

PART 4 ZONING

Article XIV Establishment of Districts

21-69 ZONING DISTRICTS.

For the purposes of this chapter, the Borough of Highlands is hereby divided into the nineteen (19) zone districts known as:

R-1.01	Single-Family Residential
R-1.02	Single-Family Residential
R-1.03	Single-Family Residential
R-2.01	Single-Family Residential
R-2.02	Single-Family Residential
R-2.03	Single-Family Residential
MF	Multifamily Residential
PB	Professional Business
MH	Mobile Home
B-1	Neighborhood Business District
B-2	Central Business District
B	Business District
WT-R	Waterfront Transition-Residential
WT-C	Waterfront Transition-Commercial
WT-C/T	Waterfront Transition-Commercial/Townhouse
WC-1	Waterfront Commercial
WC-2	Waterfront Commercial
MXD	Mixed Use District
HO	Highway Oriented District
B-1-O	B-1 Neighborhood Business Overlay
B-2-O	B-2 Central Business Overlay
(Ord. No. O-07-06 § 22; Ord. O-09-33 § 2)	

21-70 ZONING MAP AND SCHEDULE.

A. The boundaries of the zone districts are hereby established as shown on the map entitled Zoning Map, Borough of Highlands, adopted by the Borough Council on May 19, 2010, by Ord. No. O-10-10, and titled "Zoning Map, Borough of Highlands, Monmouth County, New Jersey, June 2010," which map accompanies and is hereby declared to be a part of this chapter.*

B. Interpretation of Zoning Boundaries. Where uncertainty exists as to any of said boundaries as shown on said map, the following rules shall apply:

1. Zone boundary lines are intended to follow the centerline of the streets, railroads, rights-of-way, streams and lot or property lines as they exist on plats of record at the time of the passage of this chapter, where practicable, unless such zone boundary lines are fixed by dimensions as shown on the Zoning Map.
2. Where such boundaries are not fixed by dimensions and where they approximately follow lot lines, and where they do not scale more than ten (10) feet distance therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
3. In unsubdivided land and where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.

(Ord. No. O-07-06 § 23; Ord. No. O-09-33 § 3; Ord. No. O-10-10)

*Editor's Note: The Zoning Map can be found in Appendix C at the end of this chapter.

21-71 CONFORMANCE REQUIRED.

A. Use Regulations. Except as herein provided, no building or structure or part thereof and no lot or land or part thereof shall hereafter be used or occupied except in conformity, as stated below, with the uses specified as permitted principal uses, permitted accessory uses or conditional uses in each of the various zones established by this Part of this chapter.

1. Permitted principal uses are permitted by right upon proper application to and approval by the Zoning Officer, provided that the proposed use is in conformance with the requirements of this chapter in the zone district in which the lot is located and, for uses so requiring, subject to the review and approval of a site plan pursuant to this chapter.
2. Accessory uses are permitted upon proper application to and approval by the Zoning Officer. The Zoning Officer shall rely upon the following rules for determining the right of the applicant to establish the proposed accessory use:
 - a. The proposed accessory use shall be customarily associated with and incidental to the permitted primary use existing on the lot.
 - b. The extent, size and intensity of such proposed accessory use shall be in keeping with the scale, nature and characteristics of the permitted primary use on the lot and shall comply with the general requirements of subsection 21-65.1 and Section 21-79.
 - c. Furthermore, any proposed accessory use or structure which is contrary to the intent of the zone district in which the lot is located shall be prohibited.
3. Conditional uses are permitted in the zones where specified, upon application to and approval by the Planning Board, and subject to the requirements of Section 21-97 and all other applicable regulations of this chapter.

21-72 APPLICABILITY.

Each of the sections and provisions of this Part shall apply to all zone districts unless otherwise stated.

21-73 EFFECT ON EXISTING DEVELOPMENT.

Any lot of record as of the adoption of this chapter which fails to meet the minimum requirements of this Article may be used for any use allowed in the district in which it is located, provided it meets the requirements of Section 21-98F.

21-74 PROHIBITED USES.

Those uses not specifically permitted in a zone district are prohibited. Additionally, the following uses are specifically prohibited: adult entertainment, arcades, pool halls, any accessory use within an establishment with a liquor license designed for use by minors, auctions or sales conducted outside a structure except when a private home is being cleaned or vacated or for the raising of funds for charitable institutions and done not more than twice a year nor for more than two (2) days duration, short- or long-term storage of trucks or trailers for use as storage facilities, the keeping of farm animals, such as horses, cows, pigs, fowl, or rabbits. In addition the following uses are prohibited in the B-1 and B-2 zones: pawn shops, tattoo parlors, check-cashing shops, automotive transmission, automobile body shops, heavy duty machine shops and new or used automobile sales are also prohibited. (Ord. No. O-12-10 § 2)

21-75 RIGHT-OF-WAY DEDICATIONS.

Applications for development shall show a right-of-way dedication equal to one-half (1/2) the required right-of-way measured from the centerline of the road along the entire frontage of the tract.

21-76 SUBDIVISION OF LAND.

Whenever new lots are formed from a part of any other lot or lots, all resulting lots shall conform with the requirements of this Part. Subdivision will be done in accordance with the requirements of Part 3 of this chapter.

21-77 PRINCIPAL BUILDINGS AND STRUCTURES.

A. Every principal building or structure shall be built upon a lot with frontage on a public street. The principal building shall have pedestrian and vehicular access for driveway and parking purposes from that improved public street.

B. No lot used for single- or two-family dwelling units may contain more than one (1) principal structure.

C. Lots used for multi-family and nonresidential uses may contain more than one (1) principal structure on a single lot. (Ord. O-09-33 § 4; Ord. No. O-10-10 § 2)

21-78 ACCESSORY STRUCTURES AND USES.

A. Regulations.

1. No accessory structure or use shall be allowed on any lot on which there is not a principal structure or use, except for shore front protection, bulkheads, revetments and other such structures.

2. No accessory structure(s), except for shore front protection, bulkheads, revetments and other such structures, shall have an aggregate ground floor area greater than thirty (30%) percent of the ground floor area of the principal structure on the same lot. All accessory structures shall occupy no more than forty (40%) percent of the rear yard area.

3. No accessory structure shall be permitted closer to the front property line than the front setback requirement or the front face of the principal structure, whichever is the lesser.

4. The height limitation of this chapter shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks or bulkheads; nor to rooftop radio, television or wireless telecommunication towers or antennas, or similar features to a maximum of twenty (20%) percent building height; and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such a height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area twenty (20%) percent of the ground floor area of the building.

5. Satellite dishes, earth stations and similar structures shall be considered conditional uses and shall meet the requirements of Section 21-97H. below.

6. Wireless antennas and equipment shall be permitted to be attached on existing principal structures as an accessory use except that on residential buildings of less than ten (10) units no such equipment or antennas shall be permitted.

7. A ham radio antenna, herein defined as a device mounted on a freestanding support structure or secured to a roof or wall of a building and used to receive and transmit radio communications between other terrestrially based sites, shall be permitted pursuant to FCC regulations and in accordance with the following:

a. A freestanding ham radio antenna shall be subject to the same location requirements as a principal building in the same zoning district and as further provided herein, and shall not exceed the average height of principal buildings on adjoining lots by more than fifteen (15) feet to a maximum of fifty (50) feet in height.

b. No roof-mounted antenna of any kind shall be located on any part of the roof facing the front yard of the dwelling or apartment building or exceed the height provisions of paragraph 4. above.

c. A freestanding ham radio antenna shall be located as close to the center of the rear yard and rear facade of a principal building as possible without causing significant interference with reception. A waiver may be sought from the Board of Jurisdiction for a location within the required yard area of a principal building, but in no case shall it be permitted nearer to a property line than is allowed for accessory buildings in the zoning district. For aesthetic and safety purposes, the rear yard shall be enclosed with a fence that is opaque to a height of at least four (4) feet and that otherwise conforms to the fence requirements of the Borough of Highlands. The perimeter of the base of the supporting structure shall be landscaped with appropriate plant materials to a height of three (3) feet.

d. Ham radio antennas and supporting structures shall be maintained in good physical condition and comply with all applicable building and safety codes.

B. Setbacks.

1. Residential Districts.

a. Setbacks: Three (3) feet from any property line.

b. Maximum height: Fifteen (15) feet or the height of the principal structure, whichever is less.

c. Accessory structures on corner lots shall not be erected nearer to any street line than the front yard setback required on the nearest adjacent lot on the same street.

2. Nonresidential Districts.

- a. Setbacks: Not less than one-half (1/2) of the required side and/or rear setback requirement of the district; not less than the required front setback for the zone.
 - b. Maximum height: Twenty (20) feet.
 - c. Accessory structures on corner lots shall not be erected nearer to any street line than the front yard setback required on the nearest adjacent lot on the same street.
- (Ord. No. O-07-06 § 12)

21-79 YARDS.

A. Unless otherwise provided herein, all yards, open spaces and off-street parking must be contained on the lot and within the zone district in which the use is located. No part of any yard or other open space required for any lot or building shall be included as part of a yard or other open space similarly required for another lot or building.

B. There shall be provided, for each lot, front, rear and side yards as required in the Schedule of Area and Bulk Requirements. In areas where at least seventy-five (75%) percent of the lots within two hundred (200) feet are already developed, the front yard setback may be either the required setback or the prevailing setback. The prevailing setback shall be the average setback of buildings on the same block in the same zone, but not less than the average of the setbacks of the buildings on the two (2) nearest adjacent lots and in no case, less than half the required setback.

21-80 CORNER LOTS.

Where a lot is bounded by more than one (1) street, the front yard setback requirement from each abutting street shall be met. The remaining yards shall be considered side yards, except when a nonresidential lot abuts a residential district. In this case, the yard abutting the residential district shall be considered a rear yard.

21-81 OUTDOOR STORAGE.

A. Residential Districts.

1. Outdoor storage and display of any kind or nature, except storage of those items customarily used in conjunction with a residential occupancy and owned by the occupant, are prohibited in all residence districts.
2. The storage of a properly registered, seaworthy boat shall be permitted subject to the following conditions:
 - a. The applicant is the owner of the boat and either the resident owner of the property or a tenant resident on the property on which the boat is to be stored.
 - b. That the boat shall not be stored between the street line and the front face of the principal building.
 - c. For multifamily developments, boats shall be stored in conformance with the Home Owner's Agreement or condominium association regulations.
 - d. That the total space occupied by accessory buildings and the area to be occupied by the boat shall not exceed forty (40%) percent of the required rear yard.
 - e. That a boat may be stored on a lot not occupied by a principal building.
3. The storage of recreational equipment and vehicles, such as, but not limited to, trailers (not including boat trailers), pickup coaches, and motorized homes, which must be licensed and roadable, shall be permitted subject to the following conditions:
 - a. Any such vehicle or piece of equipment shall be owned or leased by a resident of the premises.
 - b. Any such vehicle or piece of equipment shall be located in a rear yard or in a side yard to the rear of the front face of the building.
 - c. Any such vehicle or piece of equipment shall be located so as to meet the setback requirements for accessory structures, shall not preempt any required off-street parking area and shall not occupy an area exceeding forty (40%) percent of the rear yard area.

B. Nonresidential Districts. No storage area shall be located in a required front yard or in a required side yard adjoining a street.

No article, equipment, vehicle, supplies, or material shall be kept or stored outside the confines of any building unless the same is allowed by this chapter or is screened by special planting or fencing, as approved by the Board, and maintained in good condition, so that it shall not be visible from any adjacent property or public street. Any outdoor storage area shall meet the location requirements for accessory structures. Storage of trailers or use of trailers for storage is prohibited.

C. Storage of Flammable Liquids.

1. All tanks utilized for the storage of gasoline or other motor fuels with a unit capacity not exceeding three hundred (300) gallons shall have Underwriters' or American Petroleum Institute approval and shall be located at least ten (10) feet from a property line and at least twenty-five (25) feet from any building. Tanks shall be labeled with four-inch letters as to contents and shall be painted with rust-inhibiting paint, either white or aluminum in color. Such tanks will be considered as an accessory use.
2. The storage of crude oil or any of its volatile products or other highly flammable liquids in aboveground tanks with a unit capacity greater than three hundred (300) gallons shall be governed by applicable State and Federal regulations. Where none apply, such storage is prohibited.
3. It shall be a violation of this chapter for any distributor of these products, his representative or any other person to deliver such materials to a tank not in conformance with all applicable standards.
4. Propane tanks for residential uses shall be located in the side or rear yard, behind the front face of the building.

21-82 RESIDENTIAL USES AND DISTRICTS.

A. The following regulations shall apply to all residential uses and districts.

1. Each residential unit shall have two (2) on-site parking spaces for its exclusive use. These spaces may be provided within a garage or driveway. In addition to the two (2) spaces per unit, multifamily developments shall provide visitor parking at a rate of one-half (1/2) space per unit.
2. Any residential structure may be elevated to comply with the flood regulations of Part 5, and/or provide the required off-street parking under the structure, upon issuance of flood and building permits, provided there is no increase in the building coverage or floor area of the structure other than the addition of

parking under the structure.

3. Any residential structure, outside the flood area, may be elevated to provide the required off-street parking under the structure, provided that the garage ceiling height does not exceed eight (8) feet and there is no increase in the building coverage or in the floor area of the structure other than the addition of parking under the structure.

4. Family day care homes, as defined in N.J.S.A. 40:55D-66.5b., shall be permitted in all residential districts in accordance with the provisions of N.J.S.A. 40:55D-66.5.

5. Community Residences. Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill and community residences for persons with head injuries shall be a permitted use in all residential districts, and the requirements therefore shall be the same as for single family dwelling units located within such districts.
(Ord. No. O-07-06 § 24)

21-83 BUSINESS USES AND DISTRICTS.

A. The following regulations shall apply to all business uses and districts.

1. Parking shall be provided in accordance with the parking standards in subsection 21-65.15 and may be provided either on or off site. Where parking is provided off site, the applicant may either provide dedicated private parking or participate in the development of public parking and associated access improvements.

2. Pedestrian access shall be provided from off-tract and municipal parking areas to commercial uses and between commercial uses and other attractions to encourage the use of off-site parking areas and pedestrian mobility.

3. A lot in an R-2 district which adjoins a B-1 or B-2 district may be used to provide access to any adjoining lot in the B-1 or B-2 district or for accessory parking to such adjoining lot.

4. Seasonal outdoor activities related to the principal use may be permitted with minor site plan approval. Such uses include, but are not limited to, outdoor eating areas for a restaurant, bicycle rentals for tourist related or sports uses, marine sales for waterfront marine uses.

21-84A WATERFRONT USES AND DISTRICTS.

A. The following regulations shall apply to commercial uses within all waterfront districts.

1. To the maximum extent possible, sites and uses shall be designed to provide general public access to the waterfront.

2. In the WC zones, buildings shall be located such that they occupy no more than sixty (60%) percent of the view area from the public street along the river frontage, measured horizontally at the mid-point of the first floor of the building(s). To determine compliance, the applicant shall submit the building elevation plans for the building faces most nearly parallel to the river. These shall depict a total cross section of all buildings in relation to the property lines most nearly perpendicular to the river, and may include any roadway areas abutting these property lines.

3. Parking shall be provided in accordance with the parking standards in subsection 21-65.14. Except for the WC-2 district, parking may be provided either on or off site. Where parking is provided off site, the applicant may either provide dedicated private parking or participate in the development of public parking and associated access improvements. In the WC-2 district all required parking shall be provided on site.

(Ord. No. O-09-33 § 5)

21-84B STEEP SLOPES AND SLUMP BLOCKS.

Any increase in impervious areas disturbance of soil or redirection of stormwater in areas of slopes from twenty to thirty-five (20% to 35%) percent must have a plot plan approved by the Borough Engineer prior to the issuance of any construction permits and the start of any construction activities. Such plan shall provide information on the extent of the disturbance, the stability of the soils, the existing topography and proposed grading, the temporary and permanent soil erosion and soil stability methods, and any other information required by the Borough Engineer to insure that proper construction techniques are used in the steep slope areas. Where slopes exceed thirty-five (35%) percent there shall be no disturbance of the steep slope areas. In addition there shall be no disturbance of the areas within fifteen (15) feet of the top of slope and no structures located within twenty-five (25) feet of the top of slope; nor there be any disturbance within ten (10) feet of the toe of the slope or any structures located within fifteen (15) feet of the toes of the slope.

In and adjacent to areas indicated as slump blocks in the Borough's Master Plan, the Board may require further study, including soils and other technical reports, on the stability of the soils and any special construction techniques or limitations to construction required to address the issues of the slump area. (Ord. #O-09-23 § 6)

Article XV Residential Zone Districts

21-85 R-1.01 DISTRICT, R-1.02 DISTRICT, R-1.03 DISTRICT—SINGLE-FAMILY RESIDENTIAL.

A. R-1.01 Single-Family Residential. The following regulations shall apply in the R-1.01 district:

1. Permitted Principal Uses.

- a. Single-family detached dwellings, occupied by one (1) family.
- b. Public uses operated by Borough.
- c. Public utility rights-of-way.
- d. Religious Institutions.
- e. Public and private schools.

2. Permitted Accessory Uses.

- a. Private detached garage.
- b. Utility buildings incidental to residential use.
- c. Swimming pools.
- d. Tennis courts.
- e. Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses.
 - a. Home occupations.
 - b. Bed and breakfasts.
 - c. Satellite dish antennas.
 4. Bulk and area requirements, as shown in Schedule I.
Editor's Note: Schedule I can be found at the end of Article XIX.
- B. R-1.02 Single-Family Residential. The following regulations shall apply in the R-1.02 district:

1. Permitted Principal Uses.
 - a. Single-family detached dwellings, occupied by one (1) family.
 - b. Public uses operated by Borough.
 - c. Public utility rights-of-way.
 - d. Religious institutions.
 - e. Public and private schools.
2. Permitted Accessory Uses.
 - a. Private detached garage.
 - b. Utility buildings incidental to residential use.
 - c. Swimming pools.
 - d. Tennis courts.
 - e. Other accessory uses and structures incidental to the permitted principal uses.
3. Conditional Uses.
 - a. Home occupations.
 - b. Bed and breakfasts.
 - c. Satellite dish antennas.
4. Bulk and area requirements, as shown in Schedule I.
Editor's Note: Schedule I can be found at the end of Article XIX.

C. R-1.03 Single-Family Residential. The following regulations shall apply in the R-1.03 district:

1. Permitted Principal Uses.
 - a. Single-family detached dwellings, occupied by one (1) family.
 - b. Public uses operated by Borough.
 - c. Public utility rights-of-way.
 - d. Religious institutions.
 - e. Public and private schools.
2. Permitted Accessory Uses.
 - a. Private detached garage.
 - b. Utility buildings incidental to residential use.
 - c. Swimming pools.
 - d. Tennis courts.
 - e. Other accessory uses and structures incidental to the permitted principal uses.
3. Conditional Uses.
 - a. Home occupations.
 - b. Bed and breakfasts.
 - c. Satellite dish antennas.
 - d. Additional permitted uses for the R-1.03 Zone District, north side of Shore Drive that encompasses the Locust Street neighborhood. (Specifically Locust Street, west of Willow Street portions of Block 101 and 102): All uses that are permitted in the MXD Mixed Use district, with the exception of mobile home parks, shall be permitted in the R-1.03 zone district, limited to the parcels in the Locust Street neighborhood. (Specifically Locust Street, west of Willow Street, portions of Block 101 and 102) The bulk requirements of the Mixed Use Development MXD district shall be utilized for any development, unless the applicant requests to develop the property or tract with the R-1.03 standards.
4. Bulk and area requirements, as shown in Schedule I.
Editor's Note: Schedule I can be found at the end of Article XIX.

(Ord. No. O-07-06 § 25; Ord. No. O-12-10 § 3)

21-86 R-2 SINGLE-FAMILY RESIDENCE.

The following regulations shall apply in all R-2 districts:

A. R-2.01 Single-Family Residential. The following regulations shall apply in the R-2.01 district:

1. Permitted Principal Uses.
 - a. Single-family detached dwellings, occupied by one (1) family.
 - b. Existing bungalow colonies.
 - c. Public uses operated by Borough.
 - d. Public utility rights-of-way.
 - e. Religious Institutions.
 - f. Public and private schools.
 2. Permitted Accessory Uses.
 - a. Private detached garage.
 - b. Utility buildings incidental to residential use.
 - c. Swimming pools.
 - d. Tennis courts.
 - e. Other accessory uses and structures incidental to the permitted principal uses.
 3. Conditional Uses.
 - a. Home occupations.
 - b. Satellite dish antennas.
 4. Bulk and Area Requirements.
 - a. Single-family dwellings shall meet the requirements shown in Schedule I.*
 - b. Existing bungalow colonies shall meet the following requirements:
 - (1) Density shall not exceed the number of units existing at the time of the adoption of this ordinance, as shown on existing Borough Tax Maps and/or other tax records.
 - (2) Any application for expansion of an individual dwelling unit, either vertically or horizontally, shall require an application for a site plan for the entire property and shall meet the following standards:
 - (a) Every unit shall have associated with it a minimum yard requirement around the perimeter of the unit and attached accessory structures of three (3) feet. Structures shall be located no closer together than the sum of the yard requirements, that is, six (6) feet. Detached accessory structures are prohibited in the minimum required yard area.
 - (b) Each unit shall have associated with it a minimum of one (1) parking space, located on site, either adjacent to the individual unit or in a common parking area.
 - (c) Total building coverage shall not exceed thirty-five (35%) percent of the total lot area and total lot coverage shall not exceed seventy-five (75%) percent.
 - (d) Building height shall not exceed twenty (20) feet.
 - (3) Bungalow colonies shall not be subject to the provisions of Section 21-98F below.
- B. R-2.02 Single-Family Residential. The following regulations shall apply in the R-2.02 district:
1. Permitted Principal Uses.
 - a. Single-family detached dwellings, occupied by one (1) family.
 - b. Existing bungalow colonies.
 - c. Public uses operated by Borough.
 - d. Public utility rights-of-way.
 - e. Religious Institutions.
 - f. Public and private schools.
 2. Permitted Accessory Uses.
 - a. Private detached garage.
 - b. Utility buildings incidental to residential use.
 - c. Swimming pools.
 - d. Tennis courts.
 - e. Other accessory uses and structures incidental to the permitted principal uses.
 3. Conditional Uses.
 - a. Home occupations.
 - b. Satellite dish antennas.
 4. Bulk and Area Requirements.
 - a. Single-family dwellings shall meet the requirements shown in Schedule I.*
 - b. Existing bungalow colonies shall meet the requirements of Section 21-86.A.4.b.
 - c. All other uses shall meet the bulk and area requirements of the R-2.02 Zone.
- C. R-2.03 Single-Family Residential. The following regulations shall apply in the R-2.03 district:

1. Permitted Principal Uses.
 - a. Single-family detached dwellings, occupied by one (1) family.
 - b. Existing bungalow colonies.
 - c. Public uses operated by Borough.
 - d. Public utility rights-of-way.
 - e. Religious Institutions.
 - f. Public and private schools.
2. Permitted Accessory Uses.
 - a. Private detached garage.
 - b. Utility buildings incidental to residential use.
 - c. Swimming pools.
 - d. Tennis courts.
 - e. Other accessory uses and structures incidental to the permitted principal uses.
3. Conditional Uses.
 - a. Home occupations.
 - b. Satellite dish antennas.
4. Bulk and Area Requirements.
 - a. Single-family dwellings shall meet the requirements shown in Schedule I.*
 - b. Existing bungalow colonies shall meet the requirements of Section 21-86.A.4.b.
 - c. All other uses shall meet the bulk and area requirements of the R-2.03 Zone.

(Ord. No. O-07-06 § 26)

21-87 PB PROFESSIONAL BUSINESS DISTRICT.

- A. The following regulations shall apply in all PB districts:
 1. Permitted Principal Uses.
As allowed in the R-1.01 district.
 2. Permitted Accessory Uses.
As allowed in the R-1.01 district.
 3. Conditional Uses.
Business and professional offices.
Bed and breakfasts.
Satellite dish antennas.
 4. Area and bulk requirements as shown in Schedule I. *

(Ord. No. O-07-06 § 27)

21-88 MF MULTIFAMILY RESIDENCE.

- A. The following regulations shall apply in all MF districts:
 1. Permitted Principal Uses.
Multi-family dwellings.
Public uses operated by the Borough.
Public utility rights-of-way.
 2. Permitted Accessory Uses.
Private detached garages.
Utility buildings incidental to the residential use.
Clubhouses, swimming pools and other recreational facilities and structures for the exclusive use of the residents.
Tennis courts.
Other accessory uses and structures incidental to the permitted principal uses.
 3. Conditional Uses.
 - a. Satellite dish antennas.
 - b. Senior care living facilities.
 4. Area and Bulk Requirements.
 - a. Multifamily developments shall meet the tract requirements of Schedule I.* In addition, they shall meet the following requirements:
 - (1) Density shall not exceed fourteen (14) units per acre.

(2) Each building shall have associated with it a twenty-five (25) foot front yard, twelve and one-half (12 1/2) foot side yards and a twenty-five (25) foot rear yard. Buildings shall be located not closer together than the sum of the appropriate yard requirements.

(3) No single building shall exceed eighty (80) feet in length, nor seven (7) dwelling units or four (4) townhouses.

b. Design guidelines. Townhouse developments in proximity to waterfront areas shall address the following community objectives for such residential developments:

(1) The placement and location of townhouse structures shall maximize the views of the waterfront from the public realm.

(2) Notwithstanding the height limitation in Schedule I,* the height of the townhouse structures shall be compatible with surrounding properties.

(3) The exterior architectural design of the townhouse development should be compatible with surrounding properties.

(4) The design of townhouse developments is encouraged to resemble a manor home or single-family structure.

(Ord. No. O-07-06 § 28)

21-89 MH MOBILE HOME RESIDENCE.

A. The following regulations shall apply to all MH districts:

1. Permitted Principal Uses:

a. Mobile homes, in a mobile home park only.

b. Mid-rise multi-family dwellings, and structured parking accessory or appurtenant thereto, subject to the requirements in paragraph 5 of this section.

c. Townhomes, subject to the requirements of the Multi-Family zone district except that residential buildings will be limited to no more than four (4) attached dwelling units per structure,

d. Single-family detached dwellings subject to the R-2.03 zone district requirements.

2. Permitted Accessory Uses.

Utility buildings incidental to residential use.

Clubhouses, swimming pools and other recreational facilities and structures for the exclusive use of the residents.

Tennis courts.

Other accessory uses and structures incidental to the permitted principal uses.

3. Conditional Uses.

Satellite dish antennas.

4. Bulk, Area and Other Regulations. Mobile home developments shall meet the tract requirements of Schedule I which may be found at the end of Article XIX. In addition, they shall meet the following requirements:

a. Density shall not exceed twelve (12) dwelling units per acre.

b. Mobile homes shall have a minimum of twelve (12) feet between units. Porches, decks, patios and accessory buildings shall also not be closer than five (5) feet to an adjacent mobile home or accessory.

c. Accessory structures shall meet the requirements of subsection 21-65.1 and Section 21-79.

5. Mid-Rise Multi-Family Developments in the MH Zone.

Mid-rise multi-family developments in the MH zone are subject to RSIS standards, and shall not be required to meet the requirements of Schedule I where said requirements are inconsistent with either RSIS or the following requirements. Schedule I may be found at the end of Article XIX.

a. Density shall not exceed fourteen (14) dwelling units per acre. Up to sixteen (16) units per acre may be permitted if a public scenic overlook area is included pursuant to paragraph 6 of this section.

b. Minimum lot size: 10 acres.

c. Minimum front yard: 100 feet to a principal building.

d. Minimum side yard: 60 feet to a principal building.

e. Minimum rear yard: 60 feet to a principal building.

f. Minimum buffer area along any property line: 25 feet. Driveways and sidewalks shall be permitted to cross buffer areas to provide access to streets and adjacent properties. Pedestrian paths shall be permitted within buffer areas. Development identification signs and gatehouses shall be permitted in buffer areas within 75 feet of driveway entrances providing access to a public street.

g. Maximum building coverage: 25 percent.

h. Maximum lot coverage: 50 percent.

i. Maximum FAR: 1.50.

j. Maximum height: 6 stories above finished grade, with the residential units above the parking garage; parking levels that are provided underground (that is, below finished grade) will not be considered a story.

k. All mid-size developments shall be required to consist of multiple buildings or structures and not one (1) residential structure.

l. The minimum distance or separation between all residential buildings shall be equal to the height of the taller of the two (2) structures.

m. A mid-rise multi-family development may include the following permitted accessory uses:

(1) Utility buildings incidental to residential use.

(2) Community or club room, clubhouses, swimming pools and other recreational facilities and structures for the exclusive use of the residents.

(3) Tennis courts.

(4) Other accessory uses and structures incidental to the permitted principal and conditional uses, including but not limited to structured parking for multi-family residences only.

6. Density Bonus for Public Access Area. (Multi-Family).

To encourage the provision of a public access easement leading to a scenic overlook area within a multi-family residential development, the Planning Board, at its sole discretion, may allow an increase of the maximum density of up to two (2) units per acre to a maximum density (for a maximum overall density of sixteen (16) units per acre) if an acceptable scenic overlook area is included in the development plan. The Board may allow a lesser bonus than two (2) units per acre if the overlook or access provisions offer only minimal public benefits. The scenic overlook area must include a public access easement for the circulation of vehicles across the site to the overlook area. The overlook area shall, at a minimum, be accessible from a public roadway and provide several off-street parking spaces.

7. Ridgeline Protection.

In addition to compliance with the Borough steep slope requirements, the placement of buildings in a residential development should exhibit a high level of sensitivity to the terrain and an effort to minimize the visual impact. The project design should attempt to blend in with the existing contour elevations through appropriate grading design as well as building heights and design. Structure locations should, as feasible, blend with the natural landform. Therefore, multiple level pads for new buildings as opposed to one (1) level building pad area are encouraged. Roof forms and roof lines should be disaggregated into a series of smaller components to reflect the irregular slopes and grades. The slope angle of the roof pitch of all proposed buildings is encouraged to reflect the natural slope of the hillside.

8. Relocation Rights.

Any approval for development in the MH Mobile Home Residence zone district, which results in the retirement of the mobile home park or the removal of any residents of the mobile home park shall contain a condition that the applicant shall provide proof, to the satisfaction of the board of original jurisdiction, that adequate private residential facilities and circumstances exist for the relocation of those mobile park residents consistent with the requirements of N.J.S.A. 46:8C-21. Although N.J.S.A. 46:8C-21 is invoked by an application for one (1) or more variance(s), the requirements of N.J.S.A. 46:8C-21 shall apply to the aforementioned circumstances regardless of whether or not the application requires one (1) or more variance(s). For purposes of this chapter, "adequate private residential facilities and circumstances" shall share the definition of "comparable housing or park site" as provided in N.J.S.A. 2A:18-61.7(a). An applicant must provide proof of compliance with this paragraph to the board of original jurisdiction prior to obtaining final approval. This section is not severable from the other provisions of the chapter and the zoning modifications herein are conditioned upon the above relocation provision.

(Ord. No. O-07-07; Ord. No. O-12-09)

Editor's Note: The Superior Court of the State of New Jersey, Appellate Division reversed Ordinance No. O-07-07 and declared it invalid in a decision of March 14, 2011.

Article XVI Reserved

Article XVII Business and Waterfront Zone Districts

21-90 B-1 NEIGHBORHOOD BUSINESS DISTRICT.

A. The following regulations shall apply in all B-1 districts:

1. Permitted Principal Uses:

- a. Retail sales and services, business and personal service establishments;
- b. Finance such as banks, savings institutions, credit unions, consumer lending, and securities brokerage;
- c. Insurance offices such as life, health, medical carriers, claims adjusting and all other insurance related activities;
- d. Medical and health care offices;
- e. Restaurants, bars, and taverns and other eating establishments, except drive-through restaurants;
- f. Professional, administrative and business office and services;
- g. Recreational retail sales and service businesses related to water sports and outdoor recreation, such as, but not limited to, bicycling, fishing, and surfing;
- h. Houses of worship;
- i. Bed and breakfasts;
- j. Taxi/livery/bus companies, except on parcels with frontage on Bay Avenue;
- k. Essential services, as defined in this chapter;
- l. Offices and facilities for municipal, County, State and Federal government; and
- m. Art, handicraft studios/workshops and galleries.

2. Permitted Accessory Uses: Off-street parking areas; uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.

3. Conditional Uses: Reserved.

4. Area and bulk requirements, as shown in Schedule I and below.

Editor's Note: Schedule I can be found at the end of Article XIX.

a. Side yards. No side yard is required adjacent to other properties in the business zone; however, if any is to be provided, it shall be at least five (5) feet. Any side yard that serves as a boundary between that lot and any residence zone shall at least be five (5) feet and shall contain buffering in accordance with the requirements of subsection 21-65.3.

b. For any building containing residential uses, outdoor living space shall be provided at the rate of two hundred (200) square feet per unit, plus fifty (50) square feet for each bedroom over one (1). This space may be provided either at ground level or directly adjacent to the unit in the form of decks and/or rooftop terraces. The area provided shall be private, for the exclusive use of the residential tenant and shall be sufficiently screened or otherwise designed to insure that privacy and exclusive use.

(Ord. No. O-07-06 § 29; Ord. No. O-09-33 §§ 7, 8; Ord. No. O-12-10 § 4)

21-91 B-2 CENTRAL BUSINESS DISTRICT.

A. The following regulations shall apply in all B-2 districts:

1. Permitted Principal Uses.
 - a. Retail sales and services, business and personal service establishments;
 - b. Finance such as banks, savings institutions, credit unions, consumer lending, and securities brokerage;
 - c. Insurance offices such as life, health, medical carriers, claims adjusting and all other insurance related activities;
 - d. Medical and health care offices;
 - e. Restaurants, bars, and taverns and other eating establishments, except drive-through restaurants;
 - f. Professional, administrative and business office and services;
 - g. Recreational retail sales and service businesses related to water sports and outdoor recreation, such as, but not limited to bicycling, fishing, and surfing;
 - h. Houses of worship;
 - i. Bed and breakfasts;
 - j. Taxi/livery/bus companies, except on parcels with frontage on Bay Avenue;
 - k. Essential services, as defined in this chapter; and
 - l. Offices and facilities for municipal, County, State and Federal government.
 - m. Art, handicraft studios/workshops and galleries.

2. Permitted Accessory Uses: Off-street parking areas; uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.

3. Conditional Uses: Reserved.

4. Area and bulk requirements as shown in Schedule I and below.

a. Side yards. No side yard is required adjacent to other properties in the business zone, however, if any is to be provided, it shall be at least five (5) feet. Any side yard which serves as a boundary between that lot and any residence zone shall be at least five (5) feet and shall contain buffering in accordance with the requirements of section.

b. For any building containing residential uses, outdoor living space shall be provided, at the rate of one hundred (100) square feet per unit, plus fifty (50) square feet per bedroom. This space may be provided either at ground level or directly adjacent to the unit in the form of decks and/or roof top terraces. The area provided shall be private, for the exclusive use of the residential tenant and shall be sufficiently screened or otherwise designed to insure that privacy and exclusive use.

(Ord. No. O-07-06 § 30; Ord. No. O-10-10 § 3; Ord. No. O-12-10 § 5)

Editor's Note: Schedule I can be found at the end of Article XIX.

21-92 B BUSINESS.

A. The following regulations apply to all B Business districts.

1. Permitted Principal Uses.
 - Bed and breakfasts
 - Restaurants
 - Commercial recreation, indoor or outdoor
 - Bars and taverns
 - Retail sales and service establishments

2. Permitted Accessory Uses.

Related tourist, resort and recreation facilities and activities, associated with a nonresidential principal use.

3. Conditional Uses.

Wireless communication facilities.

4. Area and bulk requirements, as shown on Schedule I. *

(Ord. No. O-07-06 § 31)

21-92.01 Highway Oriented Business.

A. The following regulations apply to the Highway Oriented Business zone district:

1. Permitted Principal Uses.

a. All uses permitted in the B-1 zone, however drive-through type uses are permitted.

b. Health and fitness establishments; athletic clubs, and day spas only on lots fronting N.J. Highway Route 36.

2. Permitted Accessory Uses.

a. All uses permitted in the B-1 zone.

3. Conditional Uses.

Wireless communication facilities.

4. Area and bulk requirements, as shown in Schedule I.

Editor's Note: Schedule I can be found at the end of Article XIX.

(Ord. No. O-07-06 § 32; Ord. No. O-12-10 § 6)

21-93 WT-R WATERFRONT TRANSITIONAL—RESIDENTIAL.

- A. The following regulations apply to all WT-R districts.
1. Permitted Principal Uses.
Single-family houses as permitted in the R-1.01 zone.
 2. Permitted Accessory Uses. As permitted in the R-1.01 zone.
Docks, wharfs, bulkheads
Beaches, private
Fishing, boating, swimming
 3. Conditional Uses.
Bed and breakfast
Art, handicraft studios/workshops and galleries
Commercial fishing
Home occupations
Wireless communication facilities
 4. Area and bulk requirements, as shown for the R-1.01 district on Schedule I. *

21-94 WT-C WATERFRONT TRANSITIONAL—COMMERCIAL.

- A. The following shall apply in all WT-C districts.
1. Permitted Principal Uses.
Single and two-family houses as permitted in the R-2.03 district.
Art, Handicraft studios/workshops, galleries
Commercial fishing
Hotels, motels, inns, bed and breakfasts
Commercial recreation, indoor or outdoor
Marinas
Wholesale seafood sales
Parking
 2. Permitted Accessory Uses. As permitted in the R-2.03 district.
Docks, wharfs, bulkheads, boardwalks
Beaches, private or public
Fishing, boating, swimming
 3. Conditional Uses.
Home occupations
Wireless communication facilities
 4. Area and bulk requirements, as shown on Schedule I. *

21-94.01 Waterfront Transitional Commercial Townhouse.

- A. The following regulations apply to the Waterfront Transitional-Commercial/ Townhouse:
1. Permitted Principal Uses.
 - a. All uses permitted in the WT-C zone district.
 - b. Townhouses, at the same density as the R-2.03 zone district and provided that each townhouse structure shall not contain more than three (3) attached units.
 2. Permitted Accessory Uses.
 - a. All uses permitted in the WT-C zone district.
 3. Conditional Uses.
 - a. All uses permitted in the WT-C zone district.
 4. Area and bulk requirements, as shown on Schedule I. *
- (Ord. No. O-07-06 § 33)

21-95 WC-1 WATERFRONT COMMERCIAL.

- A. The following shall apply in all WC-1 districts.
1. Permitted Principal Uses.
All uses permitted in the WT-C1 district, except that residential uses shall be prohibited.
Restaurants
Bars and taverns
Marine sales
Boat yards
Charter and excursion boats, off-shore uses
 2. Permitted Accessory Uses.
Retail sales and service establishments
Ferry services

3. Conditional Uses.
 - Commercial boat storage
 - Wireless communication facilities
4. Area and bulk requirements, as shown on Schedule I.*
5. Parking provided in conformance with subsection 21-84.3.
(Ord. No. O-09-33 § 9; Ord. No. O-10-10 § 4)

*Editor's Note: Schedule I can be found at the end of Article XIX.

21-96 WC-2 WATERFRONT COMMERCIAL.

- A. The following shall apply to all WC-2 districts.
 1. Permitted Principal Uses.
 - All uses permitted in the WT-C district, except that residential uses shall be prohibited.
 - All uses permitted in the WC-1 district.
 2. Permitted Accessory Uses.
 - Retail sales and service establishments
 - Ferry services
 3. Conditional Uses.
 - Commercial boat storage
 - Wireless communication facilities

Additional permitted uses for the WC-2 zone district, north of Shore Drive, that adjoins the MXD zone in block 101: All uses that are permitted in the MXD Mixed Use district, with the exception of mobile home parks, shall be permitted in the single WC-2 zone district that adjoins the Mixed Use Development MXD zone in block 101 subject to the condition that any development in the WC-2 zone using the MXD standards shall have a minimum tract of two (2) acres. If the minimum tract area is met, the bulk requirements of the Mixed Use Development MXD district shall be utilized for any development, unless the applicant requests to develop the property or tract with WC-2 standards.

4. Area and bulk requirements, as shown on Schedule I which may be found at the end of Article XIX.
5. Parking as required in subsection 21-65.14 shall be provided entirely on site.
(Ord. No. O-12-10 § 7)

21-96.01 Mixed-Use Zone District (MXD).

A. Purpose. The purpose of the Mixed-Use zone district (MXD) is to encourage the development of livable neighborhoods which contain townhouse residential dwelling units, professional work space; nonresidential uses which are supported by a multi-modal transportation node. The MXD zone district encourages uses that are compatible with and will benefit from the weekday New York City ferry service; the Sandy Hook Bay Marina and open space areas from the County Park. The MXD zone district also should incorporate a unifying seaside architectural theme that will provide attractiveness and consistency to the area.

It is the Borough's intention, in the creation of this zone district, to provide for comprehensive mixed-use development rather than lot-by-lot development to encourage innovative and desirable design and layout of residential and nonresidential structures. A mixed-use development shall consist of both residential and nonresidential uses.

- B. Permitted Principal Uses.
 1. Residential:
 - a. Townhouses.
 - b. Multi-family dwellings in accordance with the MF Multi-Family Residence Zone District standards, Section 21-88.
 2. Commercial Uses in Conjunction with a Planned Mixed-Use Development:
 - a. Marinas, including retail boat sales.
 - b. Ferry services.
 - c. Professional offices.
 - d. Restaurants, including full service and outdoor dining facility.
 3. Existing mobile home parks, as defined herein, as a principal permitted use, and in accordance with the requirements of Section 21-89. Existing mobile home parks shall not be permitted to expand the boundaries of the park area that are existing at the time of the adoption of this amendment (June 20, 2012) and any and all replacement of dwellings within an existing park and any construction shall be in full compliance with Federal Emergency Management Agency rules and Part 7 Flood Damage Prevention flood hazard regulations of this chapter.
 4. Hotels, maximum height of four (4) stories and forty-seven (47) feet, in accordance with the following:
 - a. The minimum floor area per unit shall be two hundred fifty (250) square feet.
 - b. All solid waste containers for storage and pickup shall be centrally located and easily accessible and within a screened enclosure on the street level.
 - c. All hotel uses shall be provided with adequate fire safety and evacuation provisions and sprinkler systems. Regardless of the number of rooms, such facilities shall be approved by the Municipal Fire Subcode Official and shall incorporate all applicable requirements of the National Fire Protection Association Code and the NJ Uniform Construction Code.
 - d. Each unit of accommodation shall contain a minimum of two (2) rooms, a bedroom, and a separate bathroom which affords privacy to a person within the room and is equipped with a toilet, a wash basin and bathtub/shower. Kitchen facilities are prohibited.
 - e. The hotel shall contain a main lobby, a central reservation/guest registration desk and a specified area for the pickup and drop off of guests and

luggage.

- f. Each hotel shall provide parking at a minimum ratio of one (1) space per unit of accommodation.
- g. The structure shall not be a "rooming house" or "boarding house" as defined by current New Jersey statute.
- h. Once established, a hotel use shall not be converted to a multi-family residential use such as apartments, townhouses, or condominium living arrangements.

C. Permitted Accessory Uses.

1. Boardwalks.
2. Charter and excursion boats, off-shore areas.
3. Community center, devoted exclusively to the residents of the mixed-use development.
4. Home professional offices.
5. Off and on-site parking.
6. Pools, tennis courts, exercise rooms and recreation facilities for use of residents and guests.
7. Public and private boatslip/dock for personal watercraft and as accessory to residential and commercial uses.
8. Retail services, specific to marina related services.
9. Uses accessory or incidental to the principal use.

D. Bulk and Area Requirements.

1. Minimum tract size: two (2) acres.
2. Average setback from tract boundaries and all other right-of-way lines: Twenty (20) feet, but in no case shall the setback be less than fifteen (15) feet.
3. Maximum density: Fourteen (14) dwelling units per acre.
4. Minimum tract width: One hundred twenty-five (125) feet.
5. Minimum tract depth: One hundred (100) feet.
6. Maximum building coverage for the entire tract: Thirty-five (35%) percent.
7. Maximum floor area ratio for the entire tract: 0.45.
8. Maximum impervious coverage for the entire tract: Eighty (80%) percent.
9. Maximum units per structure: Five (5) dwelling units.
10. Maximum building length: One hundred fifty (150) feet.
11. Maximum height: Two and one-half (2.5) habitable stories over the garage at grade level; thirty-five (35) feet.
12. A structure shall not have more than two (2) connected townhouse units on one (1) facade without providing a variation in setback of at least four (4) feet.
13. The spacing of residential buildings shall adhere to the following minimums:
 - a. End wall to end wall: Twenty-four (24) feet.
 - b. End wall to window wall: Thirty (30) feet.
 - c. Windowed wall to windowed wall:
 - (1) Front to front: Seventy-five (75) feet.
 - (2) Rear to rear: Fifty (50) feet.
 - (3) End to end: Thirty (30) feet.
 - d. Any building face to residential access street curb and municipal right-of-way: Twenty (20) feet.
 - e. Any building face to common parking area: Twelve (12) feet.
14. Minimum separation of nonresidential structures from all other principal structures: Thirty (30) feet.

15. Any approval for development in the MXD zone, which results in the retirement of the mobile home park or the removal of any residents of the mobile home park shall contain a condition that the applicant shall provide proof, to the satisfaction of the board of original jurisdiction, that adequate private residential facilities and circumstances exist for the relocation of those mobile park residents consistent with the requirements of N.J.S.A. 46:8C-21. Although N.J.S.A. 46:8C-21 is invoked by an application for one (1) or more variance(s), the requirements of N.J.S.A. 46:8C-21 shall apply to the aforementioned circumstances regardless of whether or not the application requires one (1) or more variance(s). For purposes of this chapter, "adequate private residential facilities and circumstances" shall share the definition of "comparable housing or park site" as provided in N.J.S.A. 2A:18-61.7(a). An applicant must provide proof of compliance with this paragraph 15 to the board of original jurisdiction prior to obtaining final approval. This section is not severable from the other provisions of the chapter and the zoning of the property to the MXD zone is conditioned upon the above relocation provision.

E. Townhouse Guidelines. For purposes of this section, townhouses shall be defined as follows:

An attached one-family dwelling in a row of at least three (3) such units, where each dwelling unit is compatibility designed in relation to all other units, each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more vertical common fire-resistant walls.

The following requirements shall apply to townhouse residential dwelling units:

1. Entrances to townhouses should enhance the pedestrian scale character of the area by strengthening a unit's connection with public streets and internal roadways and by masking the appearance of garage doors.
2. Townhouses fronting on residential streets should have their main pedestrian entrances on the street side.
3. Townhouses adjacent to public roads and trails should have their main front doors visible and accessible from that road or trail, using stairs and new

grading, if required, to do so. Direct access for each unit should be provided to the internal pedestrian and view corridors.

4. The main entrances should emulate the front entrance of single-family homes.
5. Incorporate an architectural theme pursuant to paragraph G., Architectural Design Guidelines, with the appropriate variations in design to provide attractiveness to the development design.
6. Employ features such as front stairs, stoops, gateways, porches, and weather protection to enhance the residential quality of unit and building entries, the visibility of such entries, a comfortable architectural rhythm along the street, and a human scale.
7. Incorporate human-scale elements (windows, doors, roof elements, trellises, etc.) into the building façade visible from the street.
8. Where townhouses are designed with the end wall adjacent to the public street, the pedestrian entry for the end unit should be designed to also face the street.
9. Discourage situations where the main entrances to units are adjacent to, or on the same façade as garage doors. Garages and off-street parking shall be accessed from the rear of the building, which shall be accessible from a road employing end-unit driveways. Each townhouse unit shall provide at least one (1) parking space in a garage for its exclusive use.
10. Chimneys, dormers, gables, and similar elements may project into the slope of the roof provided they do not exceed one-half (1/2) of the roof line. They should also result in an improved design.
11. All dwelling units shall be connected to approved functioning water and sanitary systems prior to the issuance of a Certificate of Occupancy.
12. All parking facilities shall be on the same site as the building and located within one hundred fifty (150) feet of the nearest entrance of the building they are intended to serve.
 - a. Parking spaces shall be provided in areas designed specifically for parking and there shall be no parallel or diagonal parking.
 - b. Townhouses shall comply with the minimum parking standards of the NJRSIS (Subchapter 4).
13. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of the laundry of the occupants of each building.
14. Dwelling units shall not erect individual external television antennas/satellite dishes.
15. No townhouse dwelling unit shall be less than twenty-four (24) feet wide.
16. Adequate trash and garbage pickup stations shall be provided within a totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses by a fence, wall, planting or combination of the three (3).
17. Ingress/egress stairs/steps shall not encroach into the municipal right-of-way.
18. Each townhouse development may have one (1) sign along each public street, which the tract in question abuts, provided there exists at least two hundred fifty (250) feet of unbroken frontage. Such signs shall not exceed six (6) feet in height, shall be set back from the street rights-of-way, property lines, and driveways at least ten (10) feet and shall not exceed an area of fifteen (15) square feet and shall be used to display the development's name.
19. Setback from waterfront shall be pursuant to New Jersey Department of Environmental Protection requirements and regulations.
20. All structures in the flood hazard areas, especially the velocity zone as defined by the Federal Emergency Management Agency (FEMA), shall comply with FEMA Coastal Construction principles and practices.

F. Multi-family Residential Guidelines.

1. Multi-family residential units shall comply with the requirements of Chapter XXI Section 88, MF Multi-family Residence.

G. Common Facilities.

1. All areas put into common ownership for common use by all residents shall be owned by a nonprofit homeowners' association in accordance with the requirements of the Department of Community Affairs.
2. Townhouse and multi-family residential areas may elect to provide outdoor recreation facilities such as a swimming pool, regulation-size tennis court and other such facilities. Other recreation facilities may include but are not limited to walkways, picnic area and nature trails available to all townhouse residents and their guests.
3. An irrigation system shall be provided where grassed recreation areas occur.
4. Accessory buildings for the outdoor recreation facilities and for maintenance purposes shall be provided and shall be sufficient to store recreational and maintenance equipment and supplies.
5. Public access to the waterfront shall be provided and shall facilitate wheelchair access.

H. Architectural Design Guidelines. The purpose of these design guidelines is to specify the architectural theme to be invoked in the Mixed-Use District in Highlands Borough. These design guidelines are directed towards the development of new townhouse and multi-family residential dwelling units and nonresidential structures that employ the "Shingle Style" simplicity, colors and volume.

The residential and nonresidential structures in the Mixed Use Zone District (MXD) may include several features of Shingle Style architecture, which includes the following elements:

1. Shingles should form a continuous covering, stretched smooth over rooflines and around corners in a kind of contoured envelope on a two- to three-story structure. The shingles may be wavy or patterned.
2. Exterior building materials shall be appropriate to the Shingle Style. Use of wood is encouraged with attention given to color, texture, details and bond pattern. Other exterior materials, including cedar shake, hardie board and other composite materials that mimic "cedar shingles," are permitted provided that they are appropriate to the style of the structure. Use of diagonal and vertical wood patterns, wood paneling, naturally painted wood, and similar materials and techniques incompatible with the significant structures in the district is discouraged.
3. Exterior surfaces covered in shingles should draw upon natural seaside colors, such as Indian reds, olive green and deep yellows. The Shingle Style is monotone and unornamented and is generally stained in a single color to create uniformity.
4. Heavy stone foundation spreads low against the ground and masonry is often dark and roughhewn.
5. Roofs contain an irregular roofline, cross gables or gambrel roofs. Eaves are found on several levels and are close to the walls so as not to distract from the homogeneous and monochromatic shingle covering. Embellishments may include tall turrets.
6. Rounded contours sheltered by a broad and overhanging roof. The sweep of the roof may continue to the first floor level providing cover for wide

sweeping porches, or is steeply pitched and multi-planed.

7. Entries are defined by heavy (often low) arches; columns are short and stubby.

8. Windows may include Palladian windows, casement and sash windows which are generally small, may have many lights, and often are grouped into twos or threes and a distinct curving "eyebrow" dormer.

(Ord. No. O-07-06 § 34; Ord. No. O-12-10 § 8)

Article XVIII Overlay Zone Districts

21-96.02 B-1 Neighborhood Business Overlay Zone District.

A. B-1 Overlay Zone District. An overlay district is a district superimposed upon another district which supersedes, modifies or supplements the underlying regulations.

B. Permitted Principal Uses. All principal uses permitted in the B-1 District and the following:

1. Retail sales and service establishments (except tattoo/body piercing and massage parlors, shops which offer for retail sale or wholesale the firearms and/or ammunition).

2. Art galleries, artist studios and craft stores.

3. Live theater and museums.

4. Medical offices.

5. Flower shops and retail plant stores.

6. Gift and antique shops.

7. Hobby stores.

8. Pet stores.

9. Clothing and apparel stores.

10. Sporting goods sales.

11. Home furnishing stores.

12. Music, ballet and dance studios, above the first floor.

13. Hardware, plumbing and electric supply sales.

14. Health/fitness studios, above the first floor.

C. Permitted Accessory Uses.

1. All accessory uses permitted in the B-1 Zone.

D. Permitted Conditional Uses.

1. All conditional uses permitted in the B-1 Zone.

2. Hotels, as defined in this chapter and subject to the standards as set forth in Section 21-97.

3. Bed and Breakfasts, subject to the standards set forth in Section 21-97.

4. Residences above the first (ground) level, subject to the standards as set forth in Section 21-97.

E. Prohibited Uses.

1. Drive through and drive-in uses.

F. Bulk, Yard, Area Requirements. The bulk, yard and area requirements in the B-1 Overlay Zone are the same as the requirements in the underlying zone district with the exception of the following:

1. Floor Area Ratio (FAR).

a. Maximum FAR of 2.5 when the entire structure is nonresidential use.

b. Maximum FAR of 2.0 when the structure consists of both residential and nonresidential uses (i.e. mixed use building).

2. Impervious or Lot Coverage: 100% unless an on-site loading berth is required by the Planning or Zoning Board.

3. Maximum Building Coverage: 90%.

4. Maximum Building Height: three (3) stories or 42 feet.

5. In the case of any conflict between the bulk requirements of the B-1 zone district and that of the B-1 Overlay Zone, the more stringent regulations shall apply.

G. Off-Street Parking Requirements. Each use shall comply with the minimum off-street parking requirements of section 65.14 of Chapter 21. However, the Planning or Zoning Board may reduce or eliminate the off-street parking requirement for nonresidential uses in the B-1 Overlay Zone district provided the applicant can show evidence of available and sufficient municipal parking spaces within one thousand (1,000) feet of the front or rear customer entrance of the commercial establishment. If the Board reduces or eliminates the parking requirement of the noncommercial portion of the building, then the applicant shall address the one-time fee to the Borough of Highlands Municipal Parking Capital Improvements Fund as outlined in Section 21-65-14E.2.c.

H. On-site parking shall be sufficiently screened with fences, vegetation or similar materials. Parking beneath structures shall be screened from adjoining lots using building material and architectural elements consistent with the subject site and architectural features appropriate for the Bay Avenue downtown area.

Parking provided underneath a structure, shall not abut the front property line or sidewalk area to minimize the disruption of the commercial street wall and maintain the retail and commercial character of Bay Avenue.

I. Design Standards. The following design standards shall be considered as bulk requirements of the conditional use. Relief for the requirements of this section shall be addressed under 40:55D-970.c.

1. All new construction alterations and renovations should strive to be consistent with the "Highlands Central Business District Design Manual," Appendix A of Chapter XXI. The design guidelines in the Manual are not mandatory but should guide applicants, the Planning and Zoning Boards and their professionals during the design phase of improvements to structures in the overlay zone.

2. Transparency. A minimum of fifty (50%) percent of the street facing building facade between two (2) feet and eight (8) feet in height must comprise clear windows that allow views of the indoor space or product display area.

3. The area requirements used to satisfy the transparency standards above shall exclude window areas below two (2) feet and above seven (7) feet from the grade of the adjoining sidewalk.

4. Curb cuts are discouraged unless deemed necessary for adequate and appropriate access to a property or use. Shared driveway access or rear entry to the lot shall be encouraged.

(Ord. No. O-09-33 § 10; Ord. No. O-10-10 § 5)

21-96.03 B-2 Central Business Overlay Zone District.

The following regulations shall apply in the B-2 Overlay zone district.

A. Permitted Principal Uses.

1. All principal uses permitted in the B-1 and B-2 Business districts.
2. Retail sales and service establishments (except tattoo/body piercing and massage parlors, shops which offer for retail sale or wholesale the firearms and/or ammunition).
3. Art galleries, artist studios and craft stores.
4. Live theater and museums.
5. Medical offices.
6. Garden and flower shops.
7. Gift and antique shops.
8. Hobby stores.
9. Pet stores.
10. Clothing and apparel stores.
11. Sporting goods sales.
12. Home furnishing stores.
13. Music and dance studios, above the first floor.
14. Hardware, plumbing and electric supply sales.
15. Health/fitness studios, above the first floor.

B. Permitted Accessory Uses.

1. All accessory uses permitted in the B-2 zone.

C. Permitted Conditional Uses.

1. All conditional uses permitted in the B-2 zone.
2. Hotels, as defined in this chapter and subject to the standards as set forth in Section 21-97.
3. Bed and Breakfasts, subject to the standards set forth in Section 21-97.
4. Residences above the first (ground) level, subject to the standards as set forth in Section 21-97.

D. Prohibited Uses.

1. Drive through and drive-in uses.

E. Bulk, Yard, Area Requirements.

1. The bulk, yard and area requirements in the B-2 Overlay zone are the same as the requirements in the B-2 zone district, with the exception of the following:

- a. Front setback. The front setback of any floor above the second floor shall set back minimum ten (10) feet from the property line.
- b. Building height: A maximum of forty-two (42) feet, three (3) stories is permitted.
- c. Impervious/lot coverage: A maximum of one hundred (100%) percent except for business establishments which, in the opinion of the Planning or Zoning Board require an on-site loading berth. In the latter case, the maximum lot coverage shall be reduced to reflect the area of the on-site loading berth.
- d. Maximum building coverage: 90%.
- e. Floor area ratio (FAR).
 - (1) Maximum FAR of 2.5 when the entire structure is nonresidential use.
 - (2) Maximum FAR of 2.0 when the structure consists of both residential and nonresidential uses (i.e. mixed use building).

2. In the case of any conflict between the bulk requirements of the B-2 zone district and that of the B-2 Overlay zone, the more stringent regulations shall apply.

F. Surface parking area below a building structure shall not be included in the floor area for floor area ratio (FAR) computations but is considered a floor in any calculation of building height.

G. Off-Street Parking Requirements. Each use shall comply with the minimum off-street parking requirements of subsection 21-65.14 of Chapter XXI. However, the Planning or Zoning Board may reduce or eliminate the off-street parking requirement for nonresidential uses in the B-2 Overlay zone district for lots less than ten thousand (10,000) square feet in area provided the applicant can show evidence of available and sufficient municipal parking spaces within one thousand (1,000) feet of

the front or rear customer entrance. The Board reduces or eliminates the parking requirement of the commercial portion of the building, then the applicant shall address the one-time fee to the Borough of Highlands Municipal Parking Capital Improvements Fund as outlined in subsection 21-65-14E.2.c.

On-site parking shall be sufficiently screened with fences, vegetation or similar materials. Parking beneath structures shall be screened from adjoining lots using building material and architectural elements consistent with the subject site and architectural features appropriate for the Bay Avenue downtown area.

Parking, provided underneath a structure, shall not abut the front property line or sidewalk area to minimize the disruption of the commercial street wall and maintain the retail and commercial character of Bay Avenue.

H. Design Standards. The following design standards shall be considered as bulk requirements of the conditional use. Relief for the requirements of this section shall be addressed under N.J.S.A. 40:55D-970.c.

1. All new construction alterations and renovations should strive to be consistent with the "Highlands Central Business District Design Manual," Appendix A of Chapter XXI. The design guidelines in the manual are not mandatory but should guide applicants, the Planning and Zoning Boards and their professionals during the design phase of improvements to structures in the overlay zone.

2. Transparency. A minimum of fifty (50%) percent of the street facing building facade between two (2) feet and eight (8) feet in height must comprise clear windows that allow views of the indoor space or product display area.

3. The area requirements used to satisfy the transparency standards above shall exclude window areas below two (2) feet and above seven (7) feet above the grade of the adjoining sidewalk.

4. Curb cuts are discouraged unless deemed necessary for adequate and appropriate access to a property or use. Shared driveway access or rear entry to the lot shall be encouraged.

(Ord. No. O-09-33 § 10; Ord. No. O-10-10 § 6)

Article XIX Conditional Uses

21-97 CONDITIONAL USES.

A. Bed and Breakfast. The following conditions shall be met:

1. The lot size, frontage, building and lot coverage shall be conforming both before and after the approval of the conditional use.

2. The required parking shall be off-street and may be provided either on-site or at a designated off-site location solely for this use. Parking shall be provided at a rate of one (1) space for each guest room and two (2) spaces for the owner/operator. If parking is provided off site, the continuation of the conditional use will be based on the continued availability of that parking. Should the required number of off-site parking spaces be reduced or eliminated, the number of guest rooms shall be reduced or the bed and breakfast use be discontinued in accordance with the available parking.

3. Regardless of the location of the parking, a drop-off/standing area shall be provided on site for guests checking in or out.

4. Landscaped screening or fencing shall be required for any outside areas for guest use in the side or rear yard to provide a buffer to adjacent residential uses.

5. Reserved.

6. Signage shall be limited to one (1) freestanding sign not to exceed four (4) square feet and one (1) house mounted name sign not to exceed one and one-half (1 1/2) square feet.

B. Art, Handicraft Studios/Workshops and Galleries.

1. The lot size, frontage, building and lot coverage shall be conforming both before and after the approval of the conditional use.

2. The nonresidential use shall be limited to the area of the first floor existing at the time of adoption of this chapter. The number of nonresident employees shall not exceed three (3) at any time.

3. The owner of the property shall occupy the residential unit and/or operate the business on site.

4. The required parking shall be off-street and may be provided either on or off site. Parking shall be provided at a rate of one (1) per four hundred (400) square feet of nonresidential space, two (2) per dwelling unit and one (1) per employee.

5. A year-round landscaped screen or fence shall be provided along the side property lines adjacent to any residential use, including a bed and breakfast.

C. Home Occupations.

1. The lot size, frontage, building and lot coverage shall be conforming both before and after the approval of the conditional use.

2. The nonresidential use shall not exceed the lesser of fifty (50%) percent or eight hundred (800) square feet of the area of the first floor existing at the time of adoption of this chapter. The number of nonresident employees shall not exceed two (2) at any time.

3. The required parking shall be off-street and shall be provided on-site in a manner which does not detract from the residential appearance of the site.

4. Any delivery of goods, material, or supplies either to or from the premises shall be made only by a means typically used to deliver to residential uses.

5. Uses shall be limited to those which require little or no customer/client visitation to the site.

D. Commercial Fishing.

1. The number of participants shall be limited to residents of the property and no more than four (4) nonresidents.

2. All equipment related to the fishing operation, including coolers, traps, parts, shall be stored behind the front face of the principal building and shall be screened with year-round landscaping or fencing from view from the street or adjacent residential uses, including bed and breakfasts.

E. Business and Professional Uses in the R-B Zone. The following conditions shall be met:

1. The lot shall be conforming in lot size, building coverage and FAR both before and after the approval of the conditional use.

2. The nonresidential use shall not exceed one thousand (1,000) square feet or one-half (1/2) of the floor area of the building, whichever is less.

3. All required parking shall be provided on-site. Parking shall be provided at a rate of two (2) spaces per dwelling unit, one (1) space per nonresident employee and one (1) space per two hundred (200) square feet of office.

4. Nonresident employees shall not exceed two (2) on-site at any time.

5. Screening shall be provided for all parking areas; and lighting shall be shielded to avoid glare onto adjacent residential uses.

6. Signage shall be limited to one (1) freestanding sign not to exceed four (4) square feet and one (1) house mounted name sign not to exceed one and one-half (1 1/2) square feet.

F. Commercial Boat Storage and Boat Storage Racks.

1. The height of any boat storage facility, including racks, shall be limited to a maximum of thirty (30) feet, not to exceed three (3) tiers of boats.

2. Adjacent to residential zones or uses, boat storage facilities shall have a setback of not less than one and one-half (1 1/2) foot for every foot of height of the boat storage facility, but not less than the setback required for a principal structure.

3. All required parking must be provided on-site.

4. The site development, including the boat storage, must meet the building coverage, lot coverage and floor area ratio for the zone. Floor area for a boat rack shall be calculated to include the area of all of the tiers.

G. Wireless Communication Facilities. Radio, television or wireless telecommunications towers and facilities (not including broadcasting studio or business office), operated under regulations of the Federal Communications Commission or the Telecommunications Act of 1996, are permitted by Conditional Use Permit and Major Site Plan Approval after a public hearing noticed in accordance with the Municipal Land Use Law, and in accordance with the following conditions:

1. With regard to the requirements for the siting of wireless (radio, television, digital (PCS) and cellular telecommunications) towers and facilities, it is the express objective of this section to provide reasonable opportunities for the siting of such facilities in the various business and commercial zones throughout the Borough of Highlands without adversely impacting the visual quality and character of the Borough's diverse residential neighborhoods. Further, it is the policy of the Borough that existing buildings and structures be used where appropriate, with tower facilities considered only as a last resort. Wireless tower facilities should be located or co-located on property that is owned by the Borough, other public entity or a utility company, where possible. The specific site standards provided herein are designed to enable equal access by wireless companies to the airwaves, while using vertical elements, such as trees and buildings to provide "angles of occlusion" that completely or partially block or screen views of a freestanding tower from residential uses and zones depending on the viewing distance and relative elevations.

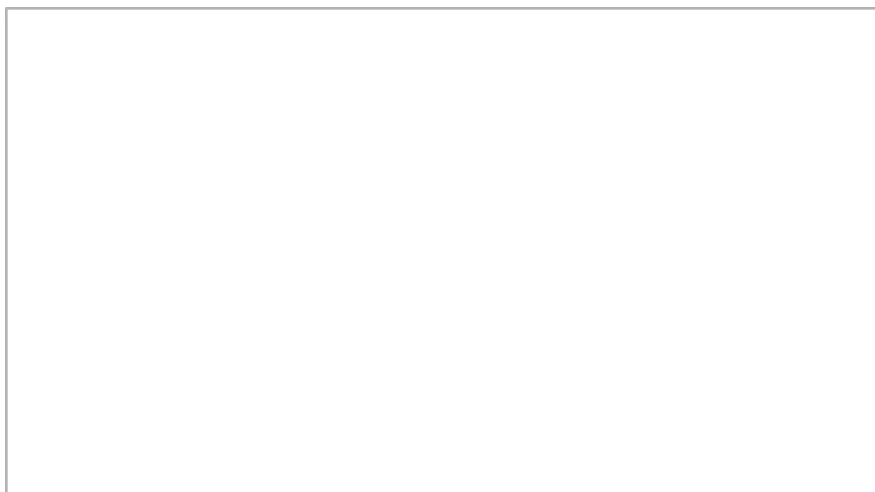
2. A freestanding radio, television or wireless telecommunication tower shall be located at a distance to any property line of at least one and one-half (1 1/2) times the height of the tower structure. For the purposes of this section, the height of the tower structure shall be the positive or negative difference between the average grade elevation at each property line and the grade elevation at the base of the tower, plus the height of the tower, inclusive of antennas. Where the proposed tower structure is designed to collapse on itself rather than fall in one piece, the Board may permit a distance to a property line of not less than one (1) times the height of the structure as provided above. This section shall not be construed to permit a tower to be located at a distance from any property line that is less than the dimension from the base to the top of the tower structure, inclusive of antennas.

3. All wireless telecommunication towers shall be of a monopole design, painted in either earth tone or sky blue colors, depending on the size and nature of surrounding vegetation, so as to visually blend with its surroundings.

4. The minimum lot size for the siting of a freestanding wireless telecommunication tower shall be in accordance with the following:

Tower Height	Minimum Lot Area
100 feet or less	1 acre
Over 100 feet and Under 200 feet	3 acres
Over 200 feet	9 acres

5. Where the site proposed for a freestanding tower structure is abutting a residential zone or is on the opposite side of a street from a residential zone or residential use, large shade trees and existing and/or proposed buildings on the site shall be used to provide an angle of occlusion from the property line to the top of the structure of fifty (50) degrees or less (fifty (50) degrees from the horizon line is the upper limit of the normal vertical cone of vision). To achieve the occlusion, a row of shade trees shall be preserved, and/or planted at fifty (50%) percent of the distance between the tower and the property line, and a second row at ninety (90%) percent of the distance between the tower and property line (see illustrations below). Transplanted trees shall have a minimum caliper of three (3) inches, be spaced on thirty (30) foot centers and have a typical height at maturity of at least fifty (50) feet.



6. The co-location of a cellular antenna on an existing building, water tower, silo or equivalent vertical structure, including an existing radio or television tower, is permitted without the need to meet the conditions of paragraphs 1. through 5. above. If the height of the existing structure is to be increased by the attachment of the new structure of more than twenty (20%) percent of the original structure, all of the conditions herein shall apply as to a new freestanding structure. Where a wireless antenna array and equipment enclosure can be attached to, or internalized within a building or structure in a manner that does not require a separate supporting structure, such antennas and equipment shall meet the requirements of an accessory use subject to Section 21-78A.4 of the Highlands Land Development Ordinance.

7. A decorative disguising structure such as a clock tower or lighthouse may also be approved as an alternative to the conditions of paragraphs 1. through 5. at the discretion of the board of jurisdiction.

8. Towers to be sited on developed properties shall be located to the rear of other principal buildings and shall not encroach on planting buffers, parking areas or otherwise impair the operation of previously approved systems such as stormwater drainage basins. Existing buildings and structures should be used in the siting of freestanding towers to contribute to the angle of occlusion as illustrated above.

9. Towers to be sited on undeveloped properties shall apply the standards of the condition of paragraph 5. herein to all property lines, including the street line, except that a driveway shall be permitted to gain access to the facility for maintenance personnel and equipment.

10. Any building used as an accessory to the tower shall be located in accordance with the minimum height and yard requirements of the zoning district applicable to the site and three (3) adjacent off-street parking spaces shall be provided for service vehicles. All areas of the site that are not devoted to the tower, accessory building or paved areas and not part of the perimeter tree planting described in the condition of paragraph 5. above shall be naturalized and/or maintained as mowed turf. Any regrading for stormwater detention that is required by the Borough Engineer shall be accommodated in this open area.

11. Independent freestanding facilities on separate sites shall include adequate lighting at the discretion of the board of jurisdiction. Facilities located on existing developed sites shall be incorporated into the lighting and landscaping plans of those sites.

12. As part of the requirement for visual occlusion, the Board may require, on sites less than three (3) acres, a six (6) foot solid or semi-open decorative wood fence on any property line or front setback line within or abutting a residential zone or on the opposite side of the street from a residential zone or use. The area around the base of all towers and accessory buildings shall be secured with a six (6) foot chain link fence, provided that razor wire, barbed wire or equivalent measures intended to cause injury shall be prohibited.

13. Upon cessation of use of the tower site for the approved or preexisting conditional use, the tower structure and antenna shall be removed within one (1) year, subject to FCC concurrence. In the case of co-located antenna on pre-existing vertical structures, this provision shall apply to the antenna only.

14. In order to avoid the visual impact of the over-concentration of new towers in any one (1) location, no new wireless tower shall be constructed within one (1) mile of an existing or approved wireless tower.

15. The applicant shall provide documentation that the proposed wireless communications facility will have electromagnetic emissions within the safety standards established by the FCC, as amended, or any superseding state or national standard in effect on the date the Conditional Use Permit Application is submitted to the Board.

H. **Satellite Dish Antennas.** A satellite dish antenna is herein defined as a device incorporating a reflective surface that is solid, open mesh or bar configured and in the shape of a shallow dish, cone, horn or cornucopia, for use to receive and/or transmit radio or electromagnetic waves between terrestrially and/or orbitally based uses. Satellite dish antennas are permitted by Conditional Use Permit and in accordance with the following conditions:

1. No satellite dish antenna larger than one (1) meter in diameter shall be installed in any residential zone except that one (1) satellite dish antenna may be permitted as an accessory use to a single-family dwelling or multifamily apartment use pursuant to FCC regulations, subject to the following standards:

2. The requirements of this section shall apply to all satellite dish antennas, regardless of diameter, proposed to be located in historic districts subsequent to the designation thereof in the Highlands Borough Master Plan and successful petition to the Federal Communications Commission by the Borough for a waiver of preemption.

3. Except where otherwise specified herein, the reflective surface of the satellite dish shall not exceed six (6) feet in diameter.

4. A freestanding satellite dish regulated by this section shall be subject to the same location requirements as other principal buildings in the same zoning district. No roof-mounted antenna of any kind shall be located on any part of the roof facing the front yard of the dwelling or apartment building or exceed the height provisions of Section 21-78A.4 of the Highlands Borough Land Development Ordinance.

5. A freestanding satellite dish shall be located as close to the center of the rear yard and rear facade of a principal building as possible without causing significant interference with reception. A waiver may be sought from the board of jurisdiction for a location within the required yard area of a principal building, but in no case shall it be permitted nearer to a property line than is allowed for accessory buildings in the zoning district. For aesthetic and safety purposes, the rear yard shall be enclosed with a fence that is opaque to a height of at least four (4) feet and that otherwise conforms to the fence requirements of the Borough of Highlands. The perimeter of the base of the supporting structure shall be landscaped with appropriate plant materials to a height of three (3) feet or the lowest part of a dish antenna, whichever is higher.

6. A freestanding satellite dish antenna shall not exceed ten (10) feet in height measured from the base to the top of the antenna in an upright position.

7. Satellite dish antennas and supporting structures shall be maintained in good physical condition and comply with all applicable building and safety codes.

I. **Senior Care Living Facilities.** Senior care living may include assisted living facilities, residential health care facilities; and, continuing care retirement communities, may be permitted as a conditional use in the MF zoning district provided that the lot, use and structure adhere to the minimum standard of the MF zone and the following:

1. Minimum lot area shall be sixty thousand (60,000) square feet.

2. Compliance with the bulk, yard and building requirements of the MF Multi-Family Residence Zone.

3. A Certificate from the New Jersey Department of Health and Senior Services shall be demonstrated.

4. A buffer area of at least fifteen (15) feet in width shall be provided to adjacent residential uses, consisting of massed evergreen and deciduous plantings.

J. Reserved.*

***Editor's Note:** Former subsection J, Multifamily developments in the MH Zone has been deleted following a decision of the Superior Court of the State of New Jersey Appellate Division on March 14, 2011 which reversed Ordinance No. O-07-07 and declared it invalid.

K. **Hotels in the B-1 and B-2 Overlay District.** Where specifically permitted pursuant to this chapter, the following minimum standards shall be met:

1. The minimum floor area per unit shall be two hundred fifty (250) square feet.

2. A hotel as defined herein may have a maximum building height of thirty-six (36) feet or three (3) stories. If more than fifty (50%) percent of the ground level of the hotel consists of an on-site parking area, the building height may be forty-seven (47) feet or three (3) stories above the off-street parking area.

3. All solid waste containers for storage and pickup shall be centrally located and easily accessible and within a screened enclosure on the street level.

4. All hotel uses shall be provided with adequate fire safety and evacuation provisions and sprinkler systems. Regardless of the number of rooms, such facilities shall be approved by the Municipal Fire Subcode Official and shall incorporate all applicable requirements of the National Fire Protection Association Code and the NJ Uniform Construction Code.

5. Each unit of accommodation shall contain a minimum of two (2) rooms, a bedroom, and a separate bathroom which affords privacy to a person within the room and is equipped with a toilet, a wash basin and bathtub/shower. Kitchen facilities are prohibited.

6. The first floor area of a hotel, or the first level over on-site parking, may be used for offices, permitted nonresidential uses, coffee shop or restaurant. The first floor area of the hotel structure does not have to be associated or related to the hotel use.

7. The hotel shall contain a main lobby, a central reservation/guest registration desk and a specified area for the pick up and drop off of guests and luggage.

8. Each hotel shall provide parking at a ratio of one (1) space per unit of accommodation. The parking may be provided on site or within one thousand (1,000) feet of the hotel property. A minimum of fifty (50%) percent of the required parking shall be provided on the same lot, parcel, and tract of the hotel use.

9. The hotel use may provide some of the required parking on another parcel, which may or may not be contiguous to the hotel parcel, provided that the property line of the off-site parking lot is within one thousand (1,000) feet from the front or rear customer entrance of the hotel structure. In addition the applicant shall provide written assurances acceptable to the appropriate Board that the parking will remain available in the future. Such assurances shall be in the form of lease agreements or deed restrictions which will be reviewed by the attorney of the board of jurisdiction. The parking assurances may be linked to a municipal mercantile license.

10. The buffer zone between the rear setback of a hotel and adjacent residential uses or district shall comply with the requirements of this chapter but shall not be less than ten (10) feet in width.

11. The structure shall not be a "rooming house" or "boarding house" as defined by current New Jersey statute.

12. Once established, a hotel use shall not be converted to a multifamily residential use such as apartments, townhouses, or condominium living arrangements.

L. Mixed Use Buildings in the B-1 and B-2 Overlay Districts. Residential dwelling units shall be permitted above nonresidential uses, as a conditional use in the B-1 and B-2 Overlay zones, subject to the following conditions:

1. In the B-1 and B-2 Overlay zones, no more than one (1) story, floor or level shall be used for residential purposes. The density of the residential dwellings in mixed use buildings in the B-1 Overlay shall not exceed eight (8) units to the acre. In the B-2 Overlay zone, the density of the residential dwelling units may not exceed a density of ten (10) units per acre.

2. The floor area of the residential dwelling unit(s) may not exceed thirty-three (33%) percent of the floor area of the structure. If the structure is limited to two (2) stories, the permitted limit of floor area may be up to fifty (50%) percent. For purposes of this section, the floor area used to compute the allowable limits shall not include parking area underneath a building, storage areas, basements/cellars or garage areas.

3. Maximum Building Height: forty-two (42) feet or three (3) stories, whichever is less. In the B-2 zone only, if fifty (50%) percent or more of the ground level of the mixed use building consists of an on-site parking area, the building height may be forty-seven (47) feet or four (4) stories (one (1) parking level and three (3) building levels).

4. The first floor must contain a permitted nonresidential use or area for on-site parking. If the first or ground level consists of on-site parking, the residence must be above a nonresidential use. Residences shall not be located on a story below a nonresidential use.

5. All residential units shall have an entry separate from the nonresidential use and the residences shall have a common entry, accessible from the street.

6. Notwithstanding other provisions of this chapter, the parking requirements for the residential dwellings of mixed use buildings shall be addressed on the same lot, site, and parcel as the mixed use building.

7. Minimum Dwelling Unit Requirements. Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities as well as living space, and shall have a minimum gross floor area of one thousand (1,000) square feet provided that dwelling units in excess of two (2) bedrooms per unit shall not be permitted.

8. Storage Space. In addition to any storage space contained inside the individual dwelling units, there shall be provided for each dwelling unit three hundred fifty (350) cubic feet of storage space in a convenient, centrally located area, possible the ground floor for use of the residents. The area should be secured and locked without creating a safety hazard.

9. Site Appearance. Adequate provisions and facilities shall be provided for maintenance of the property for trash and garbage.

10. Heating, ventilation and air conditioning equipment shall be located in an enclosed area above the base flood elevation or on the roof, in the attic or other adequately screened area.

11. Residences in mixed use buildings in the B-1 and B-2 Overlay zone districts are exempt from the outdoor living space requirement of Section 21-90A.4.b (B-1 zone) and 21-91a.4.b (B-2 zone).

Notwithstanding anything contained herein to the contrary, all ordinances inconsistent herewith are expressly repealed to the extent of such inconsistency.

(Ord. No. O-97-16 § 1; Ord. No. O-07-06 §§ 36, 37; Ord. No. O-07-07*; Ord. No. O-09-33 §§ 11, 12; Ord. No. O-10-10 §§ 7, 8)

*Ordinance No. O-07-07 was reversed and declared invalid by the Superior Court of the State of New Jersey, Appellate Division on March 14, 2011.

Schedule I - Bulk and Area Requirements

Click [HERE](#) to see Schedule

Article XX Nonconforming Lots, Buildings, and Uses

21-98 NONCONFORMING USES, STRUCTURES AND LOTS.

A. Continuance. Except as otherwise provided herein, nonconforming uses or structures which lawfully existed at the time of passage of this chapter may be continued even though such uses or structures do not comply with the regulations of this chapter; provided, however, that:

1. A nonconforming use shall not be expanded or changed to another nonconforming use.

2. Any addition to an existing nonconforming building may be constructed to continue the existing building setback, but shall not be permitted to encroach further into the required setback than the existing structure. Furthermore, any vertical addition may not exceed eighty (80%) percent of the original building footprint.

3. Abandonment. A nonconforming use that has been abandoned shall not thereafter be reinstated. A nonconforming use shall be adjudged to have been abandoned:

a. When it is changed to a conforming use.

b. In cases where such nonconforming use is a building or structure designed for such use, when it has been voluntarily discontinued for a period of

twenty-four (24) consecutive months.

c. In cases where such nonconforming use is of a building or structure not designed for such use or is of a lot or land whereon there is no consequential building or structure devoted to such use, when it has been voluntarily discontinued for a period of twelve (12) consecutive months.

B. Reserved.

C. Restoration. If a nonconforming use or structure is partially destroyed by any cause whatsoever to an extent of fifty (50%) percent or more of the appraised value, it shall only be reestablished as a conforming use in the zone in which it is located. A nonconforming structure may only be rebuilt to the same size on the same foot print, provided however, that the structure may be modified to conform with the requirements of Part 7, Flood Regulations.

D. Waiver. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any wall, floor or roof which has been declared unsafe by the Construction Code Official or other competent authority having jurisdiction; nor shall it prevent compliance with the requirements of the flood regulation in Part 7. A nonconforming structure may be repaired, refurbished, or flood proofed, but not enlarged or extended.

E. Unlawful Uses. No unlawful structure or unlawful use of a building or structure, lot or land existing at the effective date of this chapter shall be deemed to be a nonconforming structure or use.

F. Nonconforming Lots in a Residential Zone. Any parcel of land with an area, width or depth less than required in the zone in which such lot is located may be used as a lot for purposes permitted in the zone without a variance, provided that it meets the requirements below.

1. Pre-existing nonconforming vacant lots may be used for single-family residential purposes; and single-family or two-family uses on pre-existing nonconforming lots may be enlarged, if the following requirements are met:

a. The proposed use will be a new single family dwelling or the enlargement of an existing single- or two-family use. A single family dwelling shall not be converted to a two-family dwelling.

b. The lot area is not less than seventy (70%) percent of the required lot size.

c. There is no available vacant land abutting the lot.

d. The lot either provides off-street parking or the proposed enlargement includes the provision of off-street parking.

e. The building and lot coverage will not be exceeded.

f. For lots which do not meet the lot width requirements, the side yards may be reduced in the same proportion as the reduced width bears to the required width, but in no case shall the proposed side yards be less than one-half of the required side yards.

g. For lots which do not meet the lot depth requirement, the front and rear yards may be reduced in the same proportion as the reduced lot depth to the required lot depth, but in no case shall the proposed front yard be less than the smallest front yard allowed under Section 21-79B. nor the proposed rear yard be less than eighty (80%) percent of the required rear yard for the zone.

2. Existing single-family dwellings on undersized lots which are not large enough to meet the requirements of paragraph F.1. above may be enlarged if the following requirements are met:

a. The proposed use shall be a single-family dwelling. A single-family dwelling shall not be converted to a two-family dwelling.

b. Minimum lot size shall be two thousand five hundred (2,500) square feet; minimum lot width shall be twenty-five (25) feet and the maximum height shall be twenty-four (24) feet above the floor elevation, with no more than two (2) stories.

c. There is no available vacant land abutting the lot.

d. There shall be no reduction of any existing off-street parking.

e. Expansion shall not further reduce the existing front of side yard setbacks and shall be limited to the existing footprint and/or the rear of the lot.

f. The rear yard setback requirement of the district shall be met.

(Ord. No. O-97-16 § 2; Ord. No. O-07-06 §§ 37, 38)

Article XXI Enforcement

21-99 ENFORCEMENT.

A. The provisions of this Part shall be administered and enforced by the Zoning Officer, or his duly authorized designee, of the Borough. It shall be the duty of the Zoning Officer or his duly authorized designee to inspect any building or premises which may be in violation of this chapter and to order in writing, the remedying of any conditions found to exist in violation of any provision of this Part. If the violation is not remedied in the time period established by the Zoning Officer, a summons may be issued.

B. Any owner or agent and any person or corporation who shall violate any provisions of this chapter or fail to comply therewith or with any requirements thereof, or who shall erect, structurally alter, enlarge, rebuild or move any building or structure, or who shall put into use any lot, land, building, or structure in violation of any detailed statement or plan submitted and approved thereafter, shall be guilty of a violation. Each and every day such violation continues shall be deemed a separate and distinct violation. Pursuant to N.J.S.A. 40:49-5, any person or persons who violate any provisions of this chapter are liable, upon conviction to a fine and not to exceed one hundred twenty-five (\$125.00) dollars.

C. No building or structure, or part thereof, shall be erected, constructed, reconstructed, structurally altered or moved until a zoning permit has been issued by the Zoning Officer.

D. No zoning permit shall be issued for the erection, construction, reconstruction, structural alteration or moving of any building or structure, or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Part.

E. Pre-Framing Survey. For each new building, it shall be a condition of the zoning permit that an as-built survey shall be submitted to the Construction Official upon construction of the footing for the building. The survey shall include a certification from a licensed New Jersey surveyor that the location and the first floor elevation comply with the development approvals. Construction on the structure shall be suspended until the Construction Official determines that the location and first floor elevation comply with the development approvals. This determination shall be made within three (3) working days of the submission. The Construction Official may require, at his discretion that this requirement be satisfied for structures other than new principal buildings where there is uncertainty as to compliance with the development approvals.

F. When a subdivision or site plan, as required by this chapter has been duly reviewed and approved by the Board the erection or alteration of the building shall not be deemed to be completed until all the requirements of the approved subdivision or site plan are met. Where weather conditions or other forces beyond the control of the applicant unduly delay the reasonable occupancy of a building under this subsection, a temporary Certificate of Occupancy may be issued in accordance with Section 21-100.

21-100 CERTIFICATES OF OCCUPANCY.

A permanent Certificate of Occupancy shall be issued only after:

A. All site improvements have been completed in accordance with the approved final plans and any approved amendments thereto.

B. The applicant's or developer's engineer has certified in writing that all improvements have been constructed and installed and are operating in accordance with the approved plans and amendments.

C. Written confirmation from the Borough Engineer that all improvements have been constructed and installed and are operating in accordance with the approved plans and amendments.

D. All inspection fees and other outstanding fees have been paid.

E. All conditions required by the Board prior to issuance of a Certificate of Occupancy have been met.

*~~Editor's Note:~~ Schedule I can be found at the end of Article XIX.

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PART 4 ZONING

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BOROUGH OF HIGHLANDS										
Schedule I – Bulk and Area Requirements										
Zone	Minimum							Maximum		
	Lot Size	Lot Frontage /Width	Lot Depth	Front Setback	Side Setback	Rear Setback	Height ***	Lot Coverage	Building Coverage	FAR
	sq. feet	feet	feet	feet	feet	feet	feet			
RESIDENTIAL										
R-1.01	5,000	50	100	*35	8/12	25	30	70%	30%	–
R-1.02	7,500	70	100	*35	8/12	25	30	60%	25%	–
R-1.03	14,000	75	200	*35	8/12	25	30	60%	25%	–
Single Family										
R-2.01	3,750	50	75	*20	6/8	20	30	75%	33%	–
R-2.02	4,000	50	75	*20	6/8	20	30	75%	33%	–
R-2.03	5,000	50	100	*20	6/8	20	30	75%	30%	–
PB	5,000	50	100	35	8/12	25	30	70%		–
MF	1 acre	150	200	35	25/25	50	35	65%	22%	0.45
MH	5 acres	–	–	35	15/15	25	30	50%	20%	0.20
NON-RESIDENTIAL										
B-1	–	–	–	0	**	12	36	80%	35%	0.65
B-2	–	–	–	0	**	12	36	80%	35%	0.65
B	–	–	–	20	10	10	36	80%	35%	0.65
HO	15,000	100	100	50	10	10	36	80%	35%	0.65
WT-R	See R-1.01									
WT-C	Residential: See R-2.02									
Nonres	–	50	400	20	6/8	–	36	65%	25%	0.60
WT-C/T	Same as WT-C									
WC-1	–	100	150	20	8/8	–	36	65%	25%	0.60
WC-2	–	100	150	20	10/10	–	36	70%	25%	0.60
MXD	See Section 21-96.01									

*Or the average of the existing front yard setback within two hundred (200) feet in the same block and zone, per Section 21-80.

**See Section 21-91A.4

***Where a dwelling is constructed or reconstructed to provide the required parking under the structure, the maximum height shall be increased by two and one-half (2 1/2) feet.

(Ord. No. O-10-8 § 1)