

ARTICLE 8
GENERAL REGULATIONS

801. **FRONTAGE ONTO IMPROVED STREETS; NUMBER OF USES OR BUILDINGS; MINIMUM SIZE OF DWELLINGS.**

801.A. Frontage Required onto Improved Street.

1. Each proposed new lot, principal non-residential building and apartment building shall directly abuts one of the following: a) a public street, not including an “alley,” b) a street that will be dedicated to the Borough as part of the subdivision plan which created such lot, or c) a private street which meets all of the requirements of a public street.
2. In the case of townhouses, or apartments, each dwelling unit may be served with vehicle access onto a private parking court which then has access onto a street meeting Borough standards, provided there is an acceptable system to ensure that the parking court will be properly maintained.

801.B. Number of Principal Uses and Principal Buildings Per Lot.

1. A lot in a commercial or industrial district may include more than one permitted principal use per lot and/or more than one permitted principal building per lot, provided that every requirement is met for each use and each building. If differing dimensional requirements apply for different uses on the lot, then the most restrictive requirement shall apply.
 - a. For example, if Use One requires a one acre lot area and Use Two on the same lot requires a 2 acre lot area, then the lot shall have a minimum lot area of 2 acres.
 - b. The applicant shall submit a site plan that demonstrates that each structure would meet the requirements of this Article.
 - c. The lot may include a condominium form of ownership of individual buildings, with a legally binding property-owners association, if the applicant proves to the satisfaction of the Zoning Officer, based upon review by the Borough Solicitor, that there will be appropriate legal mechanisms in place and compliance with applicable State law.
2. A lot within a residential district shall not include more than one principal use and shall not include more than one principal building unless specifically permitted by this Article.
 - a. A manufactured/mobile home park, condominium residential development or apartment development may include more than one principal building per lot, provided all other requirements of this Ordinance are met.
 - b. A condominium form of ownership of individual dwelling units, with a legally binding owners association, may be established if the applicant proves to the satisfaction of the Zoning Officer, based upon review by the Borough Solicitor, that there will be appropriate legal mechanisms in place and compliance with applicable State law.

- 801.C. Minimum Size of Dwellings. Each dwelling unit shall include a minimum of 500 square feet of enclosed habitable, indoor, heated floor area, and which shall be primarily above the level of the

ground. This minimum floor area shall be increased to 800 square feet if there are 3 or more bedrooms.

802. **HEIGHT EXCEPTIONS.** The maximum structure height specified for each district shall not apply to: antenna that meet the requirements of this Article, water towers, clock or bell towers, steeples of places of worship, electrical transmission lines, elevator shafts, windmills, skylights, chimneys, mechanical equipment or other appurtenances usually required to be and customarily placed above the roof level and not intended for human occupancy. See also definition of "Height" in Section 202.

803. **SPECIAL LOT AND YARD REQUIREMENTS, SIGHT DISTANCE AND BUFFER YARDS.**

803.A. In General.

1. No lot, structure or use shall be created or developed in such a way that it would result in another lot, building or use not being able to meet the requirements of this Article. This includes, but is not limited to: setback areas, non-impervious areas and off-street parking areas.
2. Emergency Access. All principal buildings shall have adequate provisions for access by emergency vehicles and fire ladders in order to reach all sides of a building.

803.B. Exceptions to Minimum Lot Areas, Lot Widths and Yards.

1. Corner Lots. For a corner lot, the yard depth abutting each public street shall be equal to the minimum depth of the front yard, unless a larger width is provided for a side yard.
2. Projections Into Required Yards.
 - a. Cornices, eaves, sills or other similar architectural features, exterior stairways, fire escapes or other required means of egress, rain leads, chimneys, ground-mounted doors for basement access, window awnings, chase for heating pipes or other similar structures that do not include space usable by persons may extend or project into a required yard not more than 3 feet, except as may be required within a drainage or utility easement.
 - b. Steps, stoops, fire escapes, handicapped ramps, and landings necessary to provide entrance to a building may be located within a required setback area. Stoops, fire escapes and handicapped ramps serving an existing building may extend into a street right-of-way where necessary, if granted written approval by the Zoning Officer.
 - c. See also exceptions for decks and accessory buildings in the notes of Section 307.A.
3. Front Yard Setback Exception. In any district within a block containing a lot proposed for construction or expansion of a building, where 50 percent or more of the improved lots on such block frontage currently have front yards of less depth than is currently required for that district, and where the clear majority of such lots are already developed, the average of such existing front setbacks shall establish the minimum front yard depth for the remainder of the frontage.

803.C. Sight Clearance at Intersections.

1. Clear sight triangles shall be provided within which no obstruction to vision shall be permitted between a height of 24 inches to 10 feet above the centerline grade of each street intersection. Such clear sight triangles shall be established from the point intersection of the center lines of the intersecting streets for a distance of 75 feet where both streets are local streets, 100 feet

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where one or both streets are collector streets, and 150 feet where one or both streets are arterial streets.

2. In Section 202, see the definition of “Alley”, which is distinguished from a “Street.”
3. Where a street intersects with an alley, a clear sight triangle shall be established with one leg of the triangle 15 feet long along the edge of the right-of-way of the street and one leg of the triangle 10 feet long along the centerline of the alley, with the 2 legs connected by a 3rd longer leg.
4. Where 2 alleys intersection, a clear sight triangle shall be established with each leg of the triangle 10 feet long along the centerline of each alley, and with the 2 legs connected by a third longer leg.
5. Within these clear sight triangles, no new sight obstruction shall be allowed that obstructs the views of motorists of oncoming vehicle and pedestrian traffic at a height between 2 and 10 feet in elevation. To the maximum extent feasible, this clear sight triangle shall also be cleared of existing obstructions, such as by trimming vegetation.

803.D. Buffer Yards. Buffer yards and screening complying with the following standards shall be required under the following situations.

1. Buffer Yard Width, When Required. Buffer yards shall have a minimum width of 20 feet, except 10 feet in the TC District and 30 feet in the GC and I Districts. Buffer yards shall be required in the following situations, and where otherwise required by this Ordinance:

Buffer Yard to be Provided by the Following:	When the Use Providing the Screening and Buffer Is:
a. Along side and rear lot lines of any new: <ol style="list-style-type: none"> (1) principal commercial or industrial use, (2) area of 10 or more new off-street parking spaces, (3) an outdoor industrial storage area, or (4) an area routinely used for the overnight parking of 2 or more tractor-trailer trucks. 	Abutting or across an alley from an existing dwelling within a residential district, and visible from such dwelling.
b. Along the street right-of-way line or a lot line of any new: <ol style="list-style-type: none"> (1) outdoor industrial storage area, or (2) area routinely used for the overnight parking of 2 or more tractor-trailer trucks. 	Abutting and visible from a public street

2. Location of Buffer Yards.
 - a. The buffer yard shall be measured from the district boundary line, street right-of-way line or lot line, whichever is applicable, and shall be located entirely on the property having the use that requires the buffer yard.
 - b. Plants needed for the visual screen shall not be placed within an existing street right-of-way. However, deciduous trees may be permitted by the Borough to be placed within a street right-of-way.

- c. The buffer yard may include areas within a required front, side or rear yard, or a paved area setback area provided the larger yard requirement shall apply in case of overlap.
3. Characteristics of Buffer Yards.
- a. The buffer yard shall be a landscaped area free of structures, dumpsters, commercial or industrial storage or display, manufacturing or processing activity, materials, loading and unloading areas or vehicle parking or display. Buffer yards shall primarily include evergreen plants, in addition to any required shade trees.
 - b. As a special exception use, the applicant may prove to the satisfaction of the Zoning Hearing Board that an alternative method of screening will satisfactorily avoid conflicts between uses and provide an attractive appearance. For example, the Board may approve a decorative brick wall to be placed between a loading area and an abutting street.
4. Plant Screen.
- a. Each buffer yard shall include a planting screen of trees or shrubs extending the length of the lot line.
 - b. Each planting screen shall meet the following requirements:
 - i) Plant materials needed to form the visual screen shall have a minimum height when planted of 3 feet. In addition, an average of one deciduous shade tree, with a minimum trunk diameter of 2 inches measured 6 inches above the ground level, shall be placed for each 50 feet of length of the buffer yard. The shade trees may be clustered or spaced unevenly. Where street trees are approved and provided in the right-of-way, or healthy existing trees will be preserved, those trees may serve in place of this shade tree requirement.
 - ii) Plants needed to form the visual screen shall be of such species, spacing and size as can reasonably be expected to produce within 5 years a mostly solid year-round visual screen at least 6 feet in height.
 - iii) The plant screen shall be placed so that at maturity the plants will not obstruct a street or sidewalk.
 - iv) The plant visual screen shall be interrupted only at: a) approved points of approximately perpendicular vehicle or pedestrian ingress and egress to the lot, b) locations necessary to comply with safe sight distance requirements, and c) locations needed to meet other specific State, Borough and utility requirements.
 - v) American Arborvitae and similar weak-stem plants shall not be used to meet the buffer yard requirements. If more than 20 evergreen plants are proposed, no more than 50 percent shall be of one species.
 - vi) Where space allows, evergreen trees should be planted at diagonal off-sets so that there is room for future growth of the trees.
5. Parking Lot Screening. If 6 or more new off-street parking spaces are provided within 30 feet from the right-of-way of Broadway and Delaware Avenue, a 6 feet wide planting area shall be provided between the parking and the street right-of-way. To provide security and oversight of the parking area from a street, species of plants should be used that can be trimmed to a height of less than 4 feet. This provision shall not apply if a more intense buffer is required under Section 803.D.1 above (such as for truck parking).

6. Buffer Yard Plans. See Section 804.E.
7. Fences.
 - a. Any fence in a buffer yard shall be placed on the inside of any required plant screening.
 - b. As a condition of any variance or special exception approval, the Zoning Hearing Board may require the installation of a fence in addition to a buffer yard. As a condition of any land development approval, the Borough Planning Commission may require the installation of a fence in addition to a buffer yard.

804. LANDSCAPING.

804.A. Any part of a commercial, industrial, institutional or apartment lot which is not used for structures, loading areas, parking spaces and aisles, sidewalks and designated storage areas shall be provided with an all-season, well-maintained vegetative groundcover, and shall be landscaped with trees and shrubs. Landscaped areas shall be kept free of debris, rubbish and noxious weeds.

804.B. See also the buffer yard provisions in Section 803.

804.C. Parking Area Trees.

1. One deciduous tree shall be required for every 10 new off-street parking spaces.
2. If a lot will include 20 or more new parking spaces, landscaped areas shall be provided within the parking area. Otherwise, the trees may be planted around the parking area.
3. Trees required by this section shall meet the following standards:
 - a. Type of Trees Permitted. Required trees shall be chosen from the Borough's approved list of trees.
 - b. Quality of Trees. Required trees shall be of symmetrical growth and free of insect pests and disease.
 - c. Minimum Size. The trunk diameter (measured at a height of 6 inches above the finished grade level) shall be a minimum of 2 inches or greater.
 - d. Planting and Maintenance. Required trees shall be:
 - i) planted with adequate unpaved surface around each for water and air, and
 - ii) properly protected by curbs, curb stops, distance or other devices from damage from vehicles.

804.D. Street Trees. As part of the construction of any new street or any new principal non-residential building or any new apartment building, street trees shall be required to be planted. An average of one street tree shall be planted for every 50 feet of street length. The street trees do not need to be planted at specific intervals, but may be moved to fit with utilities, driveways and other features.

1. The trees shall be in locations approved by the Zoning Officer. These locations may or may not be within the street right-of-way, depending upon the circumstances of the site. If the trees are

not located in the right-of-way, they shall be placed within the yard immediately adjacent to the right-of-way.

2. New street trees shall not be required where existing healthy street trees will be preserved and will serve the same purpose.
3. The type, quality, size, planting and maintenance shall be as specified in Section 804.C. and of a height, at the time of planting, that ensures that the lowest branches do not conflict with pedestrian or vehicular traffic.

804.E. Landscaping Maintenance. All shade tree, buffer yard and other landscaping required by this Ordinance shall be perpetually maintained by the property-owner. Any landscaping needed to meet an Ordinance requirement that dies, is removed, or is severely damaged shall be replaced by the current property-owner as soon as is practical considering growing seasons, within a maximum of 150 days.

804.F. Review. Where landscaping is required by this Article, the applicant shall submit a site plan showing proposed initial sizes, locations and species of plantings and locations of any fencing in sufficient detail to determine compliance with this Section. Such landscaping plan should be provided to the Zoning Officer for review and approval.

805. **NONCONFORMITIES.**

805.A. Proof and Registration of Nonconformities. It shall be the responsibility of, with the burden of proof upon, a party asserting a nonconformity to provide the evidence that it is lawful. A property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence.

805.B. Continuation. A lawful nonconforming use, structure or lot as defined by this Article may be continued and may be sold and continued by new owners. Any expansion of, construction upon or change in use of a nonconformity shall only occur in conformance with this section.

805.C. Expansion of or Construction Upon Nonconformities.

1. Nonconforming Structure.

- a. The Zoning Officer shall permit a nonconforming structure to be reconstructed or expanded provided:
 - I) that such action will not increase the severity or amount of the nonconformity (such as the area of the building extending into the required yard) or create any new nonconformity (except as provided by subsection "1.c." below), and
 - ii) that any expanded area will comply with the applicable setbacks in that District and other requirements of this Article.
- b. In the case of a nonconforming structure which is used by a nonconforming use, any expansion shall also meet the requirements of this Section regarding nonconforming uses.
- c. Extension Along a Nonconforming Setback. If an existing building has a lawfully nonconforming building setback, additions may occur to increase the height above such setback or to extend other portions of the building out to the nonconforming side or rear setback line, provided that:
 - I) the structure shall not be extended beyond the existing nonconforming setback line,

- ii) no additional nonconformity shall be created,
- iii) the new nonconforming extension shall not be greater than 25 percent of the existing floor area,
- iv) all other requirements of this Ordinance shall be met, and
- v) such addition shall not be permitted for a non-residential building that abuts an existing principal residential use.

2. Nonconforming Lots.

- a. Permitted Construction on a Nonconforming Lot. New permitted structures for a single permitted by right principal use and its customary accessory uses may be constructed, reconstructed or expanded on a nonconforming lot of record held in single and separate ownership as a permitted by right use if minimum setback requirements are met.
- b. Lot Width. The fact that an existing lawful lot of record does not meet the minimum lot width requirements of this Article shall not by itself cause such lot to be considered to be a nonconforming lot.

3. Expansion of a Nonconforming Non-Residential Use. A non-conforming use or a building used by a nonconforming use shall not be expanded, except in accordance with the following provisions:

- a. An expansion of more than 5 percent in total building floor area shall require special exception approval from the Zoning Hearing Board under Article 1.
- b. Such reconstruction or expansion shall be only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming.
- c. The 1) total building floor area used by a nonconforming use or the 2) total land area covered by the nonconforming use, whichever is more restrictive, shall not be increased by greater than 40 percent beyond what existed in the nonconforming use at the time the use first became nonconforming, under this Ordinance or a previously adopted zoning ordinance, whichever came first.
 - I) The above maximum increase shall be measured in aggregate over the entire life of the nonconformity. All expansions of the nonconforming use and/or building(s) that occurred since the use originally became nonconforming shall count towards the above maximum increase.
- d. Any expansion of a nonconforming use shall meet the required setbacks and other requirements of this Article, unless the Zoning Hearing Board grants a variance.

4. Expansion of a Nonconforming Residential Use. An existing non-conforming residential use may be expanded as a permitted by right use provided that: a) the number of dwelling units or rooming house units are not increased, b) the expansion meets all applicable setbacks, c) no new types of nonconformities are created, d) a nonconformity is not made more severe, and e) all other dimensional requirements of this Ordinance are met.

5. Nonconforming Sign. The provisions of this Article shall not be interpreted to provide a right to expand or extend a nonconforming sign. Instead, any expansions or extensions of a nonconforming sign shall comply with this Article.

- 805.D. Damaged or Destroyed Nonconformities. A nonconforming structure that has been destroyed or damaged may be rebuilt in a nonconforming fashion only if: a) the application for a building permit is submitted within 18 months after the date of damage or destruction, b) work begins in earnest within 12 months afterwards and continues, and c) no nonconformity may be created or increased by any reconstruction. The property shall be properly secured during such time in such a way to keep out trespassers and to avoid harm to neighboring properties.
- 805.E. Abandonment of a Nonconformity.
1. If a nonconforming use of a building or land is discontinued, razed, removed or abandoned for 12 or more months, subsequent use of such building or land shall conform with the regulations of the district in which it is located, except:
 - a. as provided for in the "Damaged or Destroyed Nonconformities" provisions of this section.
 2. The applicant shall be responsible to provide evidence that the nonconformity was not abandoned.
 3. An existing lawful separate dwelling unit may be un-rented for any period of time without being considered "abandoned" under this Article.
- 805.F. Changes from One Nonconforming Use to Another.
1. Once changed to a conforming use, a structure or land shall not revert to a nonconforming use.
 2. A nonconforming use may be changed to a different nonconforming use only if permitted as a Special Exception by the Zoning Hearing Board. However, Special Exception approval is not needed for a simple change within an existing building from one lawful nonconforming retail store use to another retail store use or from one lawful nonconforming personal service use to another personal service use provided that the new use complies with any Zoning Hearing Board conditions that applied to the previous use and is not more objectionable in external effects than the previous use.
 3. Where special exception approval is required for a change of a nonconforming use, the Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equal or less objectionable in external effects than the pre-existing nonconforming use with regard to:
 - a. Traffic safety and generation (especially truck traffic),
 - b. Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire, hazardous substances, and explosive hazards,
 - c. Amount and character of outdoor storage,
 - d. Late night and early morning hours of operation if the use would be close to dwellings and
 - e. Compatibility with the character of the surrounding area.
 4. A nonconforming use shall not be changed to a nonconforming Adult Use.
- 805.G. District Changes. Any uses, structures or lots that become nonconforming because of a zoning district change shall be regulated under this Section on nonconformities.

806. DUMPSTER SCREENING AND LOCATION.

- 806.A. Any newly placed solid waste dumpster shall be screened on all sides as necessary to screen views from public streets and dwellings. Such screening shall consist of decorative masonry walls, mostly solid weather-resistant wood fencing or fencing of a similar appearance (such as white vinyl vertical planks). Primarily evergreen plantings are also encouraged in addition to the fence or wall. The fence or wall shall include a self-latching door or gate.
- 806.B. Setback from Dwellings. An outdoor solid waste container with a capacity of over 25 cubic feet shall be kept the maximum distance that is feasible from any abutting dwelling, in the determination of the Zoning Officer, provided that the container is not in the minimum front yard. In any case, an outdoor solid waste container shall be kept a minimum of 15 feet from an abutting dwelling. A solid waste dumpster shall not be located in a front yard.
- 806.C. If a solid waste dumpster is moved from one part of a lot to another part of a lot, then it shall come into compliance with this Section 806.
- 806.D. All waste containers shall be completely enclosed, and the lid shall be kept in place. The locations of all dumpsters shall be shown on all site plans and land development plans submitted to the Borough.
- 806.E. This section shall not apply to dumpsters temporarily placed during actual construction or demolition on the premises, or for recycling containers that do not involve garbage, or for portable storage containers (see Article 1, Section 103.G.3 regarding portable storage containers.). Also, see the Code of Ordinances of the Borough of Fountain Hill Chapter 21, Streets and Sidewalks, Part 6-Dumpsters which regulates the placement of dumpsters in streets.

807. STREET CROSSOVERS (Driveways)

807. A. Per Section 405.a of the Code of Ordinances of the Borough of Fountain Hill, Chapter 21, any person constructing a private driveway from a street or alley to the property line shall obtain a permit from the Borough. Plans and specifications for such work shall be approved by Borough Council, and all work shall be subject to the inspection and approval of the Borough Engineer.

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