, fencing and plantings.

D. Through lots.

1. Residential through lots or double-frontage lots shall be avoided except where essential to separate residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. In such cases, access will be allowed only on the lower classification street. When both streets are determined to be of an equal street classification by the City Engineer, the applicant/landowner may choose the front yard, which will be the side on which the primary building entrance faces. Otherwise, the lower classification street of which the property maintains the necessary minimum street frontage shall be considered the front yard, and the other frontage shall be considered a rear yard.

2. The rear yard setback shall be 40% of the lot depth but not less than the minimum required front yard setback. Accessory structures, including swimming pools, shall only be located in the rear yard. The rear yard setback for accessory structures shall be calculated by multiplying the lot depth by 0.30 (30% accessory structure rear yard setback) and shall not be less than the minimum required front yard setback for the zone, or the average of the front yard setbacks of the five existing houses on both sides of the subject lot, up to an intervening street and within the same zone, whichever is greater.

E. Projections and encroachments. Yards and courts required by this chapter shall be free of buildings, structures or parts thereof, and no building or structure shall project into any front, side or rear yard required by this article, nor shall use be made of such yard, except as follows:

1. Nothing in this section shall be read to restrict the right to provide ramps and other reasonable means of access for the handicapped consistent with the Federal Fair Housing Act, 42 U.S.C. § 3601 et seq.

2. Unenclosed porches and entryways, excluding steps, extending not more than six feet into the required front yard and not exceeding more than 50 square feet in area, and not more than three feet into the required side or rear yard and not exceeding more than 20 square feet in area.

3. Window wells affording light and air to basement and cellar areas may project not more than three feet into any required yard measured from the exterior of the foundation to the interior wall of the window well.

4. Stairwells leading to basement and other below-grade areas may project not more than four feet into any required side or rear yard.

5. Cornices and eaves may project not more than two feet into any required yard.

6. Chimneys may project not more than two feet into any required yard.

7. Driveways providing access to permitted garages or parking areas.

8. Sills, leaders and similar ornamental or structural features may project not more than six inches beyond the cornice or eave to which they are attached.

9. Fences and retaining walls, where specifically permitted in this chapter.

10. Freestanding flagpoles must be set back at least five feet from any property line.

11. Accessory buildings and uses, including swimming pools, where specifically permitted in this chapter.

12. Sidewalks and pathways not wider than six feet and having a minimum setback of two feet from side and rear lot lines.

13. Living wall systems or vertical gardens attached to a building may project not more than two feet into a required yard.

14. Artistic sculptural elements attached to the facade of a parking structure may project not more than two feet into a required yard.

15. Setback requirements for air-conditioning units and generators are set forth in § 35-14.1J.

§ 35-9.11 Height.

A. For any new building or for any addition over 600 square feet in area, the grade plane existing on May 20, 2003 (the initial adoption of Section 5.9A, Grading and Soil Erosion Controls, now Article XV, Stormwater Management Requirements[1]), may not be altered in any way so as to achieve a conforming height or number of stories greater than that which the existing grade plane would otherwise provide. [1] Editor's Note: See now Ch. 26, Stormwater Management Regulations.

B. Appurtenances attached to principal structures. Church spires, belfries, domes, cupolas, flagpoles or antennas attached to buildings, mechanical penthouses (not for occupancy), chimneys, ventilators, skylights, water tanks, bulkheads and necessary mechanical appurtenances usually carried above roof level shall not be included when determining the height of the building, and are not subject to height limitations, except that such features shall not exceed 15% of the total roof area and shall not exceed 15 feet in height nor exceed the permitted building height for the zone by more than eight feet.

C. The building height, exclusive of mechanical room, attached flagpole, chimney, elevator shaft or mechanical equipment, shall not exceed the maximum height permitted in the zone by more than five feet when measured from the lowest elevation around the perimeter of the foundation to the highest point of the roof or parapet. This five-foot limit may be exceeded in the Multifamily/Transit Oriented Development Zone (MF/TOD) for portions of the building where there are driveways leading to underground parking facilities beneath the dwelling units, entrances to such underground parking facilities, or sunken gardens or patios. This exception shall only apply to side and rear yard areas.

§ 35-9.12 Attics and attic stories.

A. Attic space may be improved in accordance with the requirements of the New Jersey Uniform Construction Code if it does not meet the definition of a story or if, in the course of such improvement, it is modified in such a way that it does not become a story in excess of the number of stories permitted in this chapter.

B. Attic space which meets the definition of attic story may be improved if the building exceeds the number of stories permitted in this chapter only if there are no changes to the exterior of the building, such as additional or enlarged windows or altered roof lines.

§ 35-9.13 Public utilities. Nothing in this chapter shall be interpreted as prohibiting public utility distribution facilities, such as water distribution lines, sanitary sewer and telephone and electric distribution lines, along with related attendant facilities, intended for local service, which utility systems are permitted in all zone districts when approved by the appropriate serving utility agency.

§ 35-9.14 Performance standards for nonresidential uses. Before the issuance of any building permit or certificate of occupancy for a nonresidential use, all of the following regulations must be met:

A. Noise. All activities shall comply with § 3-8, Noise Restrictions, of the City's Revised General Ordinances.

B. Fire and explosion hazards. All activities shall be carried on only in structures which conform to the standards of the National Fire Protection Association or Factory Insurance Association or City Building Code or Fire Prevention Code, whichever one is more restrictive. All operations shall be carried on and combustible raw materials, fuels, liquids and finished products shall be stored in accordance with the standards of said National Fire Protection Association or Factory Insurance Association.

C. Odors. There shall be no emission of odorous gases or other odorous matter in such quantity as to be readily detectable without instruments.

D. Smoke, dust, gases and other forms of air pollution. There shall be no emission of smoke, dust, gases or other forms of air pollution which would in any way violate the New Jersey Air Pollution Control Laws or the New Jersey Air Pollution Control Code (see N.J.S.A. 26:2C-1 et seq. and N.J.A.C. 7:27-1.1 et seq.).

E. Liquid and solid wastes. There shall be no discharge at any point of treated or untreated sewage or industrial waste into any stream, lake, reservoir or into the ground of any material which may contaminate the water supply or endanger human health and welfare. No industrial waste shall be discharged into any system, nor shall any wastes be discharged into the public sewer system, which are dangerous to the public health and safety. All methods of sewage and industrial waste treatment and disposal shall be approved, as applicable, by the New Jersey Department of Environmental Protection, the City Board of Health and the City Engineer. All methods of treatment and disposal shall comply with the requirements of these agencies.

F. Radioactivity. No activities shall be permitted which cause radioactivity in violation of 10 CFR 1.20[1] entitled "Standards for Protection Against Radiation," dated June 16, 1957, or any subsequent revision or amendment thereto. [1] Editor's Note: See 10 CFR Part 20.

G. Vibration. There shall be no vibration which is discernible to the human sense of feeling beyond the immediate side on which such use is conducted.

H. Glare and heat. No operation will be conducted which will produce heat or direct or sky-reflected glare beyond the property line of the lot on which the use is located. Industrial and exterior lighting shall be used in such a manner that it produces no glare on public highways and neighboring property.

I. Utilities. All telephone and electric service on the property shall be by underground conduit.

§ 35-9.15 Green building development bonus incentives.

A. The green building development bonuses listed in this section shall be available to multifamily, townhouse, mixed-use and nonresidential development in all zones. Green building development bonuses shall not be available to single- and two-family dwellings. The development bonuses listed in this section shall not supersede green building development bonuses provided in any other section of this chapter or any redevelopment plan adopted by the City of Summit.

B. The provision of any LEED certification or equivalent and/or green building component(s) does not guarantee any additional development bonus. The prescribed development bonuses set forth in this section are intended to be the maximum allowed for any particular LEED certification, or equivalent, or green building component(s). Green building development bonuses shall not be combined under any circumstances. When a green building development bonus results in a fractional number, the figure shall be rounded to the nearest whole number.

C. Site plan requests for any green development bonus shall be evaluated on a case-by-case basis based on the characteristics of individual sites as determined by the Planning Board or Zoning Board of Adjustment. The provision of any LEED certification or equivalent and/or green building component shall be part of the typical site plan review process where the environmental benefits are analyzed in granting the requested development bonus. Bonus allowances shall be determined based upon the proposed development's compliance with the applicable zoning and design regulations.

D. Requests for green building development bonuses shall be reviewed by the Planning Board or Zoning Board of Adjustment, Board professionals and City staff in the course of a technical review committee meeting and/or site plan application, as determined to be necessary. All administrative costs, including the evaluation of a development's performance, any applications for LEED or equivalent accreditation, and review by City professionals and staff shall be at the expense of the developer. The administrative officer shall have the discretion in determining the extent to which any escrow is required for City professional and staff review, as determined to be necessary.

E. All green building development components shall adhere to the minimum approved/required standard for a period of no less than 10 years from the receipt of a final certificate of occupancy as demonstrated by an acceptable form of monitoring and annual performance reporting to be stipulated in a developer's agreement, or such other acceptable form of agreement, between the developer and City of Summit subsequent to site plan approval by the appropriate Board. Such agreements shall be recorded as a deed restriction as a condition of Board approval.

F. Penalties and enforcement for failure to comply with the minimum approved/required green building performance standard shall be addressed in a developer's agreement between the developer and City of Summit subsequent to site plan approval by the appropriate Board.

G. Green building development bonus incentives.

1. Green building development bonuses shall be in addition to the maximum density, floor area ratio (FAR) and height requirements as otherwise prescribed in this chapter.

2. The development shall meet the minimum LEED standard or equivalent as demonstrated by a LEED accredited professional in order to qualify for the corresponding development bonuses listed in the table below. Bonus Incentive Certified (40-49 pts.) Silver (50-59 pts.) Gold (60 to 79 pts.) Platinum (80-100 pts.) Max. density N/A

2.0 units per acre

4.0 units per acre

8.0 units per acre Max. FAR N/A 10% 15% 30% Max. bldg. height N/A N/A N/A 1 story/10 feet

3. The development shall meet the minimum green building standard to qualify for the corresponding development bonuses listed in the table below. Green Building Component Standard Bonus Incentive Minimum water use reduction derived from baseline calculations and a water balance model in accordance with LEED standards or similar 50%* Density: 2.0 units per acre and FAR: 10% 75%* Density: 4.0 units per acre and FAR: 15% Minimum energy demand supplied by on-site solar energy system 50%* Density: 1.0 unit per acre and FAR: 5% 75%* Density: 3.0 units per acre and FAR: 10% 100%* Density: 5.0 units per acre and FAR: 15% Min. on-site land area designated for green stormwater infrastructure (bioretention, rain gardens, etc.) 25% Lot coverage: 10% and FAR: 10% Minimum green roof coverage of total building coverage 85% Density: 3.0 units per acre and FAR: 15% Min. cost performance cost index (PCI) below performance cost index target (PCIT) (based on energy cost and greenhouse emissions). 25%* Density: 2.0 units per acre and FAR: 10% 50% Density: 4.0 units per acre and FAR: 15% NOTE: * Baseline calculations shall be based on the United States Green Building Council's (USGBC) most recent version of LEED standards and requirements.

4. Developers may request a green building bonus development incentive directly related to the magnitude and type of proposed green building component, subject to the determination of the Planning Board or Zoning Board of Adjustment.