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Article XXII

General Regulations, Exceptions and Modifications

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§ 195-116 Use regulations.

A. No structure shall be erected or altered, nor shall any land or structure be used in any manner or for any purpose, other than those included among the uses hereafter listed as permitted in the district in which such structure or land is located.

B. Every principal building shall be erected upon a lot as hereinbefore defined, and, except as hereinafter provided, there shall not be more than one one-family detached dwelling on one lot.

C. The following uses and activities are specifically prohibited in any district: (1) All outdoor advertising signs, whether freestanding or attached to a structure or painted or otherwise represented on the surface of any structure, which are not expressly related to the business being conducted on the premises. (2) Outdoor commercial amusements. (3) Trailers, trailer coach parks and trailer sales. (a) Exception. Where, as the result of an emergency caused by fire, flood or other disastrous circumstances, the Construction Code Official determines it to be necessary and appropriate to permit residents, property owners or commercial enterprises to utilize a trailer as a temporary place of residency or business during any period of reconstruction of damages to premises, then, upon application by the property owner, the Construction Code Official may issue a permit for the use of the trailer on a temporary basis for a period not to exceed six months. The issuance of such permit shall be conditioned upon the applicant's compliance with all relevant health and sanitation codes. (b) Fee. Upon application for such a permit, the applicant shall pay to the Township a permit fee as set forth in Article VII, Development Fees, of this chapter. (4) Junkyards. (5) Privately owned and operated dumps for disposal of garbage, trash, refuse, junk or debris of any kind. (6) No halfway house, reformatory facility, jail, penal institution, house of remediation, or any other such facility wherein convicted criminals are housed while serving sentences imposed by the court shall be permitted to be established in any zone within the Township. "Halfway houses" shall be defined so as to include those places housing not only convicted criminals but also any individuals embarked voluntarily or involuntarily on drug rehabilitation programs, mental health programs and the like, and the foregoing uses are expressly prohibited. (7) Massage, bodywork and somatic therapy establishments are prohibited in all zone districts except that they may be permitted in the LCI Zone, but only if the same are properly licensed in accord with the provisions of N.J.S.A. 45:11-53, entitled "Massage and Bodywork Therapist Licensing Act," in which case the use shall be deemed a principal permitted use. [Amended 1-17-2012 by Ord. No. 12-01; 12-2-2019 by Ord. No. 19-22] (8) Drive-through services such as a restaurant, fast food establishment, personal services provider, bank or other financial institution that is not an accessory use to a primary use being provided on the premises. Food or beverages being served to consumers in vehicles cannot be consumed on the premises. [Added 2-16-2021 by Ord. No. 21-08]

D. Whenever special requirements are provided in Article XXVIII for selected uses permitted in certain specified districts as conditional uses, and when any such selected uses are permitted as permitted uses in other districts, the special requirements as provided shall also apply in those districts where such selected use is a permitted use.

§ 195-116.1 Cannabis establishments, cultivators, manufacturers, wholesalers, retailers, distributors and delivery services prohibited. [Added 6-21-2021 by Ord. No. 21-18]

A. Purpose. Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act (P.L. 2021, c. 16), N.J.S.A. 24:6I-45b, all classes of cannabis establishments, including without limitation, a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, a cannabis distributor and cannabis delivery service, but not the delivery of cannabis items and related supplies by a delivery service which is not located within the Township, are hereby prohibited from operating within the Township of Clark.

B. Definitions. As used in this chapter, all classes of cannabis establishments, including without limitation, a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, a cannabis distributor and a cannabis delivery service, shall have the meanings as defined in Section 3 of P.L. 2021, c. 16, N.J.S.A. 24:6I-33, et seq.

C. General prohibition. All classes of cannabis establishments, including, without limitation, a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, a cannabis distributor and a cannabis delivery service, but not the delivery of cannabis items and related supplies by a delivery service which is not located within the Township, as said items are defined in Section 3 of P.L. 2021, c. 16, N.J.S.A. 24:6I-33, et seq., are hereby declared to be prohibited uses or activities within the Township of Clark.

D. Fines and penalties. Upon conviction by a court of competent jurisdiction, including without limitation, the Municipal Court, of a violation or violations of this section, such court shall be authorized to impose such fines and penalties as are authorized by law, including but not limited to, such fines and penalties as are authorized under any applicable state statute, under Chapter I, Article III, General Penalty, of these ordinances, or under any other Township ordinance as, in its discretion, such court deems warranted; provided that the court may impose the maximum penalty provided under Chapter I, Article III, § 1-21, but in no event shall such penalty be less than the minimum penalty prescribed by Chapter I, Article III, § 1-22, and the court shall treat each and every day in which a violation exists as a separate violation pursuant to Chapter I, Article III, § 1-25. The Township, by and through the Township Attorney, also shall be entitled to institute an action in Superior Court of New Jersey to enjoin and restrain conduct which is found to violate this section. Such fines, penalties and rights shall be cumulative, in addition to, and not in limitation of, any and all fines, penalties and rights available to the Township at law or in equity.

§ 195-117 Height regulations.

A. General limitation; accessory structures. No structure shall be erected or altered to exceed in height the limit hereinafter designated for the district in which such structure is located, except as otherwise specifically provided. Wherever in this Part 3 a height limit is designated in feet or in number of stories, such designation, in combination, shall be considered as the maximum permitted height. Unless otherwise specified as exempted or excluded from height controls, no accessory building or structure shall exceed a height of 20 feet, except for antennas or aerials, the height of which shall be governed by the provisions set forth below. [Amended 11-16-2009 by Ord. No. 09-25]

B. Structures excluded from height controls. The height limits set forth in this Part 3 shall not apply to church spires, belfries, cupolas, penthouses or roof structures for the housing of elevators, ventilating fans, air-conditioning equipment or similar equipment required to operate and maintain the building, utility poles, and television or radio antennas or aerials less than 60 inches in height and/or 30 inches in diameter, water storage towers and tanks, chimneys and smokestacks, fire and parapet walls, or similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purposes they are to serve. Nothing in this subsection shall be deemed to permit signs of any kind to exceed the height limits for any district as prescribed in this Part 3. No roof structure shall have an area greater than 20% of the roof area of the principal structure. [Amended 11-16-2009 by Ord. No. 09-25]

C. Additional story on steep lot. On any lot with an average ground slope greater than one foot vertical to five feet of horizontal distance, one full story in addition to the number permitted in the district in which such lot is situated shall be permitted, except that this provision shall not apply to one-family detached residential buildings, and provided that, in any case, the building height limit shall not otherwise be increased above that specified for the district in which such building is located.

D. Public and quasi-public buildings. Public buildings, churches and church schools may exceed the height limitations of this Part 3, provided that the minimum front, rear and side yards shall be increased one foot for each foot by which such building exceeds the height limit herein established for such district in which such building is erected, and provided further that in no case shall any such building have a height greater than 50 feet.

E. Antennas and aerials. (1) For the purposes of this section, all antennas and aerials in excess of 60 inches in height and/or 30 inches in diameter shall require the same permits as required for accessory buildings. (2) Television or radio antennas, or aerials greater than 60 inches in height and/or 30 inches in diameter, shall be erected only after receiving the approval of the Construction Code Official and upon meeting the conditions set forth below: (a) No antennas more than 60 inches in height and/or 30 inches in diameter may be mounted on a roof. Antennas larger than 60 inches in height and/or 30 inches in diameter shall be ground-mounted in such a manner as to be suitable to maintain stability under all conditions, and the plans for same shall be subject to the approval of the Township Engineer. (b) No antennas greater than 10 feet in height and/or eight feet in diameter may be located in any zone. (3) No television or radio antenna or aerial shall be located in the front yard or required side yard. Rear yard distance requirements shall be the same as those set forth in this Part 3 for accessory buildings in the zone where such antenna or aerial is proposed. (4) The antenna or aerial shall be located and screened to minimize visibility from the street and adjacent properties. In considering such uses, the Construction Code Official may require additional buffering or screening so as to accomplish the objective of this section. (5) Antennas or aerials recommended to be installed on the ground by the manufacturer shall be so located. A copy of the manufacturer's installation recommendations shall be submitted to the Construction Code Official for his/her review before issuing any permit if the installation is contemplated other than in the manner recommended by the manufacturer.

F. Front yard setback for flagpoles. In all zones wherein the owner of the property seeks to erect a flagpole in accord with the terms hereof, the front yard setback for said flagpole shall be a distance equal to 50% of the front yard setback required for the erection of a principal structure in said zone. [Added 2-16-2010 by Ord. No. 10-03]

§ 195-118 Area and yard provisions.

A. General yard and open spaces provisions. (1) No building or structure shall be erected or altered to encroach upon or reduce in any manner the required yard dimensions, areas or open spaces hereinafter designated for the district in which such building is located, except as otherwise specifically provided. (2) No yard or other open spaces provided about any building for the purpose of complying with the provisions of this Part 3 shall be considered as a yard or open space for any other building, and no yard or other open space of a building on one lot shall be considered as a yard or open space for a building on any other lot. (3) All yards and courts required by this Part 3 shall be open and unobstructed to the sky, except as provided herein. (4) No lot shall be reduced in area so as to make any yard or other open space less than the minimum required by this Part 3.

B. Undersized lots. (1) Any lot of record, or any lot shown on a recorded subdivision plat at the time of enactment of this Part 3, with an area or width less than that prescribed for a lot in the district in which such lot is located, may be used for any purpose permitted in such district; provided, however, that no lot of less than 5,000 square feet in area or less than 40 feet of minimum lot frontage at the building line shall be used. [Amended 12-2-2019 by Ord. No. 19-26; 2-16-2021 by Ord. No. 21-09] (2) On any undersized lot in single ownership, where the owner of which owns no adjoining lots, the combined total side yard requirements for the district in which such lot is located may be reduced by six inches for each foot a lot is less than the required minimum lot frontage at the building line prescribed for such district, where necessary to permit construction thereon of a building having a minimum floor area prescribed for such district. However, no principal building shall be placed any nearer than five feet to any side lot line, except where specifically permitted by this Part 3, and provided further that no principal building shall be placed any nearer than 15 feet to any principal building on an adjoining lot. (3) Where the owner of an undersized lot owns adjoining lots upon which there are not any principal structures situated, and where the composite of the lots, or a portion thereof under single ownership, meets the minimum area requirements for the district in which the composite of lots is located, such composite, or portion thereof, shall be considered as one single lot, and the area and yard provisions of this Part 3 shall apply:

C. Corner lots. (1) Front yards. All yards facing upon a public street shall conform to the minimum front yard requirements for the particular district, except that: (a) Where a block frontage (total length of lot frontage along a street between the nearest two intersecting streets) is entirely formed by the side street lines of two abutting corner lots, the depth of the front yards facing such side street lines may be reduced by not more than 40% of the required depth. (b) For any corner lot of record that is not of sufficient width to permit the adherence to the minimum requirements for a front yard in a particular district, the front yard abutting the side street line may be reduced by not more than 1/3 of the required depth for a front yard. Nothing in this subsection shall permit the reduction in width or depth of the other required yards of such corner lots. (2) Side yards. All side yards not abutting and facing upon a public street shall conform to the minimum side yard requirements for the particular district, except that the side yard of a corner lot which adjoins the required front yard abutting the side street line shall conform to the minimum rear yard requirements for the adjoining interior lots. (3) Rear yards (nonexistent). For the purposes of applying the provisions of this Part 3, a corner lot shall be deemed to have front yard and side yards only. (4) Adjoining districts. Where a corner lot in a commercial, industrial or less restrictive residential district directly abuts a lot in a more restrictive residential district along the same side of a public street, all of the regulations of such more restrictive residential district for front yards shall apply to such corner lot along the street whose frontage it shares with the more restrictive residential district, except that Subsection C(1)(a) and (b) above shall apply where such corner lots are not of sufficient frontage.

D. Front yards. (1) Corner lots. Front yards required on corner lots shall be subject to the provisions of Subsection C(1)(a) above. (2) Double-frontage lots. Yards facing upon public streets shall be considered as front yards and shall conform to the minimum front yard requirements for the particular district. The building line of any principal structure or building erected or constructed upon such lots shall not be established in excess of 15 feet of the average front yard depth of adjoining lots on either side. (3) Master Plan and Official Map. (a) Where a lot has frontage upon a street which, on the major street portion of the Master Plan, or on the Official Map of the Township, is contemplated for right-of-way widening, the required yard depth and area shall be measured from such proposed future right-of-way line. (b) For the purpose of measuring and determining front yards, no street or road shall be considered as having an established right-of-way of less than 50 feet in width. (4) Front yard depth in developed areas. If the front yard depth of two or more existing principal buildings on each side of a lot within a distance of 150 feet and fronting on the same side of the same public street between the nearest two intersecting streets is greater or less than the front yard depth required in this Part 3 for a particular district, the average of the existing depths, from street line to building line, within such specified distance shall be the required front yard depth for the lot in question. (5) Accessory buildings. Unless otherwise provided, no accessory buildings shall be permitted in any required front yard.[1] [1] Editor's Note: Former Subsection D(6), regarding extensions and projections, which immediately followed, was repealed 2-16-2021 by Ord. No. 21-08.

E. Permitted extensions and projections. The following portions of, or attachments to, a principal building may extend and project into a required yard as described below: [Added 2-16-2021 by Ord. No. 21-08] (1) Uncovered steps only may project up to five feet into a required front or rear yard. If the existing front yard setback is nonconforming, uncovered steps may be reconstructed in their existing locations and footprints, but not increased further in size or encroach further into the required front yard area. In all residential zones, a covered porch or stair landing of a principal structure may project up to five feet into a required front yard. In addition, uncovered steps giving access to said porch may be installed. Neither the porch nor the covered landing shall be enclosed or screened. In addition, there shall be no habitable space created above the porch or landing. If the existing front yard setback is nonconforming, an existing porch and landing may be reconstructed and covered in their existing locations and footprints, but not increased further in size or encroach further into the required front yard area. (2) On grade patios and barbecues are permitted in any rear yard or side yard provided they satisfy the requirement for accessory structures in the zone. (3) Cornices, eaves beyond the foundation wall, bay windows, sills, awnings, ornamental features, architectural features and chimneys may project up to two feet into any minimum required front, side or rear yard. (4) Fire escapes and outside stairways may project into any required yard area. (5) Show windows in commercial districts, but not more than 18 inches into any front yard. (6) Room air-conditioning equipment and ground-mounted generators may be located only within any side or rear yard, so long as the furthest extending side is not less than five feet from any property line. Outside central air-conditioning equipment may be located only in any side or rear yard, provided that the closest face of the unit is not less than five feet from the property line. (7) Habitable areas of a building may be extended up to two feet beyond the foundation wall into any required side yard or rear yard area beginning at the second floor level.

§ 195-119 Vision clearance at intersections. In all districts where front yards are required on corner lots, all walls, fences, ornamental structures, hedges, shrubbery or other plantings, other fixtures and structures, and ground elevation located within a triangular area having two twenty-five-foot sides measured along the front lot line and side street line from the intersection point of such lines shall be limited in height so as to prevent the impairment of vision at such street intersection. Such height shall not be in excess of three feet above the established curb elevation of the nearest curb, except that retaining walls shall be permitted where changes in street grade, width, or alignment have made such structures necessary. In the case of trees within this triangular area, all branches shall be trimmed away to a height of nine feet above the curb level where vision is measurably impaired or obstructed.

§ 195-120 Fences and walls. [Amended 8-11-2004 by Ord. No. 04-11]

A. Fences and walls shall be exempt from the yard requirements of this Part 3.

B. Where any fence or wall is situated on a corner lot, the provisions of § 195-119 shall apply with respect to the height limitations for visibility clearance at street intersections.

C. No fence or wall hereafter erected, constructed or added to that is situated between two abutting residential properties shall be any greater in height than 6 1/2 feet, measured from the finished grade elevation along the length of such wall or fence.

D. In the case of a residential corner lot, a fence or wall of any type not greater than 6.5 feet in height may be permitted to extend along the right-of-way where such wall or fence encloses the yard area of a home located on a corner lot, providing that the conditions of § 195-119 are also met and that no such fence shall be allowed beyond a parallel line extended from the front facing side of the home to the right-of-way. [Amended 8-18-2014 by Ord. No. 14-22]

E. Nothing in this section shall apply to shrubbery, hedges or other plantings located between such properties.

F. Open security fences up to eight feet high shall be permitted in any industrial zone upon proper application to the Construction Code Official.

G. The face, or finished side, of a fence or wall shall face the adjacent property.

H. No fence or wall shall be constructed with barbed wire, metal spikes or other such dangerous material or constructed in such a manner as to be dangerous to animals or humans.

I. Solid fences shall not be permitted to be constructed in the front yard of any residential property and any such fence shall be required to be open, partial or board-on-board, except as specifically allowed per § 195-120D. [Amended 8-18-2014 by Ord. No. 14-22]

J. Prior to the installation of fencing in the Township, a permit shall be obtained from the Building Department.

§ 195-121 Essential services exemption. Essential services shall be exempt from the provisions of this Part 3.

§ 195-122 Performance standards.

A. Restrictions. No building may be erected, altered or used, and no lot or premises may be used, for any use which is noxious or offensive by reason of odor, dust, vibration, illumination, electrical interference, noise, or which constitutes a public hazard by reason of fire, explosion or air or water pollution.

B. Noise. (1) In residential and commercial districts, when measured at the lot line, and industrial districts, when measured at any point on the boundary of the nearest residential or office district, the sound-pressure level radiated continuously from a facility between the hours of 9:00 p.m. and 7:00 a.m. shall not exceed the following in any active band of frequency: [Amended 1-17-2012 by Ord. No. 12-01]

Frequency Band (cycles per second)	Sound-Pressure Level (decibels re 0.0002 microbar)
20 to 25	69
25 to 50	75
50 to 100	54
100 to 150	54
150 to 300	47
300 to 600	45
600 to 1,200	41
1,200 to 2,400	34
2,400 to 4,800	31
4,800 to 10,000	28

(2) If the noise is not smooth and continuous and is not radiated between the hours of 9:00 p.m. and 7:00 a.m., one or more of the following corrections shall be added to or subtracted from each of the decibel levels given above:

Type of Operation/Character of Noise	Correction in Decibels
Daytime operation only	+5
Noise source operated less than 20% of the time	+5*
Noise source operated less than 5% of the time	+10*
Noise source operated less than 1% of the time	+15*
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, screech)	-5

NOTES: * Applying one of these corrections only. The sound-pressure level shall be measured with a sound-level meter and an octave bank analyzer that conforms to the latest specifications published by the American Standard Association, New York, New York.

C. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot line, nor shall any vibration produced exceed 0.002 g peak, measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.

§ 195-123 Aboveground outside storage tanks. [Added 8-11-2004 by Ord. No. 04-11] Any outdoor aboveground storage tank in any zone district within the Township of Clark shall be enclosed by a solid wall no higher than eight feet in height and constructed of noncombustible materials.

§ 195-123.1 Front yard setback for flagpoles. [Added 11-16-2009 by Ord. No. 09-25] In all zones wherein the owner of the property seeks to erect a flagpole in accord with the terms hereof, the front yard setback for said flagpole shall be a distance equal to 50% of the front yard setback required for the erection of a principal structure in said zone.