

CHAPTER 7 PROPERTY REGULATIONS

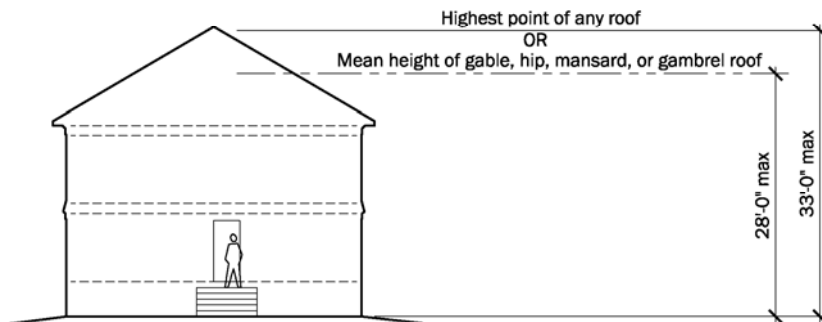
ARTICLE 1. GENERAL

7-101 Definitions

Section 7-101. Definitions

For the purposes of this Chapter,

- (a) “Accessory Building” means a building subordinate to, and located on the same lot or lots with, the main building thereon, the use of which is clearly incidental to the principal use of the main building or to the principal use of land of said lot or lots, and which is not attached by any part of common wall or roof to the main building.
- (b) “Building” means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind.
- (c) “Building coverage” means the area of a lot that is occupied by the main and accessory buildings, including (i) bay windows, oriel entrances, balconies, chimneys, and vestibules, and (ii) covered decks, porches, breezeways, and steps, but excluding cornices, eaves, air conditioners, and heat pumps.
- (d) “Building height” means the vertical distance measured from the average elevation of the grade along the front of the building to: (1) the highest point of roof surface regardless of roof type, and (2) the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof. Building height is separately measured on both street-facing sides of a corner lot. For the purpose of this definition, grade is either the finished development grade or the pre-development grade, whichever is lower.



- (e) Building height, established (see established building height).

- (f) “Building line” means a line, parallel to a lot line, extending from property line to property line at the outermost wall of the main building or any enclosed projection thereof.
- (g) “Building restriction line” means a line, parallel to a lot line, creating an area into which a structure must not project, except as otherwise provided in this Chapter.
- (h) Building line, established (see established building line).
- (i) “Code Enforcement Officer” means an authorized code enforcement official within the meaning of Chapter 3, Section 3-101(c) of this Code.
- (j) “Curb cut” means a break in the continuity of the curb in a public right-of-way for allowance of vehicular access to an adjoining parcel, or where there is no curb, the intersection of the driveway and edge of the improved roadway.
- (k) “Developmental nonconformity” means a building which was lawful when constructed, but which no longer conforms to the requirements of Article 4 of this Chapter because of subsequent amendments to this Code.
- (k) “Developmental nonconformity” means a building which was lawful when constructed, but which no longer conforms to the requirements of Article 4 of this Chapter because of subsequent amendments to this Code.
- (l) Dumpster: A large container, including, but not limited to, a detached wheeled trailer, designed or used to store rubbish, construction and/or demolition debris, or other material to be discarded.
- (m) “Established building height” means a height building line, which is the average height of all buildings that are:
 - a. within 300 feet of each side property line of the proposed construction site;
 - b. along the same side of the street;
 - c. between intersecting streets or to the point where public thoroughfare is denied;
 - d. existing at the time the building permit application is filed;
 - e. not non-conforming, unlawfully constructed, or constructed pursuant to a lawfully granted variance; and
 - f. not located on a pipe-stem or flag-shaped lot.Corner lots are subject to the established building height of both of the streets.
- (n) “Established building line,” means the average front line of all buildings that are:

- a. within 300 feet of each side property line of the proposed construction site;
- b. on the same side of the street;
- c. between intersecting streets or to the point where public thoroughfare is denied;
- d. existing at the time the building permit application is filed;
- e. not nonconforming, unlawfully constructed, or constructed pursuant to a lawfully granted variance; and
- f. not located on a pipestem or flag-shaped lot.

Corner lots are subject to established building line standards on both of the adjoining streets.

- (o) “Front-loading garage” means a garage with a door that faces a front lot line.
- (p) “Finished grade” means the grade following completion of the building or renovation, as established at spot elevations taken at intervals no greater than five (5) feet along the front of the building.
- (q) “Front lot line” means the lot line running along the front of the lot separating it from the street.
- (r) “Front wall plane” means the horizontal surface along the face of an exterior wall facing a front yard.
- (s) “Front yard” means the yard extending across the full width of the lot between the front lot line and the front building line. In cases where no main building exists, the front building restriction line will be substituted for the front building line.
- (t) “Garage” means an accessory building or portion of a main building designed, arranged, or used for the housing of private motor vehicles.
- (u) “Garage, front-loading” (see front-loading garage).
- (v) “Garbage” means all organic waste, including the residue of animal, fruit or vegetable matter, resulting from the preparation, cooking, handling or storage of food; wastepaper, newspaper and cardboard; cans; jars and bottles; and all other waste materials normally generated and accumulated in a household.
- (w) “Grade, finished” (see finished grade).
- (x) “Grade, pre-development” (see pre-development grade).

- (y) “Hazardous material” means any substance or material in a quantity or form that may pose an unreasonable risk to health, safety or property, including any material designated by the U.S. Department of Transportation as belonging to a hazard class.
- (z) “Lawn and garden debris” means all yard trash, including dead trees, tree limbs, stumps, bushes and leaves; and all other debris of the type normally generated and accumulated in gardening, lawn care and tree care.
- (aa) “Lot” means the land designated as a separate and distinct lot or parcel of land on a legally recorded subdivision plat or deed filed among the records of Montgomery County, Maryland.
- (bb) “Low growing plantings” means grass, ground cover, flowers, and similar plantings maintained at a height of twelve (12) inches or less.
- (cc) “Lot line, front” (see front lot line).
- (dd) “Lot line, rear” (see rear lot line).
- (ee) “Lot lines” means the lines bounding a lot.
- (ff) “Lot line, side” (see side lot line).
- (gg) “Main Building” means a building in which is conducted the principal use of the property on which it is situated. Any dwelling shall be deemed to be a main building on the lot on which it is located.
- (hh) “Portable storage unit” means a large portable container designed or used for the outdoor storage of personal property, including, but not limited to, portable containers that are leased for temporary use.
- (ii) “Pre-development grade” means the grade that existed at the time of application for a building or demolition permit, as established at spot elevations taken at intervals no greater than five (5) feet along the front of the building, or if there is no building at the time of application, at locations along the front of the building to be constructed.
- (jj) “Rear lot line” means the lot line generally opposite or parallel to the front lot line. If the rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, such rear lot line is assumed to be a line not less than ten (10) feet long lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of such front lot line.
- (kk) “Rear yard” means the yard extending across the full width of the lot between the rear lot line and the rear building line. In cases where no main building exists, the rear building restriction line will be substituted for the rear building line. Any portion of a rear yard that overlaps with a side yard shall be considered part of the side yard. In the case of a corner lot, any portion of a rear yard that overlaps with a front yard shall be considered part of the front yard.
- (jj) “Refuse” means garbage, lawn and garden debris or rubbish.

- (mm) “Rubbish” means all refuse other than garbage and lawn and garden debris; this includes ashes, rubble, junk and other solid waste materials.
- (nn) “Side lot line” means any lot line other than a front lot line or a rear lot line.
- (oo) “Setback” means the minimum distance that a building must be set back from a lot line, according to the requirements at the relevant provisions of this chapter.
- (pp) “Side wall plane” means the horizontal surface along the face of an exterior wall facing a side yard.
- (qq) “Side yard” means the yard between the side lot line and the side building line. Any portion of a side yard that overlaps with a front yard shall be considered part of the front yard.
- (rr) “Toxic material” means any substance that can be poisonous if inhaled, swallowed, or absorbed into the body through cuts, breaks in the skin, ingestion, or bodily contact.
- (ss) “Wall plane, front” (see front wall plane).
- (tt) “Wall plane, side” (see side wall plane).
- (uu) “Wall plane length” means the horizontal length along the face of an exterior wall of a building uninterrupted by a projection or inset of three (3) feet or more that extends a horizontal distance of five (5) feet or more.
- (vv) “Wall plane height” means the maximum vertical distance at any point on any exterior wall of a building between the highest point of a wall plane and the grade elevation. For the purpose of this definition, grade is either the finished development grade or the pre-development grade, whichever is lower. Dormers shall be considered part of the wall plane below unless they are recessed from the wall plane below by a minimum of three (3) feet.
- (ww) “Yard” means any open space on a lot with a building, or group of buildings, lying between the building (or the outer building or a group) and the nearest lot or street line and unoccupied and unobstructed from the ground upward, excluding projections allowed by this Chapter.
- (xx) “Yard, front” (see front yard).
- (yy) “Yard, rear” (see rear yard).
- (zz) “Yard, side” (see side yard).

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 12-09-1, adopted 1/21/2010, effective 2/10/2010)

ARTICLE 2. PROPERTY MAINTENANCE

7-201 Purpose

7-202 Maintenance of Buildings

- 7-203 Maintenance of Yards and Vacant Lots**
- 7-204 Unremoved Snow or Ice**
- 7-205 Accumulation of Refuse**
- 7-206 Prohibition of Refuse on Public or Private Property**
- 7-207 Restrictions on Use of Public Trash Receptacles**
- 7-208 Advertisements and Handbills**
- 7-209 Maintenance of Public Right-of-Way**
- 7-210 Dumpsters and portable storage units**

Section 7-201. Purpose

The provisions of this Article are declared necessary for the purpose of securing the public safety, health and welfare in the maintenance of buildings and yards within the Village.

Section 7-202. Maintenance of Buildings

The owner of a building or his designated agent or lessee shall maintain the building and its exitways in a safe and sanitary condition at all times. Every building shall be kept free from unreasonable accumulation of refuse and shall be kept free from vermin or rodent infestation. Each occupant of a building shall keep in a safe and sanitary condition that portion of the property which he occupies or over which he has exclusive control.

Section 7-203. Maintenance of Yards and Vacant Lots

- (a) The owner of a yard or vacant lot, or his designated agent or lessee, shall maintain such yard or lot in a safe and sanitary condition. Every yard and vacant lot shall be kept free from unreasonable accumulation of rubbish, lawn and garden debris, or hazardous or toxic material, and shall be kept free of garbage.
- (b) The owner of a yard or vacant lot shall not permit or allow any grass or weeds to grow on such yard or lot to a height in excess of twelve (12) inches above the ground.

Section 7-204. Unremoved Snow and Ice

- (a) The owner of a lot in the Village, or his designated agent or lessee, shall within twenty-four (24) hours after a snowfall ceases:
 - 1) Remove, or cause the removal of, snow and ice from any sidewalk on such lot or on abutting public property that is normally used by the public.
 - 2) Deposit or cause the deposit of, the removed snow or ice in a reasonably safe location and not upon any public roadway or sidewalk.
 - 3) If said snow and ice cannot be removed because of hardening, make the sidewalk reasonably safe for pedestrian travel by spreading sand or a similar substance.
- (b) In the event that the owner of a lot in the Village or his designated agent or lessee fails to remove or cause the removal of snow and ice from a sidewalk or to render the sidewalk reasonably safe for pedestrian travel as required in this Section, the Village Manager, or his or her designee, may take such action as is necessary to return the

sidewalk to a condition required by this Section. The cost of any corrective action may be specially assessed against the abutting private property and collected with the property taxes or collected by a suit for damages.

- (c) Any person who violates any provision of this Section 7-204 or allows a violation of any provision of this Section on his or her property, shall be guilty of a municipal infraction and shall be jointly and severally subject to a penalty of One Hundred Dollars (\$100.00) for each day that a violation exists. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(Ord. No. 10-10-1, introduced 10/21/2010, adopted 12/16/2010 effective 1/5/2011)

Section 7-205. Accumulation of Refuse

- (a) The owner of a lot in the Village, or his designated agent or lessee, shall not cause or allow the accumulation of refuse on the lot, with the following exceptions:
 - 1) Refuse stored in accordance with this Chapter and awaiting collection by the Village or a private trash disposal firm.
 - 2) Matter intended for garden compost, provided it is not located in a front yard and does not exceed normal requirements of home garden and does not attract vermin or produce offensive odors.
 - 3) Firewood, provided that it is not located in a front yard and is cut into fireplace-size lengths and stacked so as to not be hazardous or attract vermin.
- (b) The owner of a lot in the Village, or his designated agent or lessee, shall not store refuse in a manner that would permit it to be carried or deposited by the elements or animals upon any street or sidewalk or upon any other private property.

Section 7-206. Prohibition of Refuse on Public or Private Property

No person shall place refuse upon any street, public right-of-way, or private property within the Village, except that certain refuse may be deposited temporarily on the public right-of-way (but not on any roadway or sidewalk) for collection by the Village or a private trash disposal firm.

Section 7-207. Restrictions on Use of Public Trash Receptacles

No person shall deposit refuse in the trash receptacles provided by the Village, except for refuse normally and reasonably deposited by a pedestrian in lieu of discarding it on public or private property in the Village.

Section 7-208. Advertisements and Handbills

No person shall cast, throw, place or distribute any advertisements, circulars, handbills, newspapers or other materials within the Village in such a manner that they may be blown upon

and into any roadway, public right-of-way, or private property within the Village. All notices posted within the public right-of-way shall be removed within five (5) days after the occurrence of the event referred to therein.

Section 7-209. **Maintenance of Public Right-of-Way**

- (a) The owner of private property adjoining a public right-of-way shall maintain that portion of the right-of-way located between the private property line and the edge of the paved street in a safe and sanitary condition. Said owner shall not permit grass or weeds to grow within the right-of-way to a height in excess of twelve (12) inches above the ground. Nothing herein shall be deemed to require an owner of private property adjoining a right-of-way to repair sidewalks or curbs located within the right-of-way.
- (b) The owner of private property adjoining a public right-of-way shall not place any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth, except low growing plantings, within the right-of-way without a license to use the right-of-way issued pursuant to Section 6-302. Any such tree, hedge, shrubbery, or other plant growth located within the right-of-way on December 9th, 2009 may be maintained, but not replaced, provided that it does not interfere in any manner with pedestrian or vehicular traffic and is maintained in such a manner and at such height that a clear and unobstructed view is available to pedestrians and vehicular traffic.
- (c) The owner of private property adjoining a public right-of-way shall not permit any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located on such owner's private property to extend into the right-of-way in such manner that interferes with pedestrian or vehicular traffic. Any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located on private property adjoining a right-of-way shall be maintained in such a manner and at such height that a clear and unobstructed view of the right-of-way is available to pedestrians and vehicular traffic.
- (d) Any non-public structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located within the public right-of-way in violation of any provision of this Section 7-209 shall be removed by and at the expense of the owner and occupant of the abutting private property upon the request of the Village Manager. The Village Manager may take such action as is necessary to return the right-of-way to a condition required by this Section. The cost of any corrective action may be specially assessed against the abutting private property and collected with the property taxes or collected by a suit for damages.
- (e) Any person who violates any provision of this Section 7-209 or allows a violation of any provision of this Section on his or her property, shall be guilty of a municipal infraction and shall be jointly and severally subject to a penalty of One Hundred Dollars (\$100.00) for each day that a violation exists. If a violation occurs, there shall be a rebuttable presumption that all owners of the property

allowed the violation.

(Ord. No.10-09-1, adopted 11-19-09, effective 12-9-09)

Cross References: Section 6-302(b); Section 7-204.

Section 7-210. **Dumpsters and portable storage units.**

- (a) No person shall place or maintain any portable storage unit or dumpster on public property or in the public right-of-way, provided, however, a portable storage unit may be placed on an unimproved portion of the public right-of-way upon the issuance of a permit by the Village Manager upon such terms or restrictions as the Village Manager deems necessary to protect the public health, safety or welfare, including, but not limited to, a limit on the number of consecutive days a portable storage unit may be placed or maintained in the public right-of-way.
- (b) No person shall place or maintain a dumpster or portable storage unit on private property within the Village without obtaining a permit from the Village Manager. The Village Manager may condition such permit upon such terms or restrictions as the Village Manager deems necessary to protect the public health, safety or welfare, including, but not limited to, a limit on the number of consecutive days a dumpster or portable storage may be placed or maintained on private property.
- (c) No person shall place or maintain a dumpster on private property within the Village for which a permit is required by this Article unless such person has deposited with the Council a deposit for repairs in the form of a bond, letter of credit or other security in such amount and/or form as the Council deems necessary or appropriate to insure the restoration or repair of any damage to the Village rights-of-way, sidewalks, curbs, or roadways and that the placement and use of the dumpster will be in accordance with the terms of the permit issued in connection therewith. The deposit may be applied to repair or correct any damage or injury to public property, including treatment or replacement of Village trees and plantings, as the Village Council in its discretion shall determine. Upon removal of the dumpster or portable storage unit for which the permit was issued, the balance of the deposit, less any amounts retained by the Village pursuant to this subsection, shall be returned to the person who made the deposit.

(Ord. No. 12-09-1, adopted 1-21-2010 effective 2-10-2010) Ord. No.10-09-1, adopted 11-19-09, effective 12-9-09)

Cross References: Section 6-302(b); Section 7-204.

ARTICLE 3. REFUSE COLLECTION

7-301 Purpose and Application

- 7-302 Authority of Council**
- 7-303 Collection of Garbage**
- 7-304 Collection of Lawn and Garden Debris**
- 7-305 Special Collection of Rubbish**
- 7-306 Commercial Establishments**

Section 7-301. Purpose and Application

- (a) The provisions of this Article are hereby declared necessary for the purpose of protecting and promoting the health, safety and welfare of the present and future inhabitants of the Village.
- (b) The provisions of the Article shall apply to the collection of refuse within the boundaries of the Village.

Section 7-302. Authority of the Council

- (a) The Council is authorized to control the collection of refuse within the Village.
- (b) The Council may enter into such agreements or contracts, including agreements or contracts with any political subdivision or public authority, as it deems advisable to cause the collection and disposal of all residential refuse.
- (c) The Council or a Code Enforcement Officer may enforce all prohibitions and standards set forth in this Article, upon written notice delivered to or posted at the Village address of any violation of such prohibition or standard.
- (d) The Council may establish and levy such fees as may be necessary to achieve the purposes of this Article, including fees for the collection and disposal of an refuse generated by businesses located within the Village that the owner and operator of the business does not remove or cause to be removed in a timely manner.

Section 7-303. Collection of Garbage

- (a) The Village will collect garbage twice weekly from the required locations for its storage at each residence in the Village, except when normal collection would occur on a holiday. The Village may exclude times within the definition of garbage from residential garbage service, may establish a different frequency for collection of excluded items, and may require that excluded items be placed at the curb or recycled.
- (b) All residential garbage shall be stored for collection in containers that meet the requirements of this Section. Such containers shall not be placed in a front yard or on the public right-of-way.
- (c) It shall be the responsibility of the occupant or owner to provide sufficient containers for storage of garbage to prevent overflow between collections.
- (d) All containers for the storage of garbage shall be vermin-proof and waterproof, of non-corrosive material, with tightly fitted lids in place at all times. Containers recessed into the ground shall be permitted only if they are of such construction that they do not permit waste or waste material seepage.

- (e) No garbage shall be placed in a container for collection unless it is secured in a leak-proof plastic bag or other leak-proof wrapping.

Section 7-304. Collection of Lawn and Garden Debris

(a) The Village will collect lawn and garden debris from residences in the Village on a schedule to be determined by the Village Council. The Village may exclude certain items within the definition of lawn and garden debris from residential collection service.

- (b) The owner or occupant shall place such debris along the curb for collection. All such debris shall be placed in securely tied plastic bags. However, tree limbs, plant stalks and the like not exceeding four (4) feet in length or three (3) inches in diameter may be placed in containers or securely tied bundles.

Section 7-305. Special Collection of Rubbish

- (a) The Village will collect rubbish from residences in the Village on a schedule to be determined by the Village Council. Owners and occupants will be notified of the dates of such collections and where rubbish is to be placed for collection
- (b) The Village may exclude from special collection certain items within the definition of rubbish. The owner or occupant shall be responsible for the removal and disposal of such rubbish.

Section 7-306. Commercial Establishments

- (a) The owner, lessee, or person in control of any property in the Village upon which a commercial activity is operated shall keep such property, including any adjoining sidewalks and parking areas, free of litter and refuse.
- (b) Refuse shall be collected or removed from commercial establishments at least once a week or with such greater frequency as is necessary to keep all refuse in proper containers without producing overflow or objectionable odors.
- (c) Putrid waste shall be removed from commercial premises daily, unless the waste is immediately ground into the sewer system or is stored in refrigerated storage. The existence of objectionable odors at the nearest adjoining premises shall be evidence of insufficient removal frequency.
- (d) Containers for the storage of refuse shall be vermin-proof and water proof, of non-corrosive material, with tightly filled lids in place at all times. Containers accessible to the public and left unattended at night shall be locked.

ARTICLE 4. RESIDENTIAL BUILDING STANDARDS

7-401 Purpose and Application

7-402 Buildings Standards

- 7-403 Exemptions for rebuilding
- 7-404 Developmental nonconformities
- 7-405 Variances

Section 7-401. Purpose and Application

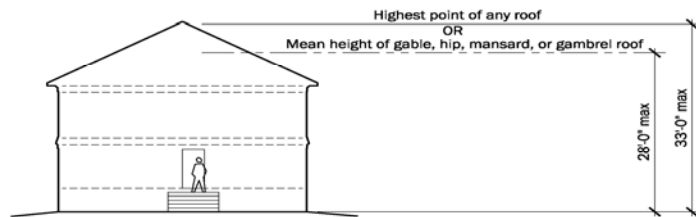
- (a) To maintain privacy and space between properties, ensure adequate light, and maintain safe passageways between buildings,
- (b) To encourage appropriately sized construction in keeping with lot sizes and character of the Village.
- (c) To minimize the flow of storm water from lots by encouraging the maintenance of open spaces and the reduction of impervious surfaces, and
- (d) to encourage the preservation and perpetuation of neighborhood character.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09)

Section 7-402. Building Standards

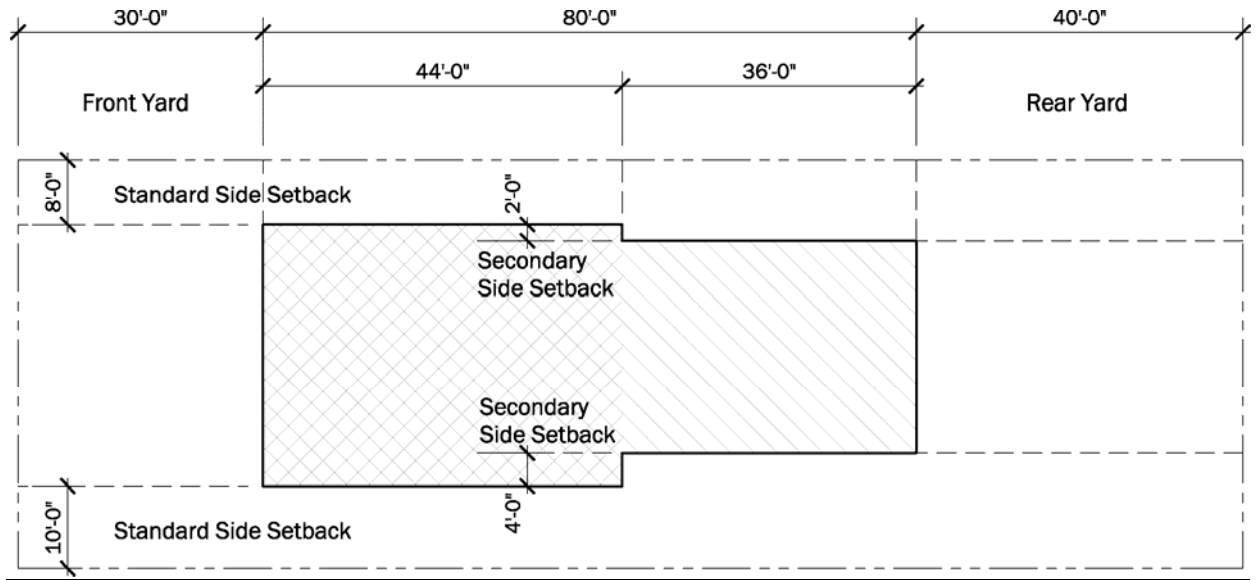
- (a) Building Height:

- (1) The height of the main building shall not be greater than thirty-three (33) feet to the highest point of roof surface regardless of roof type, and twenty-eight (28) feet to the mean height level between the eaves and ridge of a gable, hip, pyramidal, mansard, or gambrel roof.



- (2) Flat roofs: Flat roofs on the front of a building, which are a part of the main structure, shall not be permitted.
- (3) Administrative exception: The code enforcement officer may, upon finding that the established building height exceeds the standards in paragraph (1) above, authorize construction of a building that meets the established building height provided that no building may exceed the following:
 - i) Thirty-five (35) feet when measured to the highest point of the roof surface, regardless of roof type, and

- ii) Thirty (30) feet to the mean height level between the eaves and ridge of a gable, hip, pyramidal, mansard, or gambrel roof.
- (b) Wall plane height: The height of any wall plane on any front, rear, or side of any main building or accessory building shall not exceed thirty-two (32) feet.
- (c) Wall plane length (front): The length of a front wall plane of any main building shall not exceed forty (40) feet.
- (d) Wall plane length (side): The length of any side wall plane of any main building shall not exceed forty-four (44) feet.
- (e) Setbacks
 - (1) Front: Except as otherwise set forth in this Chapter, no wall or projection of any main building shall be located closer to any front lot line than the established building line or twenty-five (25) feet, whichever is greater.
 - (2) Rear: Except as otherwise set forth in this Chapter, no rear wall or rear projection of any main building shall be located farther than eighty (80) feet from the established building line or closer to the rear lot line than twenty (20) feet.
 - (3) Side
 - (i) Except as otherwise set forth in this Chapter, no side wall or side projection of any main building shall be located closer to any side lot line than the following setbacks:
 1. Sum of both sides: the greater of eighteen (18) feet or thirty (30) percent of the average lot width as measured at the front and rear building lines, and
 2. Each side: the greater of (8) eight feet or forty (40) percent of the sum of both sides.



(ii) Additional side setback: a wall plane or projection of a main building that extends forty-four (44) feet or more to the rear from the front building line shall be setback at least an additional:

1. Sum of both sides: six (6) feet; and
2. Each side: two (2) feet from the side building line of the first forty-four (44) feet of the wall.

(Ord. No. 4-10-1, adopted 6/17/2010, effective 7/8/2010)

(4) Corner lots: Each corner lot has two front yards and therefore requires a front setback from each street. Corner lots shall have one side and one rear yard, subject to side and rear setbacks as described herein. At the time a permit is requested for construction, the applicant may choose which interior lot lines will be considered the side and rear lot line, provided that all existing and proposed construction would comply with the applicable setbacks.

(5) Projections (main buildings)

- (i) Bay windows, oriel entrances, balconies, and vestibules no greater than ten (10) feet wide, and cornices, eaves, and chimneys shall be permitted to project a maximum of two-and-one half (2 ½) feet into any setback area.
- (ii) Unenclosed porches, decks, breezeways, steps, stoops, exterior stairways, and terraces may project nine (9) feet into the front or rear setback area and three (3) feet into any side setback area.
- (iii) Air conditioners and heat pumps may project five (5) feet into any front or rear setback area.

(f) Accessory buildings

- (1) Front setback: No wall or projection of any accessory building shall be located closer to the front lot line than sixty (60) feet. For corner lots (which have two front yards), this requirement shall apply only to one front yard. The front yard which is parallel to the side yard shall have a minimum setback equal to the established building line.
 - (2) Rear setback: No wall or projection of any accessory building shall be located closer to the rear lot line than five (5) feet.
 - (3) Side setback: No wall or projection of any accessory building shall be located closer to either side lot line than five (5) feet.
 - (4) Height: The height of any accessory building shall not exceed twenty (20) feet to the highest point of roof surface regardless of roof type.
 - (5) Wall plane length: The length of any wall plane of any accessory building shall not exceed twenty-five (25) feet.
- (g) Building Coverage. The maximum allowable building coverage shall vary by lot size as follows:
- (1) Lot area less than 6,000 square feet: thirty (30) percent.
 - (2) Lot area equal to or greater than 6,000 square feet but less than 16,000 square feet: thirty (30) percent of the lot area, less 0.001 percent for every square foot of lot area exceeding 6,000 square feet.
 - (3) Lot area equal to or greater than 16,000 square feet: twenty (20) percent of the lot area.
- (h) Maximum non-vegetative surface area
- (1) The non-vegetative surface area in the front yard shall not exceed thirty (30) percent of the area of the front yard. For corner lots, both front yards must comply with this requirement.
 - (2) This subsection (h) shall not apply to front yards fronting on Brookville Road.
- (i) There shall be no more than one curb cut on any lot, the width of which shall be no greater than twenty (20) feet, inclusive of the turning radii, provided however, that two (2) curb cuts shall be permitted on lots requiring vehicular access to Brookville Road to allow the construction of a circular driveway, the width of which shall be no greater than fourteen (14) feet at the curved portions of the driveway.
- (j) No driveway shall exceed ten (10) feet in width in front of the front building line. Notwithstanding the foregoing, a driveway that is wider than ten (10) feet as of June 16, 2009 may be replaced or repaired provided that such replacement or repair shall not increase the width of the driveway.

- (k) No more than one (1) front-loading garage shall be permitted on a lot. The door width of a front-loading garage shall not exceed ten (10) feet.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09)

Section 7-403. Exemptions for rebuilding

Notwithstanding any provision to the contrary contained in this Chapter, a main building or accessory building existing prior to June 16, 2009 that sustains a total physical loss or substantial physical loss (fifty (50) percent or more) due to accidental causes including, but not limited to, fire, storm, falling tree(s), flooding, other natural disaster, may be rebuilt or repaired provided that (i) the replacement building does not encroach farther into any setback area than the previous building, (ii) the footprint of the replacement building is not enlarged beyond the dimensions of the previous building, and (iii) the replacement building does not exceed the building height of the previous building.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09)

Section 7-404. Developmental Nonconformities

A developmental nonconformity may be maintained, altered, or repaired provided that it may not be enlarged beyond the dimensions that existed on June 16, 2009, except in accordance with this Chapter.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09)

Section 7-405. Variances

- (a) A property owner may apply to the Village Council for a variance from the strict application of the terms of this Article. The Council may authorize a variance from the strict application of any specific requirement of this Article when the standards described herein are met.
- (b) Processing and Public Hearing Requirement
 - (1) Applications for a variance shall be submitted to the Village Manager and shall include the following:
 - (i) Written application on the form provided by the Village Manager, including a statement detailing the specific provisions of this Article from which a variance is sought;
 - (ii) Detailed information pertaining to the nature and extent of the variance sought, including the following: (a) surveys, plats or other accurate drawings showing boundaries, dimensions, area, topography, and frontage

of the lot involved, as well as the location and dimensions of all structures existing and proposed to be erected, and the distances of the structures from the nearest lot lines; and (b) plans, architectural drawings, photographs, elevations, specification or other detailed information depicting fully the exterior appearance of existing and proposed construction;

(iii) A summary of what the applicant expects to prove at the hearing, including the names of applicant's witnesses, summaries of the testimonies of expert witnesses, and the estimated time for presentation of the applicant's case; and

(iv) Any additional exhibits which the applicant intends to introduce at the hearing.

- (2) The Council shall hold a public hearing on all applications for the grant of a variance.
- (c) Standards for decision on variances: The Council may grant petitions for variances upon proof by the applicant by a preponderance of the evidence that:
- (1) by reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to the lot, the strict application of this Article would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property;
 - (2) such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions; and
 - (3) such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.
- (d) Conditions. In granting a variance, the Council may impose such conditions as it determines, in its judgment, are necessary to protect the public health, safety, and welfare.
- (e) Decision. The decision of the Council granting or denying a variance shall be in writing and shall be final and effective as of the date the Council approves the written decision.
- (f) Duration. A building permit for the construction authorized by the variance must be obtained within twelve (12) months of the effective date of the variance or the variance shall be void, unless an extension is granted in writing by the Village Manager. The Village Manager may grant an extension of the variance, upon such conditions as the Village Manager may set, upon a reasonable showing that there has been no material change in circumstances since the effective date of the decision approving the variance and despite due diligence by the recipient of the variance, additional time is necessary to secure a building permit.

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09)