

Borough of Avalon

COUNTY OF CAPE MAY
STATE OF NEW JERSEY

Chapter XXVII

ZONING

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CHAPTER XXVII

ZONING

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**APPENDIX
TO
CHAPTER XXVII
SUBDIVISION AND SITE PLAN REVIEW**

Acceptable Plant Material List

The survival of most types of plant life is difficult on a barrier island community such as Avalon. Vegetation has to contend with nutrient poor, sandy soils, frequent northeast storms, strong west winds and salt-laden air. These conditions make it difficult for most vegetation to develop and mature. Vegetation of all types, especially trees and shrubs, enhance absorption of run-off back into the soil, reduce air pollution, and aid transpiration. Trees and shrubs reduce the perception of noise and act as a windbreak. Accordingly, conservation of these natural resources is in the public interest, satisfies the purposes of zoning, and benefits those who dwell on the island.

Acceptable Plant Materials

The following plant materials may be used on projects which are the subject of an application for zoning permit or approval of a site plan or subdivision by the Board, and may be used in any residential project:

Shade Trees (Species underlined are permitted for use as street trees.)

Aristocrat or Cleveland Select Pear (*pyrus calleryana* 'Aristocrat' or 'Cleveland Select')

- Bald Cypress (*taxodium distichum*)
- Blackgum (*nyssa sylvatica*)
- N Downy Serviceberry (*amelanchier arborea*)
- Green Vase Japanese Zelkova (*zelkova serrata* "Green Vase")
- N Hackberry (*Celtis occidentalis*)
- Lavalle Hawthorne (*crateagus X lavallei*)
- **N Pin Oak (*quercus palustris*)
- Regent Japanese Scholar Tree (*sophora japonica* "Regent")
- Shadblow Serviceberry treeform (*amelanchier canadensis*)
- N Sweetgum (*liquid amber rotundifolia*)
- **N Tulip Tree (*liriodendron tulipifera*)
- **N Willow Oak (*quercus phellos*)

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Evergreen Trees

- American Arborvitae (*Thuja occidentalis*)
- American Holly (*Ilex opaca*)
- Atlantic White Cedar (*Chamaecyparis thyoides*)
- N Eastern Red Cedar (*Juniperus virginiana*)
- Japanese Black Pine (*Pinus thunbergiana*)
- Juniper – Upright (*Juniperus chinensis* spp. Or Robusta Green)
- Leyland Cypress (*Cupressocyparis leylandii*)
- Pitch pine (*Pinus rigida*)
- Swiss Stone Pine (*Pinus cembra*)
- White Fir (*Abies concolor*)

Shrubs

- N Arrowwood (*Viburnum dentatum*)
- N Bayberry (*Myrica pennsylvanica*)
- N Beach Plum (*Prunus maritima*)
- Blackhaw (*Viburnum prunifolium*)
- Butterfly Bush (*Buddleia davidii*)
- Carolina Rose (*Rosa carolina*)
- Chinese Juniper (*Juniperus chinensis* & cultivars)
- Common Lilac (*Syringa vulgaris*)
- Common Waxmyrtle (*Myrica cerifera*)
- ** Crepe Myrtle (*Lagerstroemia indica*)
- N Groundsel (*Baccharis halimifolia*)
- Hydrangea (*Hydrangea macrophylla* & cultivars)
- Inkberry (*Ilex glabra* & cultivars)
- Privet (*Ligustrum ovalifolium*)
- N Red Chokeberry (*Aronia arbutifolia*)
- Rugosa Rose (*Rosa rugosa*)
- Shore Juniper (*Juniperus conferta* & cultivars)
- N Summersweet (*Clethra alnifolia* & cultivars)
- N Winterberry Holly (*Ilex verticillata*)

**Moderate salt tolerance, use in protected areas only.

N – Native plant

Plant specifications:

1. Plants shall be typical of their species and variety, have normal growth habits, well developed branches and vigorous root systems, and be densely foliated, and shall be free from defects, injuries, diseases and infestation.

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2. Quality, branching and size of plants, including root size, shall be in accordance with "American Standards for Nursery Stock" ANSI Z60 (Most Recent Edition) as published by the American Association of Nurserymen.
3. Street and parking lot trees shall be pruned of any branches that interfere with pedestrians, vehicles or signs. Street trees must be single trunk, full and uniform specimens.
4. Street trees shall have a single stem with no branches lower than the height specified in the Ordinance.
5. Street tree and shade tree caliper sizes shall be measured six (6) inches above the ground for specimens up to, and including 4" caliper, and measured twelve (12) inches above the ground for specimens greater than 4" caliper, in accordance with the latest edition of the American Standard for Nursery Stock (ANSI Z60.1)

Invasive and nuisance plants:

The following is a partial list of plants that have been designated as invasive, i.e., they tend to spread rapidly, or nuisance plants. It is not recommended that they be used in any proposed planting program:

Asian Bittersweet (*celastius orbiculatus*)
Danes Rocket (*hesperis matronalis*)
English Ivy (*hedera helix*)
Japanese Barberry (*berberis thunbergio*)
Mimosa (*albizia julibrissin*)
Norway Maple (*acer platanoides*)
Purple Loosetrife (*lythrum salicaria*)
Russian Olive (*eleagnus angustifolia*)
Wisteria (*wisteria frutescens*)

Because of the ability of the following plants to spread at an extremely fast rate they are not to be used in any garden locations:

Bamboo (*dendrocalamus*)
Bamboo, hardy (*arundinaria, bambusa*)
Japanese Sedge (*carex kolomugi*)
Kudzu-vine (*pueraria montana*)
Mile a Minute Vine (*polygonum perifoliatum*)
Phragmites (*phragmites australis*)

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Administration and Applicability:

All development shall comply with the provisions of this Chapter.

For one and two-family residential developments, a landscaping and vegetation plan for the parcel in question must be submitted, reviewed, and approved by the Zoning Officer or designated official, prior to the issuance of a zoning permit for any of the following development:

1. Additions to an existing structure and/or site improvements which increases the impervious coverage of the lot by more than 250 square feet.
2. The construction of a new dwelling unit or any swimming pool or spa.
3. The removal of more than 40% of the vegetation covering the lot.

Routine maintenance, including pruning and planting of plant material is permitted, provided it is on private property. No pruning, clearing or alteration of vegetation is permitted on any public property, or on any dune, as defined by ordinance, whether privately or publicly owned.

For all development, the following information shall be provided:

1. An accurate limit of existing woodland areas, clearing limits and proposed planting locations shall be indicated on the landscape plan, individual plot plan or site plan.
2. The reason for removal or destruction of vegetation shall be apparent on the plan or explained in writing.
3. The quantity, caliper and species and condition of existing trees with a caliper of 3" measured 3' above the ground to be removed. Existing shrub masses such as bayberry shall also be shown on the plans.
4. Projected dates for the beginning and ending of the tree or shrub removal project and of the construction itself.
5. The name, address, and telephone number of the person supervising the removal of trees and shrubs.
6. A plan for the replacement and addition of trees, shrubs and groundcover as required by the ordinance with applicable planting details.
7. Any additional information requested by the Board or Zoning Officer in the case of a single or two-family residential unit, or other designated official to demonstrate substantial compliance with this section.

For all development, any new vegetation required by the landscaping and vegetation plan shall be installed prior to the issuance of a certificate of occupancy.

CHAPTER XXVII

ZONING

27-1 TITLE.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Borough of Avalon, Cape May County, New Jersey, 2002."

27-2 AUTHORITY AND PURPOSE.

Pursuant to Chapter 291 of the Laws of New Jersey 1975 (N.J.S.A. 40:55D-1 et seq.) This Zoning Ordinance is enacted for the following specific purposes:

To guide and regulate the orderly growth and development of the Borough of Avalon in accordance with a duly enacted comprehensive Master Plan;

To protect the established character and social and economic well being of the community, to secure safety from fire, and other dangers;

To maintain community character and visual environment;

To lessen congestion;

To facilitate adequate provision for transportation, schools, parks and other facilities and services;

To invigorate the business environment;

To promote the establishment of appropriate population densities and concentrations that will contribute to the well being of persons, neighborhoods, and the community;

To promote the conservation of open space and valuable natural resources;

To preserve and enhance important characteristics of the natural environment; and

To, these ends, to regulate heights, design, appearance, number of stories and size of buildings and other structures as well as their placement on the land.

27-3 LANGUAGE INTERPRETATIONS AND DEFINITIONS.

a. *Word Usage.* For the purposes of this chapter, certain words shall have the meaning assigned to them as follows. The following definitions are intended to interpret and clarify word usage in the Borough of Avalon Zoning Ordinance and not necessarily intended to be used to interpret or clarify word usage in other portions of the Code of the Borough of Avalon.

1. Words in the present tense include the future. The singular form of a word includes the plural form and the plural form of a word includes the singular form.

2. The word "building" includes "structure" and any part thereof.

3. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," "constructed for," "altered for," "converted for," "rented for," "leased for," or "occupied for."

4. The word "person" includes an individual, corporation, partnership, incorporated association, or any similar legal entity.

5. The words "includes" or "including" shall not limit the term to the specified examples, but is intended to extend their meaning to all other instances of like kind and character.

6. The words "shall" and "will" are mandatory and not discretionary, and the word "may" is permissive.

7. The feminine gender includes the masculine gender and vice versa.

b. *Statutory Definitions.* Whenever an undefined term is used in this chapter which is defined in N.J.S.A. 40:55D-3 through D-7, such term is intended to have the meaning set forth in the definition of that found in said statute, unless a contrary intention is clearly expressed in context.

c. *Definitions.* The following words and phrases shall have the meaning given in this section when applied to the entire chapter.

Access. A way or means of approach to provide physical entrance to a property.

Accessibility Structure –any structure constructed with the purpose of providing ingress or egress to a building or to facilitate movement within a building by disabled persons as defined under the Americans with Disabilities Act.

Accessory Building or Structure- a building or structure which is detached from a principal building or structure on the same lot and which is customarily incidental and subordinate to the principal building or structure. Any accessory building

attached to the principal building by a roofed structure shall be considered part of the principal building. Accessory buildings include detached garages, tool and storage sheds, greenhouses, gazebos, cabanas and pergolas. Accessory structures include swimming pools, fences and detached patios.

Accessory Use. A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building, located on the same lot with the principal use.

Addition. An extension or increase in floor area or height of a building or structure.

Administrative Officer. The Secretary of the Board in the case of matters involving the Board; the Municipal Clerk in the case of matters involving the Governing Body; and the Zoning Officer in the case of matters involving the issuance of zoning permits, zoning certificates of occupancy when authorized by ordinance and Zoning Ordinance enforcement.

Apartment. A suite of two (2) or more rooms, including bath and kitchen, intended or designed for use as a residence by a single person, or persons living as a family independent of other occupants of the same building.

Automobile Service Station. Any building, land area, or other premises or portion thereof, used or intended to be used for the retail dispensing or sale of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories. In addition, an automobile service station may engage in the retail exchange, or sale of gasoline, oil, kerosene, and propane for home use.

Automobile Wash. Any building or premises or portions thereof used for washing automobiles. Automobile washes are only accessory to garages and automobile service stations.

Barrier Sand Dune. Those dunes immediately west of the beach area; which should remain undisturbed in order to provide protection during high tides.

Base Flood Elevation – the computed elevation which flood water is anticipated to rise during the base flood. Base flood elevations (BFE) are shown on the flood insurance rate maps (FIRM) and the flood profiles as provided by the National Flood Insurance Program (NFIP).

Basement (also Cellar). That portion of a building which is partly below and partly above grade and having at least one-half (1/2) its height above grade.

Bay Lots. Those lots adjacent to the watercourse, inlet, bay, or lagoon.

Bay Window. A window which protrudes no more than two (2) feet from a wall and does not extend from the floor to ceiling on either the interior or exterior of the building and does not include any floor space.

Bedroom. Any room within a dwelling unit, finished or unfinished, which may reasonably be expected to serve as a bedroom or dormitory planned and intended for sleeping.

Board. The Avalon Planning/Zoning Board of Adjustment.

Boardinghouse. A dwelling providing not more than nine (9) rental rooms or twenty (20) dining accommodations for paying guests.

Buildable Area. The area of a lot or parcel that may be used for permitted building or buildings, including all remaining portions of the lot after required yard areas have been subtracted. In the case of a section of a building, which is cantilevered, the exterior surface of the most projected area must fall within the "buildable area." First floor entrance steps and normal roof overhangs of not more than two and one-half (2 1/2) feet on any two (2) facades of the building may project beyond the buildable area (See subsection 27-7.3c).

Building. Exclusive of a public school facility, a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind. When used herein, "building" and "structure" shall be interchangeable, except where the context clearly indicates otherwise.

Building Coverage. The horizontal area measured along the outside perimeter of all the exterior walls on all stories or floors, for all principal and accessory buildings on a lot, divided by the entire area of the lot, but excluding chimneys.

Building Height, Commercial - the vertical elevation of a commercial structure measured from the freeboard elevation. False work, cornices, cupolas, finials, parapets and other decorative features shall not exceed the permissible building height.

Building Height, Residential – the vertical elevation of a building measured from the top of the masonry foundation set 1 ft. above base flood elevation (freeboard) to the highest peak of the roof. False work cornices, cupolas, finials, parapets and other decorative features shall not exceed the permissible building height.

The building heights in the R-1AA Zone shall be measured from the finish grade located five (5) ft. from the building's easterly façade at the center point of the lot. All lots in the R-1AA Zone are regulated under the Beach Protection Ordinance.

A maximum two (2) ft. allowance is permitted for a crawl space if the finished grade (measured at the center point of the rear yard setback), or in case of dune lots as measured above, would preclude a two (2) ft. crawl space. The finish grade

elevation shall be in accordance with the applicable provisions of the Avalon Ordinances.

Building Setback Line. A line drawn parallel to the street line or lot line and drawn through the point of a building nearest to the street line or lot line. The term "required setback" means a line that is established a horizontal distance from the street line or lot line and beyond which a building or part of a building is not permitted to extend toward the street line or lot line. In the case of interior or flag beachfront lots, the front setback line shall be the property line parallel to the beach. In the case of interior or flag bay-front lots the front setback line shall be the property line closest to and parallel to the street line.

Bulkhead – an upland structure with the purpose of limiting encroachment of water to upland areas which is within the limit of the mean high water line.

Bulkhead Line. The line at which an established bulkhead used to maintain an upland area, constructed of fiberglass, stone, concrete, brick, wood, simulated wood, concrete pavers, asphalt, or any other construction material is located. For zoning purposes only on waterfront properties, where no official "bulkhead line" has been established, the mean high water line shall be considered the established bulkhead line. However, in no event shall this be construed to permit construction beyond an existing bulkhead.

Cabana. A building containing facilities for changing associated with a pool, beach, or watercourse. No toilet or cooking facilities are permitted in a cabana structure.

Cantilever. A projecting beam or member supported at only one (1) end.

Carport. A roof projecting from the side of a building, having no more than one (1) wall, used for a shelter for an automobile.

Change of Use. Any use which is not substantially the same as the previous use of a building or land.

Clearing of Landscaping. When forty (40%) percent or more of existing vegetation is removed from a residential lot to permit dwelling expansion or construction.

Club. A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

Commercial. Activity involving the sale of goods and services carried out for profit.

Conditional Use. A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as contained in this chapter, and upon the issuance of an authorization therefor by the Board.

Convenience Stores and Supermarkets. A retail establishment primarily selling food as well as other convenience and household goods.

Coverage, Building. See **Building Coverage** definition.

Coverage, Impervious. The area of all portions of the lot, which are covered by impervious surfaces, divided by the entire area of the lot.

Curb Area. That portion of a street right-of-way lying between the curblines and the street right-of-way line, or property line, in which sidewalks may be constructed.

Curb Cut. The making of an opening in or through any existing curb or the leaving of a void or depression in a newly constructed curb to facilitate vehicular passage.

Curb Level. The legally established level of the curb at the midpoint of a front line of a lot or other parcel of land as determined and regulated under Chapter XVI of the Revised General Ordinances.

Deck, Attached. A raised exterior floor attached to the principal structure, with a minimum height of eight (8) inches measured from grade. Attached decks may not occupy yard areas.

Deck, Detached. A raised exterior floor, detached from the principal structure, with a maximum height of eight (8) inches measured from grade. Detached decks may occupy yard areas.

Drip Irrigation System: Micro irrigation system (low pressure and low volume) wherein water is applied to the soil surface or small streams through emitters.

Drugstore. A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines but where nonmedical products may be sold as well.

Dune Line. That certain line established by the Borough of Avalon, which encompasses, outlines and delineates all beach dune areas. Since dunes are dynamic and changing, the "dune line" must be updated every five (5) years or after a major storm to redefine potential and existing beach dune areas.

Dwelling. A structure, or an entirely self-contained portion thereof, which is designed for and occupied principally as a place of residence for one (1) housekeeping unit. A dwelling must be suitable for year-round occupancy and must contain facilities for cooking, sleeping, bathing, and human sanitation, which are for the exclusive use of the occupants of the dwelling.

Dwelling, Multiple. A building arranged for occupancy by three (3) or more dwelling units.

Dwelling, Single-Family. A building containing not more than one (1) dwelling unit.

Dwelling, Townhouse. A dwelling which is designed for, and occupied exclusively as, the residence of one (1) housekeeping unit; and which is totally

separated from the other by an unpierced rated wall extending from the ground to the roof, or an unpierced ceiling and floor extending from exterior wall to exterior wall.

Dwelling, Two-Family or Duplex. A building containing not more than two (2) dwelling units.

Dwelling Unit. A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Easement. A grant of one (1) or more of the property rights by the property owner to and for the use of the public, a corporation or another person or entity.

Eave. The projecting lower edges of a roof overhanging the wall of a building.

Elevation. A vertical distance above or below a fixed reference level.

Entrance Platform. An area of deck or concrete used as the transition from the entry stairs to the home's exterior entry door.

Essential Service. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution systems and collection, communication, supply or disposal systems, including poles, wires, mains, cables, hydrants, necessary substations (when designed to conform to surrounding uses) and other similar equipment or accessories in connection therewith (not including service buildings or yards) reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission for the public health, safety and/or general welfare.

Existing Use. The use of a lot or structure at the time of the enactment of the zoning ordinance.

Family. One (1) or more individuals occupying a dwelling unit and living as a single housekeeping unit.

Fast Food Restaurant. A restaurant specializing in the rapid preparation and service of food, not waitress served, and which provides service, in whole or in part, on a drive through basis. Any restaurant with drive through service shall be deemed a fast food restaurant.

Fence. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas of a property.

Floor Area- The sum of the habitable area of all floors of a building, structure or unit.

Floor Area Ratio. (FAR) The sum of the area of all the floors of buildings or structures compared to the total area of the site, excluding decks, porches, gazebos and pergolas. Attached and detached garages, sheds, cabanas, and similar enclosed buildings shall be considered in the calculation of FAR.

Freeboard, Commercial – height one (1) ft. above base flood elevation.

Freeboard, Residential – the area of masonry foundation measured at one (1) ft. above the base blood elevation.

Freeboard. Height above the base flood elevation to account for future flood fringe development, uncertainties inherent with the methodologies, lack of data, waves or debris that accompany the base flood and floods higher than the base flood.

Freeboard is as currently defined above by the N.F.I.P., National Flood Insurance Program, or as subsequently amended.

Garage, Private. Any building or part thereof accessory to a principal building, providing for the storage of automobile(s) owned by the occupants of the main building to which the garage is accessory, including one (1) commercial vehicle with a capacity not greater than one (1) ton.

Geo-thermal Energy System – a self-contained mechanical heat and air conditioning system (heat pump) and hot water heating system which utilizes the constant temperature of the earth as the heat exchanger. A geo-thermal heat pump system consists of indoor heat pump equipment, a ground loop, a heat distribution sub-system and a flow center to connect the indoor and outdoor equipment.

Geo-thermal Closed Loop System – a Geo-thermal Energy System which uses a water and/or antifreeze solution, circulated in a ground loop of pipe to extract heat from the earth.

Geo-thermal Open Loop System – a Geo-thermal Energy System which draws water from a suitable source for use as the heat source, and after use, discharges the water into a suitable drainage field, well or other return area.

Green Space. Any area of a site or parcel not covered by buildings, impervious surfaces, pervious pavements, or other improvements, such as areas including lawn, groundcover, and other vegetative materials. Decorative stone is not considered green space.

Habitable Area. The space in a building for living, sleeping, eating or cooking. For the purposes of zoning, bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are considered habitable areas.

Home Occupation or Home Profession. An occupation or profession which is customarily carried on in a dwelling unit or in an accessory building, which is operated by a member of the family residing on the premises and which is clearly incidental and secondary to the use of a main building for residential purposes.

Hotel or Motel. A building with at least twenty-two (22) rental rooms providing living and sleeping accommodations for transient occupancy and including yards and vehicle parking area required by this chapter.

Impervious Coverage. See **Coverage, Impervious** definition.

Impervious Surface. Any structure which reduces the absorption of storm water into the land. These structures include, but are not limited to, buildings, open porches, patios, driveways, sidewalks, swimming pools, tennis courts, and basketball courts; whether constructed of fiberglass, stone, concrete, brick, wood, simulated wood, concrete pavers, asphalt, or any other construction material.

Irrigation Zone: Area of a lawn or planting irrigated by a single valve.

Junkyard. Any lot or portion thereof, used for storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of structures, automobiles or other vehicles, and machinery or parts thereof.

Kennel. Any building or land parcel used for the keeping of four (4) or more adult dogs and/or other household pets.

Lot. A parcel of land above or below water, occupied by or which may be occupied by a building and its accessory buildings, and including yards and other open spaces required by this chapter.

Lot Area. The total area within the property lines of a lot, exclusive of any area within a street right-of-way.

Lot, Corner. A lot lying contiguous to, and at the junction of two (2) or more, intersecting streets, or upon two (2) parts of the same street, forming an interior angle of less than one hundred thirty-five (135) degrees. Each corner lot shall have two (2) front yards, one (1) side yard and one (1) rear yard.

Lot Depth. The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot line.

Lot Frontage. The horizontal distance across the lot measured along the front lot line. In the case of a lot with multiple street frontages, including a corner lot, the front lot line with the least dimensions fronting on a street shall constitute the lot frontage. In no event may more than one (1) front line be used to calculate lot frontage. Lot frontage on an unimproved street shall not satisfy the minimum lot frontage requirements; unless said unimproved street is to be improved as part of the application for development.

Lot Interior. A lot other than a corner lot.

Lot Line, Front. The street line on which the lot fronts or abuts; for interior or flag beachfront lots, the property line parallel and adjacent to the beach. In no case shall any structure be closer than ten (10) feet to the dune line. The property line parallel and closest to the street line for interior or flag bay front lots.

Lot Line, Rear. The lot line opposite and most distant from the front lot line. The lot line other than a street line which is the furthest lot line from the street. For zoning purposes only on waterfront properties, the bulkhead line or mean high water line shall be considered the rear lot line. However, in no event shall this be construed to permit construction beyond an existing bulkhead.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot Width. The distance between side lot lines measured parallel with the right-of-way for lots located on tangents and measured radially for lots located on curves.

Marina. Facilities for the sale, repair, building, launching and storage of boats. Operations are completed both on land and in a water course.

Mean High Water. (MHW) is a tidal datum that is the arithmetic mean of the high water heights observed over a specific 19-year Metonic cycle (the National Tidal Datum Epoch). For the New Jersey shore, the two (2) high waters of each tidal day

are included in the mean. This datum is available from the New Jersey Department of Environmental Protection, Bureau of Tidelands.

Mean High Water Line. (MHWL) is the intersection of the land with the water surface at the elevation of mean high water. The elevation of mean high water varies along the oceanfront and the tidal bays and streams in the coastal zone. For purposes of this chapter the surveyed mean high water line elevation will be utilized.

National Irrigation Association (IA): A nonprofit organization formed to promote the development, proper use and acceptance of irrigation equipment for all possible applications.

Nonconforming Building or Structure. A building or structure the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to this chapter, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the chapter.

Nonconforming Lot. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the present requirements of this chapter by reason of such adoption, revision or amendment.

Nonconforming Sign. Any sign which was lawful prior to the adoption, revision, or amendment of this chapter, but which fails to conform to the present requirements of this chapter by reason of such adoption, revision, or amendment.

Nonconforming Use. A use or activity which was lawful prior to the adoption, revision or amendment to this chapter, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of this chapter.

Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

Open Porch. A roofed open area, on the first or second story, which is an exterior part of a building including a breezeway outside of and extending beyond the exterior walls of the building. Each exterior wall of the porch, which is not an exterior wall of the building, shall be completely and permanently open above the top of the railing or guards not more than six (6) inches above the Building Code required height for railings or guards (as applicable). An open porch may be screened.

Parking, Semi-Enclosed. A parking space or spaces, enclosed on three (3) sides by walls, located on the ground floor of a structure.

Parking Space, Off-Street. A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way. An area either within a structure or in the open exclusive of driveways, access drives and fire lanes, except that nothing shall prohibit private driveways for dwelling units from being considered off-street areas, provided that

no portion of such public driveway within the right-of-way line of the street intersected by such driveway shall be considered an off-street parking space. A parking space shall be surfaced with stone, broken stone, concrete, asphalt, or unit pavers. For additional information refer to Chapter XVI.

Patio. A paved, unenclosed, roofless area at ground level. "Patios" may occupy portions of required side or rear yard areas.

Pergola. A structure with a defined support system for an open roof, either attached to a building or freestanding. The roof must maintain a maximum opacity of seventy (70%) percent.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Pervious Surface. Green space, landscape area, and stone areas not used for parking or driving that permit passage of storm water through the material.

Pool. A water-filled enclosure, permanently constructed or portable, maintained for swimming or bathing.

Pool, Aboveground. A pool of any shape constructed entirely above the final property grade. Aboveground pools are capable of being easily disassembled and reassembled to their original configuration.

Pool, Commercial. Any pool used in connection with any commercial or multi-family use.

Pool, Coping. The cap, made of any material, on the wall that provides a finishing edge around the pool or spa. It may be used as part of the system that secures the vinyl liner to the top of the pool wall and as a means of preventing water run-off from entering the pool.

Pool Deck. Those areas immediately adjacent to the pool or spa specifically constructed or installed for standing or walking. These decks may be made of concrete, wood, composite materials or masonry.

Pool, Hot Tub. A portable, warm water reservoir with self-contained pump, filter, control and heating components as an integral part of the product.

Pool, Inground. A pool of any shape constructed entirely below the final property grade. Inground pools are of permanent construction.

Pool, Onground. A pool of any shape constructed partially above the final grade and has an excavated area partially below the final grade level. Onground pools are of permanent construction.

Pool, Residential. Any pool used in connection with a single-family or two-family private residence.

Pool, Spa. A permanently fixed, warm water reservoir with separate, detached pump, filter, controls and heating components. Spas may be attached or separate from Onground and Inground Pools.

Precipitation Rate: Rate at which a sprinkler system applies water to a given area.

Pressure Compensating Emitter: Device which maintains constant downstream operating pressure (immediately downstream of the device) which is lower than the upstream pressure.

Principal Building. A building in which is conducted the principal use of the lot on which it is located.

Principal Use. The primary or predominant use of any lot.

Property Line. The boundary line to define a plot or lot in a particular block.

Rain Sensor: An electronic device which measures naturally occurring moisture.

Repair Garage. Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, and repair of vehicles is conducted or rendered.

Roof. The outside top covering of a building, deck, porch or patio intended to shelter the underlying structure.

Rotator or Spray Irrigation: Method of irrigation in which the water is sprayed, or sprinkled, through the air to the ground surface.

Sign. Any device (fixed or movable, permanent or temporary) for visual communication that is used for bringing the subject thereof to the attention of the public, (including banners) but not including any flag, badge or insignia of any government or government agency or any civic, charitable, religious, patriotic, fraternal or similar organization (or art work not advertising a specific product or business).

Single and Separate Lot Ownership. The ownership of a lot by one (1) or more persons as an individual, partnership or corporation separately and distinctly from an adjoining lot.

Smart Controller: An electric timing device that operates each (irrigation) zone for a predetermined time and frequency and incorporates one or more sensors to prevent excessive watering.

Soaker Hose Irrigation System: An irrigation system which utilizes semi-permeable hoses to wick or weep water either below the root level or at the ground level of the area.

Soil Moisture Sensor: An electronic device which measures field capacity and the actual soil moisture in the root zone soil at any given time.

Sprinkler: Hydraulically operated mechanical device which discharges water through a nozzle or nozzles.

Street Line. The boundary line of a street that forms the division between the street right-of-way, and abutting lots, or other land parcels.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Swat Certification: “Smart Water Application Technologies” Process by which products are tested for adherence to NIA minimum standards.

Terrace. A raised, level and unroofed platform of earth or concrete, supported by one (1) or more faces of masonry or wood support. Terraces may not occupy any required yard areas.

Trelliswork. A frame of latticework used as a support for climbing plants. Trelliswork includes arbors and decorative gates. It is generally intended that trelliswork be high enough for humans to walk through or under.

Upland. Land above the high water line and not within the wetlands.

Use. The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

Wall. (1) The vertical exterior surface of a building; or (2) the vertical interior surfaces which divide a building's space into rooms.

Watercourse. Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

Wholesale. The sale of commodities in quantity for resale, typically not to the general public.

Yard. An open space on the same lot with a principal building, unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this chapter.

Yard, Front. The yard extending across the entire width of the lot lying between the front lot line or street line and the nearest wall or part of the building, but not including the usual uncovered steps. The depth of the "front yard" shall be measured at right angles to the adjoining street line. In the case of interior beachfront lots, the depth of the "front yard" shall be measured at right angles to the lot line parallel to the beach. In the case of corner lots "front yards" shall be provided along both street frontages.

Yard, Rear. A yard extending across the full width of the lot and lying between the rear lot line and the nearest wall or part of the building. The depth of a "rear yard" shall be measured at right angles to the rear lot line. In the case of through lots fronting on two (2) parallel streets, there will be no "rear yard," and front yard requirements will be increased by five (5) feet on each street. In the case of bay front lots the rear yard is measured from the front property line where the yard is one hundred ten (110) feet or less.

Yard, Side. A yard located between the sideline of the lot and the nearest wall or part of the building and extending from the front yard to the rear yard. The width of the "side yard" shall be measured at right angles to the side lot line. In the case of corner lots, there shall be only one (1) "side yard" adjacent to the interior lot line.

27-4 ESTABLISHMENT OF ZONE DISTRICTS.

a. *Effect of This Chapter.*

1. This chapter shall be applicable to the regulation of the use of all land and structures within the Borough of Avalon.

2. The provisions of this chapter shall be held to be the minimum requirements (or the maximum, when so specified). Where this chapter imposes a greater restriction than is imposed and required by other provisions of law or by other rules, regulations or resolutions, the provisions of this chapter shall control. Where other laws, rules, regulations or resolutions require greater restrictions than are imposed by this chapter, the provisions of such laws, rules, regulations or resolutions shall control.

3. The standards established by this chapter shall be applied uniformly within each zoning district to each class or kind of structure or land. Only uses which are specifically provided for by the regulations of any district shall be permitted in that district unless authorized by the Board pursuant to this chapter.

4. Upon the effective date of this chapter, no building shall hereafter be used, erected, altered, converted, enlarged, added to, moved or reduced, nor shall any lands be subdivided, developed, or redeveloped in any manner except in conformity with the standards provided herein, as applied to the zoning district in which the building or land is located.

5. Upon the effective date of this chapter, all buildings and land which are not in full conformity with the standards provided herein, as applied to the zoning district in which the building or land is located, shall be deemed to be nonconforming and shall be subject to the provisions of this chapter.

27-4.1 District Classification.

For the purpose of this chapter, the Borough of Avalon is hereby divided into twelve (12) classes of districts as follows:

R-1AA	District
R-1A	District
R-1B	District
R-1C	District
R-2A	District
R-2B	District
R-M	District
B-1	District
B-2	District

M-B	District
P-U	District
P-C	District

27-4.2 Zoning Map.

The districts established in subsection 27-4.1 are bounded and defined as shown on a map entitled "1983 Zoning Map Borough of Avalon, Cape May County - New Jersey" as amended from the 1979 Zoning Map of the Borough of Avalon and said Zoning Map is made part of this chapter.

27-4.3 Boundary Line Interpretation.

Where uncertainty exists with respect to the boundary of any of the zoning districts as shown on the Zoning Map the following rules shall apply:

a. Zone district boundary lines are intended to follow the centerline of streets or interior waterways and the dune line as established by Ordinance No. 442 adopted October 7, 1970. Where district boundaries are so indicated that they are approximately parallel to said lines, such district boundaries shall be construed as being parallel thereto and at such distances there from as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by use of graphic scale shown on said map.

b. Where boundary lines are not fixed by dimension and where they do not scale more than ten (10) feet distance from a plat or Tax Map lot line, such lot line shall be construed to be the boundary line.

c. Where district boundary lines follow an exterior waterway or water body, the boundary line shall be deemed to be located at the limit of the jurisdiction of the Borough unless otherwise specified.

d. Where physical or other features existing on the ground are at variance with those shown on the Zoning Map or in other circumstance not covered by subsection 27-4.3a, b. and c. above, the Board shall interpret the district boundary.

e. Where the districts containing lots shown on the tax map adjoin barrier sand dunes, either artificial or natural; these barrier sand dunes being located immediately west of the beach area, the districts and lots therein shall be bounded by an imaginary line along the westerly side of the sand dunes.

27-5 APPLICATION OF REGULATIONS.**27-5.1 Conformance.**

a. Except as otherwise provided in the case of nonconforming uses, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformance with the regulations herein specified for the district in which it is located.

b. No land located in a business district shall be used for commercial purposes unless said business is operated from a building and said building conforms to all applicable zoning regulations for the district in which it is located.

27-5.2 Uniformity.

Within each district, the regulations set by this chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure or land use.

27-6 DISTRICT REGULATIONS.**27-6.1 Zoning District Regulations.**

- a. Zoning district regulations for principal uses are set forth in subsection 27-6.2.
- b. Zoning district regulations for conditional uses are set forth in subsections 27-6.2 and 27-7.1.
- c. Zoning district regulations for accessory uses are set forth in subsections 27-6.2 and 27-7.2.
- d. Supplemental regulations are set forth in subsection 27-7.3.
- e. Site plan review and approval pursuant to the Subdivision and Site Plan Review and Approval Ordinance* shall be required for any proposed use requiring a building permit other than a single- or two-family dwelling on a single and separate lot.
- f. The following uses are expressly prohibited in any and all zone districts in the Borough.
 1. Animal kennels.
 2. Bulk storage of products, which create an unusual danger of explosion or fire hazard, such as fireworks or explosives or gases, such as ammonia, chlorine, acetylene gas and others of like characteristics.

*Editor's Note: See Chapter XXVI.

3. Junkyards and automobile wrecking.
4. The commercial manufacture, fabrication, processing, packaging or treatment of materials or goods.
5. Any commercial use, which is a prima facie nuisance in the vicinity of residential or other business uses, by reason of smoke, odor, noise, fumes, vibration or intensive light.

g. *Principal Use.* Only one (1) principal use is permitted on each lot or site. The exceptions are in the B-1, B-2, M-B, and R-M Districts, where multiple uses are permitted on a single lot as permitted in the zoning district as a conditional use.

h. In accordance with the rules and regulations of the Americans with Disabilities Act, all handicapped accessibility structures are exempt from setback and lot coverage requirements in all zones.

27-6.2 Zoning District Use Regulations.

a. *R-1AA District.* In the R-1AA District, no building or structure shall be erected, constructed, altered or used for any purpose other than the following:

1. Principal Uses.
 - (a) Single-Family Dwellings. (Note: All applications for single-family dwellings must be reviewed and approved by both the Environmental Commission and the Board.)
 - (b) Essential services:
2. Conditional Uses.

None.
3. Accessory Uses:
 - (a) Private garages.
 - (b) Off-street parking.
 - (c) Signs.
 - (d) Home occupations.
4. Bulk Requirements (Principal Uses):
 - (a) Minimum Lot Area: The minimum lot area shall be twenty-two thousand (22,000) sq. ft.

(b) **Minimum Lot Frontage:** The minimum lot frontage shall be one hundred ten (110) feet.

(c) **Minimum Yard Setbacks:**

(1) The minimum front yard setback shall be fifteen (15) feet. Garages shall have a minimum front yard setback of eighteen (18) feet.

(2) The minimum total side yard setback shall be twenty (20) feet and the minimum for one (1) side shall be eight (8) feet.

(3) The minimum rear yard setback shall be twenty-five (25) feet.

(4) The minimum front yard setback for lots contiguous to the established dune line shall be ten (10) feet (see subsection 27-7.3).

(d) **Average Lot Width:** The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) **Maximum Building Height:** The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) **Minimum Floor Area:** The minimum floor area shall be one thousand five hundred (1,500) sq. ft.

(g) **Maximum Building Coverage:**

(1) The total maximum building coverage shall be twenty-seven (27%) percent of the lot area.

[a] One (1) detached accessory building per lot is permitted in the rear yard only (exception see subsection 27-7.2a,2(c) and (d) in excess of the maximum building coverage pursuant to subsection 27-7.2a,1(i).

(h) **Maximum Deck or Porch Coverage:** The total maximum attached and detached deck, entrance platform and/or porch coverage, when combined with the building coverage, shall not exceed thirty-eight (38%) percent of the lot area.

(i) **Maximum Impervious Coverage:** The maximum impervious coverage shall be sixty-five (65%) percent of the lot area.

(j) **Single family maximum FAR = 0.70.**

b. *R-1A District.* In the R-1A District, no building or structure shall be erected, constructed, altered or used for any purpose other than the following:

1. Principal Uses:
 - (a) Single-family dwellings.
 - (b) Essential services.
2. Conditional Uses:

None.
3. Accessory Uses:
 - (a) Private garages and other accessory uses and structures.
 - (b) Tennis courts.
 - (c) Swimming pools.
 - (d) Off-street parking.
 - (e) Signs.
 - (f) Home occupations.
4. Bulk Requirements (Principal Uses):
 - (a) Minimum Lot Area: The minimum lot area shall be eleven thousand (11,000) sq. ft.
 - (b) Minimum Lot Frontage: The minimum lot frontage shall be one hundred (100) feet.
 - (c) Minimum Yard Setbacks:
 - (1) The minimum front yard setback shall be fifteen (15) feet. Garages shall have minimum front yard setback of eighteen (18) feet.
 - (2) The minimum total side yard setback shall be twenty (20) feet and the minimum for one (1) side shall be eight (8) feet.
 - (3) The minimum rear yard setback shall be twenty-five (25) feet.
 - (4) The minimum yard setback for lots contiguous to the established dune line shall be ten (10) feet.
 - (d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) **Maximum Building Height:** The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) **Minimum floor area** shall be one thousand five hundred (1,500) sq. ft.

(g) **Maximum Building Coverage:** The total maximum building coverage shall be twenty-seven (27%) percent of the lot area.

(1) One (1) detached accessory building per lot is permitted in the rear yard only (exception see subsection 27-7.2a,2(c) and (d) in excess of the maximum building coverage pursuant to subsection 27-7.2a,1(i).

(h) **Maximum Deck or Porch Coverage:** The total maximum attached and detached deck, entrance platform and/or porch coverage, when combined with the building coverage, shall not exceed thirty-eight (38%) percent of the lot area.

(i) **Maximum Impervious Coverage:** The maximum impervious coverage shall be sixty-five (65%) percent of the lot area.

(j) **Single-family maximum FAR = 0.70.**

c. *R-1B District.* In the R-1B District, no building or structure shall be erected, constructed, altered or used for any purpose other than the following:

1. **Principal Uses:**

(a) Single-family dwellings.

(b) Essential services.

(c) Public parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members or for the general public and not for gain.

(d) Municipal buildings.

2. **Conditional Uses:**

(a) Churches, parish houses and church recreational buildings.

(b) Public libraries.

(c) Hospitals.

(d) Nursing homes.

- (e) Public and private schools.
3. Accessory Uses:
- (a) Private garages and other accessory uses and structures.
 - (b) Tennis courts.
 - (c) Swimming pools.
 - (d) Off-street parking.
 - (e) Signs.
 - (f) Home occupations.
 - (g) Private docks.
4. Bulk Requirements (Principal Uses):
- (a) Minimum Lot Area: The minimum lot area shall be six thousand (6,000) sq. ft.
 - (b) Minimum Lot Frontage: The minimum lot frontage shall be sixty (60) feet.
 - (c) Minimum Yard Setbacks:
 - (1) The minimum front yard setback shall be fifteen (15) feet. Garages shall have minimum front yard setback of eighteen (18) feet.
 - (2) The minimum total side yard setback shall be twenty (20) feet and the minimum for one (1) side shall be eight (8) feet.
 - (3) The minimum rear yard setback shall be twenty-five (25) feet. (Exception see subsection 27-7.3s)
 - (4) The minimum yard setback for lots contiguous to the established dune line shall be ten (10) feet.
 - (d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.
 - (e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.
 - (f) Minimum floor area shall be nine hundred (900) sq. ft.

(g) Maximum Building Coverage:

(1) The total maximum building coverage shall be twenty-seven (27%) percent of the lot area.

[a] One (1) detached accessory building per lot is permitted in the rear yard only (exception see subsection 27-7.2a,2(c) and (d) in excess of the maximum building coverage pursuant to subsection 27-7.2a,1(i).

(h) Maximum Deck or Porch Coverage: The total maximum attached and detached deck, entrance platform and/or porch coverage, when combined with the building coverage, shall not exceed thirty-eight (38%) percent of the lot area.

(i) Maximum Impervious Coverage: The maximum impervious coverage shall be sixty-five (65%) percent of the lot area.

(j) Single-family maximum FAR = 0.70.

d. *R-1C District.* In the R-1C District, no building or structure shall be erected, constructed, altered or used for any purpose other than the following:

1. Principal Uses:

(a) Single-family dwellings.

(b) Essential services.

(c) Public parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members or for the general public and not for gain.

(d) Municipal buildings.

2. Conditional Uses:

(a) Churches, parish houses and church recreational buildings.

(b) Public libraries.

(c) Hospitals.

(d) Nursing homes.

(e) Public and private schools.

3. Accessory Uses:

(a) Private garages and other accessory uses and structures.

- (b) Tennis courts.
- (c) Swimming pools.
- (d) Off-street parking.
- (e) Signs.
- (f) Home occupations.
- (g) Private docks.

4. Bulk Requirements (Principal Uses):

(a) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback shall be fifteen (15) feet. Garages shall have minimum front yard setback of eighteen (18) feet.

(2) The minimum total side yard setback shall be eighteen (18) feet and the minimum for one (1) side shall be eight (8) feet.

(3) The minimum rear yard setback shall be twenty-five (25) feet. (Exception see subsection 27-7.3s)

(4) The minimum yard setback for lots contiguous to the established dune line shall be ten (10) feet.

(d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) Minimum floor area shall be nine hundred (900) sq. ft.

(g) Maximum Building Coverage:

(1) The total maximum building coverage shall be twenty-seven (27%) percent of the lot area.

[a] One (1) detached accessory building per lot is permitted in the rear yard only (exception see subsection 27-7.2a,2(c) and (d) in excess of the maximum building coverage pursuant to subsection 27-7.2a,1(i).

(h) Maximum Deck or Porch Coverage: The total maximum attached and detached deck, entrance platform and/or porch coverage, when combined with the building coverage, shall not exceed thirty-eight (38%) percent of the lot area.

(i) Maximum Impervious Coverage: The maximum impervious coverage shall be sixty-five (65%) percent of the lot area.

(j) Single-family maximum FAR = 0.70.

e. *R-2A District.* In the R-2A District, no building or structure shall be erected, altered or used for any purpose other than the following:

1. Principal Uses:

(a) Single-family dwellings.

(b) Two-family dwellings.

(c) Essential services.

(d) Public parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members or for the general public and not for gain.

(e) Municipal buildings.

2. Conditional Uses:

(a) Churches, parish houses and church recreational buildings.

(b) Public libraries.

(c) Hospitals.

(d) Nursing homes.

(e) Public and private schools.

3. Accessory Uses:

(a) Private garages and other accessory uses and structures.

(b) Tennis courts.

- (c) Swimming pools.
- (d) Off-street parking.
- (e) Signs.
- (f) Home occupations.
- (g) Private docks.

4. Bulk Requirements (Principal Uses):

(a) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback for all permitted uses unless otherwise specifically stated elsewhere shall be fifteen (15) feet. Garages shall have minimum front yard setback of eighteen (18) feet.

(2) The minimum total side yard setback for all permitted uses unless otherwise specifically stated elsewhere shall be eighteen (18) feet and the minimum for one (1) side shall be eight (8) feet.

(3) The minimum rear yard setback for all permitted uses shall be twenty-five (25) feet. (Exception see subsection 27-7.3s)

(d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) Minimum floor area shall be nine hundred (900) sq. ft.

(g) Maximum Building Coverage:

(1) The total maximum building coverage shall be twenty-seven (27%) percent of the lot area.

[a] One (1) detached accessory building per lot is permitted in the rear yard only (exception see subsection 27-7.2a,2(c) and (d) in excess of the maximum building coverage pursuant to subsection 27-7.2a,1(i).

(h) **Maximum Deck or Porch Coverage:** The total maximum attached and detached deck, entrance platform and/or porch coverage, when combined with the building coverage, shall not exceed thirty-eight (38%) of the lot area.

(i) **Maximum Impervious Coverage:** The maximum impervious coverage shall be sixty-five (65%) percent of the lot area.

(j) **Single-family and two-family dwelling maximum FAR = 0.70.**

f. *R-2B District.* In the R-2B District, no building or structure shall be erected, altered or used for any purpose other than the following:

1. **Principal Uses:**

(a) Single-family dwellings.

(b) Two-family dwellings.

(c) Essential services.

(d) Public parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members or for the general public and not for gain.

(e) Municipal buildings.

2. **Conditional Uses:**

(a) Churches, parish houses and church recreational buildings.

(b) Public libraries.

(c) Hospitals.

(d) Nursing homes.

(e) Public and private schools.

3. **Accessory Uses:**

(a) Private garages and other accessory uses and structures.

(b) Tennis courts.

(c) Swimming pools.

- (d) Off-street parking.
 - (e) Signs.
 - (f) Home occupations.
 - (g) Private docks.
4. Bulk Requirements (Principal Uses):
- (a) Minimum Lot Area:
 - (1) The minimum lot area for single-family dwellings shall be four thousand (4,000) sq. ft.
 - (2) The minimum lot area for two-family dwellings shall be five thousand (5,000) sq. ft.
 - (b) Minimum Lot Frontage:
 - (1) The minimum lot frontage for single-family dwellings shall be forty (40) feet.
 - (2) The minimum lot frontage for two-family dwellings shall be fifty (50) feet.
 - (c) Minimum Yard Setbacks:
 - (1) The minimum front yard setback shall be fifteen (15) feet. Garages shall have minimum front yard setback of eighteen (18) feet.
 - (2) The minimum total side yard setback for all single-family uses unless otherwise specifically stated elsewhere shall be fifteen (15) feet and the minimum for one (1) side shall be five (5) feet.
 - (3) The minimum total side yard setback for all two family uses unless otherwise specifically stated elsewhere shall be eighteen (18) feet and the minimum for one (1) side shall be eight (8) feet.
 - (4) The minimum rear yard setback shall be twenty-five (25) feet. (Exception see subsection 27-7.3s)
 - (d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.
 - (e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.
 - (f) Minimum floor area shall be nine hundred (900) sq. ft.

(g) Maximum Building Coverage:

(1) The total maximum building coverage shall be twenty-seven (27%) percent of the lot area.

[a] One (1) detached accessory building per lot is permitted in the rear yard only (exception see subsection 27-7.2a,2(c) and (d) in excess of the maximum building coverage pursuant to subsection 27-7.2a,1(i).

(h) Maximum Deck or Porch Coverage: The total maximum attached and detached deck, entrance platform and/or porch coverage, when combined with the building coverage, shall not exceed thirty-eight (38%) percent of the lot area.

(i) Maximum Impervious Coverage: The maximum impervious coverage shall be sixty-five (65%) percent of the lot area.

(j) Single-family and two-family dwelling maximum FAR = 0.70.

g. *R-M District.* In the R-M District, no building or structure shall be erected, constructed, altered or used for any purpose other than the following:

1. Principal Uses:

(a) Motels and hotels.

(b) Essential services.

(c) Public parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members or for the general public and not for gain.

(d) Municipal buildings.

2. Conditional Uses:

(a) Churches, parish houses and church recreational buildings.

(b) Public libraries.

(c) Hospitals.

(d) Nursing homes.

(e) Public and private schools.

3. Accessory Uses:

(a) Private garages and other accessory uses and structures.

- (b) Tennis courts.
 - (c) Swimming pools.
 - (d) Off-street parking.
 - (e) Signs.
 - (f) Private docks.
 - (g) Retail stores and shops.
 - (h) Personal service shops.
 - (i) Restaurants.
4. Hotels and Motels:
- (a) Bulk Requirements:
 - (1) Minimum Lot Area: The minimum lot area shall be twenty-four thousand two hundred (24,200) sq. ft.
 - (2) Minimum Lot Frontage: The minimum lot frontage shall be one hundred (100) feet.
 - (3) Minimum Yard Setbacks:
 - [a] The minimum front yard setback shall be twenty (20) feet.
 - [b] The total minimum side yard setback shall be forty (40) feet. The minimum side yard shall be twenty (20) feet.
 - [b] The minimum rear yard setback shall be twenty (20) feet.
 - (4) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.
 - (5) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.
 - (6) Maximum Building Coverage: The total maximum building coverage shall be sixty (60%) percent of the lot area.
 - (7) Floor Area:
 - [a] Minimum number of units is twenty-two (22).

[b] Individual motel/hotel units including private bath:

[1] Without cooking facilities - two hundred sixty-four (264) sq. ft. minimum.

[2] With cooking facilities - three hundred twenty-five (325) sq. ft. minimum.

[c] Incidental service shops - one thousand (1,000) sq. ft. maximum.

[d] Professional offices - shall not exceed five (5%) percent of the permitted floor area of the structure.

(b) General Requirements:

(1) Central cooking and dining facilities, cocktail lounges and entertainment facilities may be permitted as part of the structure.

(2) Incidental service shops, such as barbershops, beauty salons and gift or apparel shops are permitted as part of the structure. No individual shop shall exceed an area of one thousand (1,000) square feet.

(3) Entrance or display windows for such shops shall not face on any street. Not more than a total of three (3) such shops are permitted for any one (1) hotel or motel (does not apply in M-B district).

5. Bulk Requirements (Principal Uses) Other than Hotels/Motels:

(a) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback shall be fifteen (15) feet.

(2) The minimum total side yard setback shall be eighteen (18) feet and the minimum for one (1) side shall be eight (8) feet.

(3) The minimum rear yard setback shall be twenty-five (25) feet.

(d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) **Maximum Building Height:** The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) **Minimum floor area** shall be nine hundred (900) sq. ft.

h. *B-1 District.* In the B-1 District, no building or structure shall be erected, constructed, altered or used; nor shall any parcel of land be used for any purpose other than the following:

1. **Principal Uses:**

(a) Retail stores and shops.

(b) Personal service shops.

(c) Banks, theaters, offices, restaurants and other similar community services.

(d) Light wholesale uses.

(e) Municipal buildings.

2. **Conditional Uses:**

(a) Commercial tennis courts.

(b) Churches, parish houses and church recreational buildings.

(c) Public libraries.

(d) Public and/or private schools.

(e) Second and third floor residential.

(f) Repair garages and automobile service stations.

(g) Convenience stores, supermarkets, and drugstores.

(h) Single-family dwellings in accordance with the R-2B District.

3. **Accessory Uses:**

(a) Off-street parking.

(b) Signs.

(c) Home occupations.

(d) Automobile wash associated with a repair garage and automobile service station only.

(e) Convenience store associated with a repair garage and automobile service station only.

4. Bulk Requirements (Principal Uses):

(a) Minimum lot area: The minimum lot area shall be five thousand (5,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback is ten (10) feet.

[a] Principal buildings which front on Dune Drive shall have a minimum front yard setback from the Dune Drive street line of one (1) foot for the first floor; provided that door swing, eaves, cornices etc. do not encroach into the right-of-way. The second and third floors shall have a minimum front yard setback from the Dune Drive street line of two (2) feet.

[b] Principal buildings located on corner lots which front on Dune Drive shall have a minimum front yard setback of five (5) feet from streets running east-west.

[c] Temporary awnings may protrude up to six (6) feet from the face of the building. Awnings must be at least seven (7) feet above any walking surface.

(2) The minimum side yard setback is zero (0) feet except adjacent to an existing residential use or zone, the minimum side yard setback shall be five (5) feet.

(3) The minimum rear yard setback is twenty-five (25) feet.

(4) Any development on a lot with frontage on Dune Drive shall provide a maximum setback from the Dune Drive street line of ten (10) feet. Corner lots with frontage on Dune Drive shall provide a maximum setback from the side street line of fifteen (15) feet.

(d) Building Height:

(1) The maximum building height for any principal structure shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(2) To encourage restaurant uses and retail and office space with increased interior ceiling heights, as well as decorative roof elements, building heights may be increased up to four (4) additional feet, in accordance with the following:

[a] Buildings, which provide first floor ceiling heights greater than eight (8) feet shall be permitted to increase the overall building height an amount equal to the height that the first floor exceeds eight (8) feet, for up to four (4) additional feet in height.

[b] Pitched roofs having slopes between 4:12 and 12:12, and/or decorative elements such as cupolas or gable end elements are permitted to exceed the maximum height by up to four (4) feet.

[c] A building may utilize the four (4) foot height increase identified in paragraphs [a] and [b] above, or a combination thereof, however, in no case shall any building exceed a height of thirty-four (34) feet.

[d] No increase in height above thirty (30) feet shall result in any increase in habitable area in the top floor, including the creation of attic or storage space.

(e) Minimum floor area per store is one thousand (1,000) sq. ft.

(f) Minimum store frontage per store is sixteen (16) feet on any street.

5. Special Requirements. Any lot with frontage on Dune Drive must comply with the following special requirements as well as any other applicable bulk requirement.

(a) Vehicular access from Dune Drive onto corner lots shall be prohibited.

(b) Vehicular access from Dune Drive to interior lots may be permitted once all options including: shared driveways, rear access easements and other methods to provide access without utilizing Dune Drive have been exhausted.

(c) Any and all lots, which front on Dune Drive, shall be considered to have the front yard on Dune Drive.

(d) Corner lot development shall provide easements granting access to interior lots from the side street.

6. All development shall comply with the following:

(a) A minimum of fifty (50%) percent of the building façade area measured from the sidewalk elevation to a height of ten (10) feet above the sidewalk shall be comprised of clear, nonreflective glass in the form of doors, windows and/or display cases. Opaque coverings and glazing, which prohibit visibility into the display area are prohibited.

(b) A minimum clear distance of six (6) feet and an average clear distance of eight (8) feet of pedestrian walkway shall exist between the Dune Drive curblin and the building facade.

(c) Buildings or facades longer than fifty (50) feet in length, which face any street, shall be articulated with vertical divisions to reduce the scale and uniformity of large-scale buildings. Vertical divisions or modules shall be designed every thirty-three (33) feet or less on all street-side building facades, featuring a combination of pilasters, piers, projecting bays, arcades, changes in facade materials, colors, forms, detailing and changes in roof configuration, to appear to be several separate buildings consistent with traditional town center architecture.

(d) A minimum of forty (40%) percent of the facade area facing Dune Drive on the second and third floor shall be setback at least two (2) feet, but not more than three (3) feet. Uncovered balconies with open railings, less than twenty (20) square feet in area may extend up to three (3) feet from the facade, but may not encroach into the right-of-way.

(e) A minimum of twenty (20%) percent of the facade area facing a street on the second and third floor shall be setback a minimum of six (6) feet. Decks and roofed porches shall have a minimum setback of two (2) feet, but may not extend beyond the first floor.

(f) All buildings shall include pitched roofs and decorative roof elements such as cornices, pediments, gable dormers, cupolas, pavilions, hips and gables around the perimeter of the building. These elements shall have sufficient depth such that interior roof areas, which may be flat, are not visible from the street or adjoining properties at ground level. All buildings shall have modulated roof lines so that:

(1) When viewed in elevation, not more than fifty (50%) percent of the roofline is flat. In this instance, mansard or pent roofs are considered to be flat roofs.

(2) Adjacent flat roof elements, including cornices, pent and mansard roofs, shall be varied in height by a minimum of two (2) feet.

(3) Pitched roof elements shall have gables facing outward with a roof pitch between 4:12 and 12:12.

(g) In order to provide variety and visual interest along the streetscape, buildings should be complementary in style and form to surrounding structures, but shall not replicate or duplicate the forms, materials or colors of an adjacent building.

(h) Where buildings are located adjacent to a driveway, three (3) foot wide curbed, pedestrian safety islands shall be provided to establish separation between the driveway and the building.

i. *B-2 District.* In the B-2 District, no building or structure shall be erected, constructed, altered, or used; nor shall any parcel of land be used for any purpose other than the following:

1. Principal Uses:

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Retail stores and shops.
- (d) Personal service shops.
- (e) Banks, theaters, offices, restaurants and similar community services.
- (f) Other retail or light wholesale uses.
- (g) Municipal buildings.

2. Conditional Uses:

- (a) Commercial tennis courts.
- (b) Churches, parish houses and church recreational buildings.
- (c) Public libraries.
- (d) Public or private schools.

3. Accessory Uses:

- (a) Private garages and other accessory structures.
- (b) Signs.
- (c) Swimming pools.

- (d) Off-street parking.
 - (e) Private tennis courts.
 - (f) Home occupations.
 - (g) Second floor residential.
4. Bulk Requirements (Principal Uses):
- (a) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) sq. ft.
 - (b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.
 - (c) Set backs—Single-Family and Two-Family Dwellings:
 - (1) The minimum front yard setback is fifteen (15) feet. Garages shall have minimum front yard setback of eighteen (18) feet.
 - (2) The minimum side yard setbacks total shall be eighteen (18) feet with a minimum one (1) side eight (8) feet.
 - (3) The minimum rear yard setback is twenty-five (25) feet.
 - (d) Setbacks – Other:
 - (1) The minimum front yard setback is fifteen (15) feet.
 - (2) The minimum side yard setback total shall be eighteen (18) feet with a minimum side of eight (8) feet.
 - (3) The minimum rear yard setback is twenty-five (25) feet.
 - (e) The maximum building height for any principal structure shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.
 - (f) The minimum floor area shall be nine hundred (900) sq. ft.
 - (g) Maximum Building Coverage: The total maximum nonresidential building coverage shall be thirty (30%) percent of the lot area.
 - (h) Single-Family and Two-Family Maximum Building Coverage:
 - (1) The total maximum building coverage shall be twenty-seven (27%) percent of the lot area.

[a] One (1) detached accessory building per lot is permitted in the rear yard only (exception see subsection 27-7.2a,2(c) and (d) in excess of the maximum building coverage pursuant to subsection 27-7.2a,1(i).

(i) Maximum Deck or Porch Coverage: The total maximum attached and detached deck, entrance platform and/or porch coverage, when combined with the building coverage, shall not exceed thirty-eight (38%) percent of the lot area.

(j) Single-Family and Two-Family Maximum Impervious Coverage: The maximum impervious coverage shall be sixty-five (65%) percent of the lot area.

(k) Single-family and two-family residential dwelling FAR: 0.70

j. *M-B District.* In the M-B (Marine Business) District, no building or structure shall be erected, constructed, altered or used for any purpose other than the following:

1. Principal Uses:

(a) Marina.

(b) Essential services.

(c) Municipal buildings.

(d) Public parks and recreation areas operated by membership organizations for the benefit of their members or for the general public and not for gain.

2. Conditional Uses:

(a) Motels and hotels.

(b) Multiple dwellings.

(c) Townhouses.

(d) Commercial tennis courts.

(e) Public/private schools.

(f) Churches, parish houses and church recreational buildings.

(g) Public libraries.

(h) Retail stores and shops.

(i) Restaurant or fast food restaurant.

3. Accessory Uses:

- (a) Private garages and other accessory uses and structures.
- (b) Off-street parking.
- (c) Signs.
- (d) Private dock.
- (e) Swimming pools.

4. Bulk Requirements:

(a) **Minimum Lot Area:** The minimum lot area shall be five thousand (5,000) sq. ft.

(b) **Minimum Lot Frontage:** The minimum lot frontage shall be fifty (50) feet.

(c) **Minimum Yard Setbacks:**

- (1) The minimum front yard setback shall be ten (10) feet.
- (2) The minimum side yard setback shall be: None required.
- (3) The minimum rear yard setback shall be ten (10) feet.

(d) **Average Lot Width:** The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) **Maximum Building Height:** The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) **Minimum Floor Area:** The minimum floor area shall be nine hundred (900) sq. ft.

(g) **Maximum Building Coverage:** The total maximum building coverage shall be thirty (30%) percent of the lot area.

k. *P-U District.* In the P-U (Public Use) District, no building or structure shall be erected, constructed, altered, or used; nor shall any parcel of land be used for any purpose other than the following:

1. Principal Uses:

- (a) Public buildings and uses.
- (b) Schools and playgrounds, libraries, museums and art galleries.

(c) Buildings erected for public or quasi-public use by nonprofit corporations or associations.

(d) Parks, athletic fields, noncommercial swimming pools, tennis courts and other public recreation areas.

(e) Noncommercial parking lot.

2. Conditional Uses:

(a) Telecommunications towers and antennas.

3. Accessory Uses: Accessory uses normally incidental to any of the above listed principal uses only after review and approval by the Board provided that any building involved must be located so that it complies with all yard and height requirements specified for similar type uses and buildings in related sections of this section.

4. Bulk Requirements (Principal Uses):*

(a) Minimum Lot Area: The minimum lot area shall be ten thousand (10,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be one hundred (100) feet.

(c) Setbacks:

(1) The minimum front yard setback shall be twenty-five (25) feet.

(2) The total side yard setback shall be twenty (20) feet and the minimum side yard shall be ten (10) feet.

(3) The rear yard setback shall be twenty-five (25) feet.

(d) Maximum Building Height: The maximum building height for any principal structure shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(e) Maximum Building Coverage: The total maximum building coverage shall be a maximum of twenty-five (25%) percent of the lot area.

*Note: This includes principal and accessory structures.

1. *P-C District.* In the P-C (Public Conservation) District, no building or structure shall be erected, constructed, altered, or used; nor shall any parcel of land be used for any purpose other than the following:

1. Principal Uses:
 - (a) Swimming, sunbathing and associated ocean beach uses.
 - (b) Plant and wildlife observation and educational activities.
 - (c) Nature walks and rest areas.
 - (d) Permitted fishing activities.
 - (e) Other recreational and nature-oriented activities, which in the opinion of the Board are of the same general character as those listed as permitted uses and which in the opinion of the Board will not be detrimental to fragile ecosystems or nearby permitted uses.
2. Conditional Uses:

None.
3. Accessory Uses: Accessory Uses normally incidental to any of the above listed principal uses only after review and approval by the Board provided that any such accessory use shall be found by the Board to be of the same general character as those listed as principal uses and which in the opinion of the Board will not be detrimental to fragile ecosystems or nearby permitted uses.
4. Bulk Requirements: *
 - (a) Minimum Lot Area: The minimum lot area shall be ten thousand (10,000) sq. ft.
 - (b) Minimum Lot Frontage: The minimum lot frontage shall be one hundred (100) feet.
 - (c) Minimum Yard Setbacks:
 - (1) The minimum front yard setback shall be twenty-five (25) feet.
 - (2) The total side yard setback shall be twenty (20) feet and the minimum side yard shall be ten (10) feet.
 - (3) The rear yard setback shall be twenty-five (25) feet.
 - (d) Maximum Building Height: The maximum building height for any principal structure shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(e) Maximum Building Coverage: The total maximum building coverage shall be two (2%) percent of the lot area.

*Note: This includes principal and accessory structures.

27-7 ADDITIONAL REGULATIONS.

27-7.1 Conditional Uses.

a. Applicability.

1. The uses outlined in this section are permitted in various zoning districts in the Borough of Avalon subject to the conditions and standards set forth below.

2. Only those uses listed in this section as conditional uses shall be considered conditional uses.

3. Approval of the Board is required for conditional uses.

4. Each application for a conditional use shall be accompanied by a proposed site plan showing the size and location of the buildings and proposed facilities, including access driveways, parking area and all streets within two hundred (200) feet of the lot.

5. Any lot for which conditional use approval is granted shall be deemed to be a conforming use in the district in which such use is located, provided that such approval shall affect only the lot or portion thereof for which such use shall have been granted. A conditional use approval shall be valid for one (1) year unless preliminary approval of a site plan for the lot involving the conditional use has been granted, at which time the applicant shall receive the same rights as that provided for preliminary approval of site plans.

(6) Any legally pre-existing use located in a district in which it is listed as a conditional use shall be deemed to be an authorized use on the lot or portion thereof on which such use is located. However, any addition or expansion to such use, or any enlargement or reconstruction of a nonconforming building for such use, shall require the approval of the Board in accordance with the procedures for new conditional uses as established under this section.

b. Churches: (Places of Worship).

1. Bulk Requirements:

(a) Minimum Lot Area:

(1) The minimum lot area in the R-2A, R-2B and R-M Districts shall be fifteen thousand (15,000) sq. ft.

(2) The minimum lot area in the R-1B, R-1C, B-1, B-2 and M-B Districts shall be twenty-two thousand (22,000) sq. ft.

(b) Minimum Lot Frontage:

(1) The minimum lot frontage in the R-1B, R-1C, R-2A, R-2B and R-M Districts shall be one hundred ten (110) feet.

(2) The minimum lot frontage in the B-1, B-2 and M-B Districts shall be: None required.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback in the R-1B, R-1C, R-2A, R-2B, R-M, M-B, B-1 Districts shall be twenty-five (25) feet. The minimum front yard setback in the B-2 District shall be thirty (30) feet.

(2) The minimum total side yard setback in the R-1B, R-1C, R-2A, R-2B Districts shall be forty (40) feet. The minimum total side yard setback in the R-M, B-1, B-2 and M-B Districts shall be: None required.

(3) The minimum side yard setback shall be fifteen (15) feet.

(4) The minimum rear yard setback shall be twenty-five (25) feet.

(d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) Maximum Coverage: The maximum coverage shall be thirty (30%) percent of the lot area.

*Note: This includes principal and accessory structures.

c. *Public Libraries.*

1. Bulk Requirements:*

(a) Minimum Lot Area:

(1) The minimum lot area in the P-U and M-B Districts shall be ten thousand (10,000) sq. ft.

(2) The minimum lot area in the R-1B, R-1C, B-1 and B-2 Districts shall be twenty-two thousand (22,000) sq. ft.

(b) Minimum Lot Frontage:

(1) The minimum lot frontage in the R-1B, R-1C Districts shall be one hundred ten (110) feet.

(2) The minimum lot frontage in the P-U and M-B Districts shall be one hundred (100) feet.

(3) The minimum lot frontage in the B-1 and B-2 Districts shall be: None required.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback in the R-1B, R-1C, B-1, P-U and M-B Districts shall be twenty-five (25) feet. The minimum front yard setback in the B-2 District shall be thirty (30) feet.

(2) The minimum total side yard setback in the R-1B and R-1C Districts shall be forty (40) feet. The minimum total side yard setback in the B-1 and B-2 Districts shall be: None required. The minimum total side yard setback in the P-U and M-B Districts shall be twenty (20) feet.

(3) The minimum side yard setback in the R-1B and R-1C Districts shall be eight (8) feet. The minimum side yard setback in the B-1 and B-2 Districts shall be fifteen (15) feet. The minimum side yard setback in the P-U and M-B Districts shall be ten (10) feet.

(d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) Maximum Coverage: The maximum coverage shall be thirty (30%) percent of the lot area.

*Note: This includes principal and accessory structures.

d. *Public and Private Schools.*

1. Bulk Requirements:*

(a) Minimum Lot Area:

(1) The minimum lot area in the P-U and M-B Districts shall be ten thousand (10,000) sq. ft.

(2) The minimum lot area in the R-1B, R-1C, B-1 and B-2 Districts shall be twenty-two thousand (22,000) sq. ft.

(b) Minimum Lot Frontage:

(1) The minimum lot frontage in the R-1B and R-1C Districts shall be one hundred ten (110) feet.

(2) The minimum lot frontage in the P-U and M-B Districts shall be one hundred (100) feet.

(3) The minimum lot frontage in the B-1 and B-2 Districts shall be: None required.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback in the R-1B, R-1C and B-1 Districts shall be twenty-five (25) feet. The minimum front yard setback in the B-2 District shall be thirty (30) feet.

(2) The minimum total side yard setback in the R-1B and R-1C Districts shall be forty (40) feet. The minimum total side yard setback in the B-1 and B-2 Districts shall be: None required. The minimum total side yard setback in the P-U and M-B Districts shall be twenty (20) feet.

(3) The minimum side yard setback in the R-1B and R-1C Districts shall be eight (8) feet. The minimum side yard setback in the B-1 and B-2 Districts shall be fifteen (15) feet. The minimum side yard setback in the P-U and M-B Districts shall be ten (10) feet.

(d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) Maximum Coverage: The maximum coverage shall be thirty (30%) percent of the lot area.

*Note: This includes principal and accessory structures.

e. *Hospitals and Nursing Homes.*

1. Bulk Requirements:*

(a) Minimum Lot Area: The minimum lot area shall be forty thousand (40,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be two hundred twenty (220) feet.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback shall be fifty (50) feet.

(2) The minimum total side yard setback shall be: None required.

(3) The minimum side yard setback shall be fifty (50) feet.

(4) The minimum rear yard setback shall be twenty-five (25) feet.

(d) Average Lot Width: The average lot width shall not be less than fifty-five (55%) percent of the lot frontage.

(e) Maximum Building Height: The maximum building height shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(f) Maximum Coverage: The maximum coverage shall be thirty (30%) percent of the lot area.

*Note: This includes principal and accessory structures.

f. *Reserved.*

g. *Multiple-Dwelling Units.*

1. Multiple-dwelling units shall be permitted, provided that the following requirements are complied with:

(a) Each apartment shall have a minimum floor area of seven hundred (700) square feet.

(b) There shall be a maximum of twelve (12) dwelling units per structure. There shall be a minimum of two thousand one hundred seventy-eight (2,178) square feet of land for each dwelling unit. Multiple-dwelling structures shall not cover more than fifty (50%) percent of the area of the parcel of land upon which erected.

(c) On lots containing a bulkhead, the bulkhead shall be considered the rear property or lot line. Of the required rear yard area, eight (8) feet may be used for the required second means of egress.

(d) When two (2) or more multiple-dwelling buildings are to be erected on one (1) site, the minimum separation between any two (2) such structures shall be twenty (20) feet at any point, except for the overhanging of eaves, and where two (2) adjacent structures are each designed for less than twelve (12) dwelling units, the owner may seek relief from this twenty (20) foot requirement by due application to the Board in the course of obtaining site plan approval.

h. *Townhouses.*

1. Bulk Requirements:

(a) Minimum Lot Area: The minimum lot area shall be two thousand (2,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be: None required.

(c) Minimum Yard Setbacks:

(1) The minimum front yard setback shall be fifteen (15) feet.

(2) The minimum total side yard setback shall be twenty (20) feet with a minimum ten (10) feet side yard setback for each structural unit.

(3) The minimum rear yard setback shall be twenty (20) feet. On lots where there is a bulkhead the bulkhead shall be considered the rear property or lot line for zoning purposes. Of the required twenty (20) feet of minimum depth, eight (8) feet may be used for a second means of egress.

(d) There shall be a minimum of two (2) and a maximum of four (4) dwelling units per structure. There shall be a minimum of two thousand (2,000) square feet of land for each dwelling unit. Each unit shall not cover more than seventy (70%) percent of the area of its own fee simple lot. The multiple-unit structure shall not cover more than fifty (50%) percent of the parcel of land upon which it is erected.

(e) No building or structure shall exceed thirty (30) feet in height.

(f) <i>Minimum Floor Area (Square Feet)</i>	<i>Type of Unit</i>
1,000	2-bedroom
1,150	3-bedroom
1,400	4-bedroom
1,550	5-bedroom

2. General Requirements.

(a) Any applicant desiring to subdivide property for townhouse residential construction in accordance with the provisions of this chapter may apply to the Board for a subdivision under the following requirements. The Board shall examine each request to determine whether it meets the following minimum standards and specifications:

(1) Only those applicants having received site plan approval in accordance with the provisions of Avalon’s Zoning Ordinance or those applicants applying for simultaneous approval may apply for subdivisions under the requirements of this subsection.

(2) Land subdivisions shall be considered only for property upon which townhouse dwelling units are situated, as indicated on the approved site plans in accordance with the definition of townhouse as specified in this chapter.

(b) If it is determined by the Board that the proposed development conforms to the criteria established for fee simple townhouse developments, the following improvements will be allowed: All requirements, specifications, details and conditions of the approved site shall remain in full force except as these may be modified pursuant to the Board’s review of the proposed subdivision.

(c) Each dwelling unit shall be provided with separate suitable underground utilities.

(d) All townhouse dwelling units shall be in line of at least two (2) and not more than four (4) connected dwelling units.

(e) Each dwelling unit shall be compatibly designed in relation to all other units but distinct by such design features as width, setback, roof design, color, exterior materials and other features, singularly or in combination.

(f) Each dwelling unit may be a maximum of three (3) stories in height.

i. *Commercial Tennis Courts.*

1. Bulk Requirements:

(a) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.

(c) Minimum Yard Setbacks: None required.

2. General Requirements:

(a) No artificial lighting shall be permitted, except on Borough owned tennis courts.

(b) All tennis courts shall be fenced for the entire perimeter.

(c) New fence material shall be metal. The use of barb, strand or chicken wire is specifically prohibited. Woven mesh of the type known as "chain link" must be used.

(d) Fencing shall be ten (10) feet in height above ground level and shall enclose the entire outside circumference of the tennis court or courts. Gates made of chain link for ingress and egress are permitted.

(e) Fencing must be set back at least eight (8) feet from each property line, front, side and rear, unless the court is adjacent to and contiguous with a dwelling owned by the owners of the tennis court, in which case there shall be no front and rear setback requirements and the eight-foot side setback requirements shall apply only to that side property line which is most distant from the dwelling house.

j. *Repair Garages and Automobile Service Stations.*

1. Bulk Requirements:*

(a) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.

(c) Setbacks – Other:

- (1) The minimum front yard setback is ten (10) feet.
- (2) The minimum side yard setback is zero (0) feet.
- (3) The minimum rear yard setback is twenty-five (25) feet.

(d) **Maximum Building Height:** The maximum building height for any principal structure shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(e) **Minimum Floor Area:** The minimum floor area shall be nine hundred (900) sq. ft.

(f) **Maximum Coverage:** The maximum building coverage shall be thirty (30%) percent of the lot area.

(g) The maximum impervious coverage shall be eighty (80%) percent of the lot area.

*Note: This includes principal and accessory structures.

2. **General Requirements:**

(a) No repair work is performed out-of-doors.

(b) Pumps, lubricating or other devices shall be located at least twenty (20) feet from any street or highway right-of-way.

(c) All fuel, oil or similar substances shall be stored at least thirty-five (35) feet distant from any street or lot line.

(d) All automobile parts, dismantled vehicles and similar articles shall be stored within a building.

(e) In no case shall there be any residential use associated with a repair garage and automobile service station.

(f) Convenience stores and automobile washes as accessory uses only are permitted to be located on the same parcel as repair garages and automobile service stations.

(g) Repair garages and automobile service stations shall only be located on Ocean Drive with at least fifty (50) feet of frontage on Ocean Drive.

k. *Wireless Telecommunication Towers and Antennas.*

1. See Ordinance No. 469-1999.

1. *Amusement Games.*

1. Amusement games are permitted only under the conditions set forth in Avalon Borough Ordinance 8-6.1.

m. *Second and Third Story Residential.*

1. The bulk requirements shall adhere to the requirements of the zone.

2. Density requirements include:

(a) Residential uses are permitted at a density of one (1) unit per two thousand seven hundred fifty (2,750) square feet of total lot area.

(b) The habitable area of residential use on each of the second and third floors shall be no greater than the gross leaseable area of the non-residential use located on the first floor. Balconies, decks, porches and open, common stairs are not considered in the calculation of the residential habitable area. Semi-enclosed parking, residential storage and refuse areas, common stairs, ramps and other common areas, shall not be included in the calculation of the gross leaseable area.

(c) The total residential habitable area on the second and third floors combined shall not be greater than seventy-five (75%) percent of the lot area.

3. No principal structure shall be constructed closer than twenty-five (25) feet to any residential zone boundary.

4. In no case shall any residential unit be located on the first floor, and in every case any residential uses shall be located over a commercial use. No habitable floor area or decks shall be permitted to cantilever or overhang the floor below, except for balconies less than twenty (20) square feet in area, which may extend up to three (3) feet from the building, but may not encroach into the right-of-way.

5. No residential use shall be permitted to be located over the following commercial structures or uses: repair garages, automobile service stations, commercial parking lots, or commercial parking structures on Dune Drive. Residential semi-enclosed parking areas can be located within a building, but may take up no more than twenty-five (25%) percent of the first floor area. The first floor area is measured along the outside perimeter of all exterior walls, and includes all enclosed interior building areas, and semi-enclosed parking areas where provided.

6. Any one (1) commercial or residential unit shall have a minimum one thousand (1,000) square feet of floor area.

7. Parking shall be in accordance with the requirements of this chapter for commercial uses and residential uses.

8. Parking shall be buffered and completely screened from adjacent residential districts by a minimum five (5) foot wide planted strip and six (6) foot high fencing. Vehicle parking may overhang into the buffer, but not more than two (2) feet. A nuisance buffer planting shall be provided in this area in accordance with subsection 26-7.10 entitled Landscaping.

9. Bays of semi-enclosed parking shall not exceed forty (40) feet in length, or eighty (80%) percent of the first floor façade area, and shall be spaced a minimum of ten (10) feet apart by an area of building facade in the same plane as the second floor facade.

10. No stairs accessing second or third floor residential units or decks shall be located in any front yard.

n. *Convenience Stores, Supermarkets and Drugstores.*

1. Bulk Requirements (Principle Uses):

(a) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) sq. ft.

(b) Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet.

(c) Setbacks:

(1) The minimum front yard setback is ten (10) feet.

(2) The minimum side yard setback is zero (0) feet.

(3) The minimum rear yard setback is twenty-five (25) feet.

(d) The maximum building height for any principle structure shall be thirty (30) feet unless specifically permitted differently elsewhere in this chapter.

(e) The minimum floor area shall be nine hundred (900) sq. ft.

2. On Dune Drive there shall be no development which provides parking within the front yard setback. All off street parking shall be located in the rear yard.

3. On Dune Drive, loading areas shall be located in the rear yard.

4. On Ocean Drive, parking areas may be located in the front yard.

5. On Ocean Drive, loading areas shall be located in the side or rear yards.

6. The maximum floor area of any convenience store, drug store or supermarket shall be no greater than fifteen thousand (15,000) sq. ft.

7. The window area shall be at least fifty (50%) percent but no more than seventy-five (75%) percent of the entire first floor facade, facing Dune or Ocean Drive. It is recommended that window openings and window display space be provided along the entire street frontage in a rhythmic manner.

27-7.2 Accessory Uses.

a. *Private Garages, Cabanas, Sheds, Pergolas and other Accessory Uses and Structures.*

1. Bulk Requirements:

(a) Minimum Front Yard: Garages and other accessory structures are not permitted in front yard areas. (Exception see subsection 27-7.2a,2(d).

(b) Minimum Side and Rear Yard: The minimum side yard setback shall be five (5) feet and the minimum rear yard setback shall be eight (8) feet. (Exception: Sheds which are sixty (60) sq. ft. or less in area, and eight (8) feet or less in height may have a rear yard setback of five (5) feet.)

(c) Corner Lots: Detached garages and other accessory buildings shall not be located nearer to the sideline than requirements for the principal building.

(d) All accessory structures must be at least eight (8) feet from the principal structure except as in subsection 27-7.2c,2(b).

(e) The maximum height of garages shall be fifteen (15) feet to the peak of the roof measured from the lowest grade adjacent to the structure. The maximum size shall comply with paragraph (i)(1) below.

(f) The maximum height of cabanas, sheds, gazebos, and pergolas shall be no greater than twelve (12) feet to the peak of the roof, measured from the lowest grade adjacent to the structure. The maximum size shall comply with paragraph (i)(2) below.

(g) Garages, cabanas, and sheds must have a minimum average roof pitch of 4:12 and should be consistent with the roof pitch of the dwelling.

(h) It is encouraged that the architectural style, materials, colors, and detailing of these structures match those of the principal building.

(i) One (1) accessory building per lot is permitted, in excess of the maximum building coverage, in single-family and two-family residential zones, in the rear yard only (Exception see subsection 27-7.2a,2(c) in accordance with the following: (All structures are still considered in the floor area ratio calculation.)

(1) Detached garages are permitted pursuant to the following:

[a] Garages must have an interior area measuring at least ten (10) feet by eighteen (18) feet.

[b] The driveway shall extend the full distance to the garage from the street.

[c] The ability of a vehicle to access the garage shall be fully demonstrated to the Zoning Officer.

[d] The on-site parking for the dwelling unit exceeds the chapter requirement by at least one (1.0) space.

[e] All detached garages shall comply with the following schedule:

<i>Lot Width (linear feet)</i>	<i>Accessory Garage Maximum Building Area (square feet)</i>
40-49	200
50-59	250
60-99	300
100+	450

(2) Sheds, cabanas, gazebos and pergolas are permitted pursuant to the following:

[a] The on-site parking for the dwelling unit exceeds the chapter requirement by at least one (1.0) space.

[b] The structure does not exceed one hundred twenty (120) square feet in area.

(3) Additional or larger accessory buildings are permitted, however they shall count as building coverage to the extent that they exceed the above limits.

2. General Requirements:

(a) No accessory structure shall have cooking or toilet facilities installed therein and may not be used for dwelling purposes.

(b) On interior lots which front on two (2) or more streets, no detached garage or other accessory building shall be erected so as to occupy any part of the quarter of the lot nearest the street.

(c) All accessory structures shall be located entirely in the rear yard when lots are more than seventy-five (75) feet deep. Detached garages may extend up to three (3) feet past the rear yard line, toward the front line, where the accessory building setback is increased to eight (8) feet.

(d) Bay front lots may utilize the street side for detached garages or other accessory structures.

b. *Private Tennis Courts.*

1. Private tennis courts are permitted as an accessory use subject to the following guidelines.

(a) No artificial lighting shall be permitted.

(b) All courts shall be fenced for the entire perimeter.

2. New material shall be metal. The use of barb, strand or chicken wire is specifically prohibited. Woven mesh of the type known as "chain link" is permitted if vinyl-coated.

3. Fencing shall be ten (10) feet in height above ground level and shall enclose the entire perimeter of the tennis court or courts. Gates made of chain link for ingress and egress are permitted.

4. Fencing must be set back at least eight (8) feet from each property line, side and rear, unless the court is adjacent to and contiguous with a dwelling owned by the owners of the tennis court, in which case there shall be no front and rear setback requirements and the eight-foot side setback requirements shall apply only to that side property line which is most distant from the dwelling house.

5. Public tennis courts are not considered as accessory uses.

c. *Pools.*

1. Bulk Requirements:

(a) Aboveground Pools: All aboveground pools shall be setback a minimum of nine (9) feet from rear and side property lines.

All aboveground pools shall have a minimum height of twenty-four (24) inches and a maximum height of forty-eight (48) inches measured from the final property grade to the highest point of the exterior wall.

(b) Onground Pools: Onground pools shall be permitted only on lots contiguous to the bulkhead or mean high water line.

All onground pools shall have a minimum side yard setback of nine (9) feet and a minimum rear yard setback of fifteen (15) feet.

All onground pools shall have a maximum height of eighteen (18) inches measured from the final property grade to the highest point of the exterior pool wall. Onground pools may not be higher than decks as permitted under subsection 27-7.3s.

(c) Inground Pools: All inground pools shall have a minimum setback of nine (9) feet from the rear and side property lines.

All inground pools shall be level with the final property grade, however the coping shall not extend more than two (2) inches above the final grade.

(d) Hot Tubs: All hot tubs shall be set back a minimum of nine (9) feet from the rear and side property lines. On properties contiguous to the bulkhead or mean high water line, hot tubs shall be setback fifteen (15) feet from the rear lot line.

Hot tubs may be located at grade or on any conforming deck, terrace or patio. However hot tubs may not occupy front yard decks, terraces or patios.

(e) Spas: All spas shall be setback a minimum of nine (9) feet from the rear and side property lines. On properties contiguous to the bulkhead or mean high water line, spas shall be setback fifteen (15) feet from the rear lot line.

All spas shall have a maximum height of eighteen (18) inches above the final grade.

(f) Nonresidential Pool Standards:

(1) Nonresidential pools are permitted in all yard areas.

(2) Nonresidential pools shall have a setback of fifteen (15) feet from all property lines.

(3) Nonresidential pool equipment shall be located fifteen (15) feet from all property lines.

(4) Nonresidential pools shall provide a four (4) foot wide planted landscape buffer from adjoining properties and street sides.

(5) No nonresidential pool shall be above ground or onground, Nonresidential Pools shall be inground pools only.

2. General Requirements:

- (a) No pool, hot tub or spa shall be located in the front yard.
- (b) All pools may have a zero (0) foot setback to decks attached to the principal structure.
- (c) Swimming pool equipment, including pumps, filters and heaters, shall be located not less than 9 ft. from the rear and side property lines or shall meet the side and rear yard setback of the principal structure”.
- (d) Inground and aboveground pools shall provide a four (4) foot wide planted landscape buffer on the rear and side yards.
- (e) Onground pools shall provide a six (6) foot wide planted landscape buffer on the side yards only.
- (f) Any pool requiring a CAFRA permit and located on a lot contiguous to the bulkhead or mean high water line shall be set back nine (9) feet from the side lot line and fifteen (15) feet from the rear lot line. Any pool requiring a CAFRA permit and located on the ocean front shall have a setback of nine (9) feet from the side and rear lot lines and fifteen (15) feet from the Dune Line (see Dune Line Ordinance No. 442).
- (g) All decorative pool features such as spillways, water falls, fountains or water spouts shall have the same setback as the pool. These features shall have a maximum height of eighteen (18) inches above the finished grade.
- (h) All construction related to a new or existing pool in the Borough of Avalon shall be in compliance with all the provisions of this chapter and other applicable laws.
- (i) All drawings and plans for the construction, installation, enlargement or alteration of any pool and appurtenances shall first be submitted to the Zoning Officer and Construction Official for examination and approval. It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any pool without first obtaining permits from the Zoning Officer and Construction Official.
- (j) All plans shall be prepared by a New Jersey licensed professional engineer or architect, and drawings shall be drawn to a scale of not less than one inch equals ten feet (1"=10’).
- (k) The pool application plan shall accurately show and dimension the property lot line location and all existing and proposed site structures, including principal and accessory buildings, decks, walks, patios, fences,

pumps, pool equipment, decorative pool features as well as impervious coverage calculations. The plan shall show the elevation or height above final property grade of all pool features. All information pertaining to the pool including water supply system, drainage and disposal systems for the filtration unit; decks, walks and fence locations and all appurtenances pertaining to the pool, hot tub or spa must be provided and shall be in accordance with the Building Code (UCC).

(l) All proposed pools shall comply with subsection 27-7.3u, the Storm Water Management section of this chapter.

(m) Fences: All outdoor pools shall be completely enclosed by a fence as required by the construction code. All fences shall comply with subsection 27-7.3c.

(n) Discharge: Pools shall be equipped with facilities for emptying the pool and the discharge of the pool water into the nearest sanitary sewer drain. A hosepipe shall be used for discharge. Water drained from the pool or generated by backwash activities shall not be discharged to the storm sewer system, onto any property or Dune area, or into any water body.

(o) Any pool discharge shall require a permit and the applicable fee. A minimum of three (3) working days notice, not to include Saturday, Sunday or a holiday, shall be given to the Inspection Department of a discharge.

(p) All discharge water generated by the dewatering of excavated areas, including pools, shall be filtered prior to discharge off site. This shall be accomplished through the utilization of sediment control bags or tanks at the point of discharge.

Note: Permits shall not be required for standard backwash procedures, however standard backwash shall be drained into the sanitary sewer system.

(q) Disinfection: Equipment shall be provided for the disinfection of all pool water. The disinfectant shall be introduced into the recirculation system ahead of the filters.

(r) Any nonresidential pool shall be required to obtain site plan approval from the Board before commencement of construction, installation, enlargement or alteration.

d. *Private Docks.* Where permitted by the Zoning Ordinance private docks may be constructed subject to all appropriate local, County, State and Federal regulations. (See subsection 27-7.3h.)

e. *Off-Street Parking.*

1. Space Requirements: Off-street parking areas in amounts specified hereafter, unless otherwise exempt, shall be provided in connection with any use or main building instituted after February 1, 1979. All residential, public and institutional uses, motels and hotels shall provide required parking area on the same lot with the principal use. Accessible parking shall be provided as required by the NJ Barrier-Free Sub-code, which parking shall be provided on all site plan applications. Off-street parking spaces shall be provided and satisfactorily maintained by the owner or lessor as follows:

(a) Auditoriums, Stadiums, Theaters or Other Places of Public Assembly: at least one (1) space for each five (5) persons based on use group and occupancy load as established by the Uniform Construction Code.

(b) Parking Requirements for Residential Land Uses:

<i>Housing Unit Type and Size (b)</i>	<i>Parking Requirement</i>
One- or two-family detached or attached	
2 Bedroom	1.5
3 Bedroom	2.0
4 Bedroom	2.5 (3)
5 Bedroom	3.0
Garden Apartment	
1 Bedroom	1.8
2 Bedroom	2.0 (3)
3 Bedroom	2.1
Townhouse	
2 Bedroom	2.3 (3)
3 Bedroom	2.4

Source: Table 4.4 (Residential Site Improvement Standards)

(1) When determination of the required number of parking spaces results in a fractional space for the entire development, any fraction of one-half (1/2) or less may be disregarded, while a fraction in excess of one-half (1/2) shall be counted as one (1) parking space.

(2) Requirements for attached units (apartment/condominium/townhouse) include provisions for guest parking.

(3) If applicant does not specify the number of bedrooms per unit, this parking requirement shall apply.

(4) For residential uses each off-street parking space shall measure nine (9) feet in width by eighteen (18) feet in length.

(c) Garage and driveway combinations shall be counted as follows:

(1) Each garage car space shall be counted as one (1) off-street parking space, regardless of the dimensions of the driveway.

(2) A one-car garage and driveway combination shall count as two (2) off street parking spaces, provided the driveway measures a minimum of eighteen (18) feet in length between the face of the garage door and the right-of-way.

(3) A two-car garage and driveway combination shall count as three and one-half (3.5) off-street parking spaces, provided a minimum parking area width of twenty (20) feet is provided for a minimum length of eighteen (18) feet as specified for a one-car garage and driveway combination.

(d) Hospitals or Nursing Homes: at least one (1) parking space for each two (2) patient accommodations.

(e) Hotels or Motels: at least one (1) space for each unit with additional spaces as required for permitted auxiliary business or public assembly uses. If such parking space is located along the length or side of the motel building, a minimum unobstructed distance of eighteen (18) feet measured from the property line shall be provided for parking automobiles with facilities being made to provide access to such parking.

(f) Rooming, Boarding and Tourist Homes: at least one (1) space for each rental room.

(g) Convenience Stores and Supermarkets: a minimum of one (1) off-street parking space for each two hundred (200) square feet of gross floor area.

(h) Fast Food Restaurants: a minimum of one (1) off-street parking space for each two hundred (200) square feet of gross floor area.

(i) Commercial uses: at least one (1) parking space for each six hundred (600) square feet of floor area.

(1) Rear yard setback areas may be utilized for off street parking.

2. Curbing and Parking Access Standards: (Amended by Ord. No. 497-2001)

(a) Curbs cuts (driveways) shall be constructed to Borough specifications.

(b) The minimum distance between any curb cut (driveway) and the closest curblines of an intersecting street shall be thirty-five (35) feet.

(c) Any adjustment to utility poles or other public improvements necessitated by any curb cut (driveway) shall be accomplished without cost to the Borough.

(d) When a zoning permit or certificate of occupancy has been issued for a building or use with designated off-street parking, said off-street parking cannot be altered, reduced or eliminated thereafter unless approved by the Zoning Officer for single-family dwellings and two-family dwellings. All other buildings or uses including single-family and two-family dwellings, which are the subject of a Board action cannot be altered, reduced or eliminated thereafter unless approved by the Board.

(e) Curb cuts (driveways) widths shall be measured at the curblines. Curb cut (driveway) widths constructed with radii shall be measured at the point of tangency along the curblines.

(f) Curb cuts (driveways) for other than single-family dwellings or two-family dwellings are subject to Board review.

(g) Single-Family Dwelling:

(1) Frontage on one (1) improved street:

(2) One (1) curb cut (driveway) with a maximum width of twenty (20) feet and a minimum width of twelve (12) feet.

(3) Frontage on More Than One (1) Improved Street: Maximum two (2) curb cuts (driveways), each curb cut (driveway) on a different street. One (1) curb cut (driveway) with a maximum width of twenty (20) feet and a minimum width of twelve (12) feet and one (1) curb cut (driveway) with a width of twelve (12) feet.

(h) Two-Family Dwelling:

(1) Frontage on One (1) or More Improved Streets: One (1) curb cut (driveway) with a width of twenty-nine (29) feet. The curb cut (driveway) can be located on any of the improved street frontage(s). The

curb cut (driveway) shall be located a minimum of ten and one-half (10.5) feet from the adjoining property line(s).

(i) Where a street and/or curbs and sidewalks are proposed to be reconstructed by the Borough, the design shall be based upon the provisions of this chapter, but shall consider the reconstruction of existing curb cuts which result in an increased parking yield, either on street, on site, or both. Adjustments may be made to the existing curb cut locations and dimensions to achieve additional on street parking while still providing access to individual driveways.

(j) Whenever such adjustments shall be proposed by the Borough, notice of same (the notice), shall be provided to each owner on the block by the Borough Engineer by certified mail or by personal service at least ninety (90) days prior to commencement of such reconstruction. Any property owner(s) impacted by the proposed reconstruction shall have the right to an informal hearing with the Borough Engineer. Such informal hearing shall be requested, in writing, within thirty (30) days of receipt of the notice. Requests for such informal hearings shall be filed with the Secretary of the Board. Such informal hearing shall thereafter be scheduled promptly. The Borough Engineer shall issue a written decision at the conclusion of the hearing. A copy of that decision shall be filed with the Secretary of the Board. Any property owner may thereafter appeal such decision of the Borough Engineer in accordance with the procedure established in the following section.

(k) Pursuant to N.J.S.A. 40:55D-25 the Borough Council hereby designates and assigns to the Board the duty and responsibility of hearing and deciding all appeals arising from the preceding section dealing with decisions of the Borough Engineer and appeals there from. Following receipt of a written decision of the Borough Engineer any property owner aggrieved by such decision may appeal to the Board. Any appeal must be filed with the Secretary of the Board within thirty (30) days of receipt of the Borough Engineer's written decision.

f. *Signs.* The purpose of this paragraph is to promote and protect the public health, safety, and welfare. As such, it will provide a more attractive residential and commercial climate within all areas of the Borough. This code is intended to create a more attractive business climate by further enhancing the streetscape improvement project undertaken by the community. This code seeks to enhance and protect the physical appearance of all areas by reducing the obstructions and hazards to pedestrian and auto traffic caused by indiscriminate placement and use of signs.

1. Definitions:

Awning and Canopy. A temporary or portable roof-like covering that projects from the wall of a building for the purpose of shielding openings from the elements.

Banner Sign. Any sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any holiday, season, affiliation, institution, or business shall not be considered banners for the purpose of this chapter.

Beacon Lights. Any light with one (1) or more beams, capable of being directed in any direction or directions or capable of being revolved automatically.

Holiday Decoration Sign. Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local, or religious holiday or observance.

Identification Sign. A sign giving the nature, logo, trademark or other identifying symbol; address; or any combination of the name, symbol and address of a building, business, development, or establishment on the premises where it is located.

Roof Line. The juncture of the roof and the perimeter wall of the structure.

Sign. Any object, device, display or structure, or part thereof, visible from the street or from any other property, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figure, design, symbols, fixtures, colors, illumination or projected images.

Signable Facade Area. The rectangular, continuous area on the wall of a building, which extends from the top line of windows and doors on the first floor, and the bottom line of the second floor windows, roof, or cornice above, in an area that is uninterrupted by windows, architectural details, or openings.

Sign, "A" Frame, (or Sandwich Sign). A portable sign capable of standing without support or attachment, which when viewed perpendicular to the message, resembles the shape of the letter "A."

Sign, Animated or Moving. Any sign or part of a sign, which changes physical position by any movement, or rotation or which gives the visual impression of such movement or rotation.

Sign Area. The area of a sign which is computed by multiplying the greatest width of the sign face by the greatest height of the sign face. The sign area shall include the sign face and any framing, trim or molding, but shall not include the supporting structure. See **Signable Facade Area**.

Sign, Awning. A sign that is mounted to, painted on, or attached to an awning that is otherwise permitted by this chapter.

Sign, Bench. A sign painted on, located on or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public place or roadway.

Sign, Billboard. A sign which contains a commercial message and which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign, Bus Shelter. A sign which contains a commercial message and which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the bus stop or bus shelter on which the sign is located.

Sign, Canopy. A sign that is mounted to or painted on, or attached to a canopy that is otherwise permitted by this chapter.

Sign, Changeable Copy. A sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face of or the surface of the sign. The only portions of the sign exempted from the prohibition on flashing are the areas or portion that display time and temperature.

Sign, Community Information. A sign which contains messages of civic groups, churches or places of worship, and local special events which directs attention to a church or place of worship, facility, event, club, or organization.

Sign, Construction. A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors, and similar individuals, or firms having a role or interest with respect to the structure or project.

Sign, Directional and Informational. Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit." Window signs such as those that indicate hours of operation, credit card acceptance, and business affiliations are considered as informational

signs. No sign with a commercial message legible from a position on the street shall be considered directional or informational.

Sign, Directory. Signs listing the tenants or occupants of a building or group of buildings. The respective professions or business activities may also be included as part of the sign.

Sign, Facade. See **Sign, Wall**

Sign Face. The area or display surface used for the message.

Sign, Freestanding. Any immovable sign not affixed to a building.

Sign, Home Occupation. A sign containing only the name and occupation of a permitted home occupation.

Sign, Illuminated. A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign.

Sign, Inflatable. Any display or object capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise a product or event.

Sign, Marquee. A sign that is mounted, or painted on, or attached to a marquee that is otherwise permitted by this chapter.

Sign, Memorial or Nameplate. Memorial signs or tablets, names of building and date of erection when cut into any masonry surface, integral to the construction of a building, or when constructed of bronze or other incombustible material mounted on the face of a building, bench or other structure.

Sign, Neighborhood Identification. Signs which identify any type of housing development, by name.

Sign, Nonconforming. Any sign that does not conform to the regulations of this chapter.

Sign, Off-Premise. See **Sign, Billboard**.

Sign, Open House. An on-premises sign which identifies that a realtor or homeowner is conducting an "open house" at that residence pursuant to a permit and under conditions set forth under subsection 27-7.2f,2(b)(13).

Sign, Open House Directional. An off-premises sign directing the public to a residence where a realtor or homeowner is conducting an "open house" pursuant to a permit and under conditions set forth under subsection 27-7.2f,2(b)(13).

Sign, Political. A temporary sign announcing or supporting political candidates or issues in connection with any national, State or local election.

Sign, Portable. A sign that is not permanent, affixed to a building, structure or the ground such as an "A" frame, sandwich, or swinger sign.

Sign, Projecting. A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

Sign, Real Estate. A sign pertaining to the sale, rent or lease of the premises, or a portion of the premises, on which the sign is located.

Sign, Residential. A sign located in a district zoned for residential purposes that does not contain any commercial message except for goods or services legally offered on the premises on which the sign is located. See **Sign, Home Occupation.**

Sign, Roof. A sign mounted on or above the roof of a building. A sign that projects above the top walk or edge of a building with a flat roof, above the eave line of a building with a gambrel, gable, mansard or hip roof.

Sign, Special Event. Any sign sponsored by the Federal, State, County or Local Government and any sign sponsored by an agency, nonprofit group, public fundraising event required to notify the organizers, participants or general public of an event, parade route or other route such as a run or walk for charity or other semi-public or public purpose.

Sign, Street Banner. Any banner sign which is stretched across and hung over a public right-of-way.

Sign, Suspended. A sign hanging down from a marquee, awning, canopy, porch, or roof overhang that would otherwise exist without the sign.

Sign, Swinger. A portable sign capable of standing without support or attachment, which when viewed perpendicular to the message, resembles the shape of the letter "T," inverted. In no case shall swinger signs be permitted to actually swing.

Sign, Temporary. A sign constructed of paper, cloth, canvas, plastic, plywood, or other lightweight material intended to be displayed for a short period of time, normally less than thirty (30) days.

Sign, Time and Temperature. A sign or a portion of a sign whose sole purpose is to indicate the time and/or temperature.

Sign, Vegetative. A sign affixed to ground plane or vegetation to identify the vegetation and/or commemorate a person or event.

Sign, Wall. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than six (6) inches from such building, or structure.

Sign, Window. A sign that is applied to or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window.

Sign, "Yard Sales." An on-premises sign which identifies that an owner/tenant is conducting a "yard sale" which means: all general sales open to the public conducted from or on a premises for the purpose of disposing of personal property, including but not limited to all sales entitled yard, lawn, garage, attic, porch, room, flea market, tag, trunk, estate, or rummage sale, at that residence pursuant to a permit and under conditions set forth under subsection 27-7.2f,2(b)(14). Official, governmental or charitable sales are excluded.

Sign, "Yard Sales, Directional." An off-premises sign directing the public to residence where an owner/tenant is conducting a "yard sale" which means: all general sales open to the public conducted from or on a premises for the purpose of disposing of personal property, including but not limited to all sales entitled yard, lawn, garage, attic, porch, room, flea market, tag, trunk, estate, or rummage sale, at that residence pursuant to a permit and under conditions set forth under subsection 27-7.2f(b)(14). Official, governmental or charitable sales are excluded.

Streamers/Pennants. A temporary group of small decorative flags strung on a flexible cord or string designed to attract attention to the property for open house purposes.

2. Approvals Required:

(a) Each application for development shall include a sign plan showing a description of the message, trademark, symbol, or insignia, and the specific design, location, size, dimensions, colors, materials, height above ground, construction, and illumination of proposed signs in accordance with the following regulations:

(1) Any sign hereafter erected in the Borough of Avalon, which is exposed to public view, shall conform to the provisions of this chapter and any other ordinance or regulation of the Borough of Avalon, the

County of Cape May, the State of New Jersey or Federal government relating to the erection and maintenance of signs. In the event of conflicting regulations, the most restrictive regulation shall prevail.

(2) All development applications shall submit all signs to be approved by the Board.

(3) No sign, other than exempt signs set forth in paragraph (b) below, shall be erected without first obtaining a sign permit from the Zoning Office. Permit applications shall be accompanied by a plan, drawn to scale, showing details of the sign, type of illumination, type of materials, colors, its size, and location on the building and/or lot. Open-house signs shall be covered by a one hundred (\$100.00) dollar annual permit. Notification of dates and times of all open houses shall be submitted forty-eight (48) hours in advance to the Code Enforcement Official. Signs governed by 10:13-1 shall be covered by the normal "yard sale" permit. All signs will only be permitted from 9:00 a.m to 5:00 .p.m. daily. Permits for window signs and changeable copy signs shall be valid as long as there is no change in the sign area, location, and type of such signs that have been authorized by permit. Fees for sign permits shall be paid in accordance with a fee schedule adopted by the Borough Council.

(4) No sign other than traffic or similar official signs shall be erected within or project over the right-of-way of any public street, sidewalk, median island, or public promenade, except as hereafter provided.

(b) Exemptions. The following signs are permitted in any zone without prior approvals:

(1) One (1) nonilluminated real estate sign advertising the sale, lease, or rent of the premises upon which the sign is located, or the fact that the premises is under contract, which sign area shall not exceed a total of four (4) square feet. These signs may not be placed in the Borough right-of-way and shall be at least eight (8) feet from the curb line. The sign must be mounted so that the top of the sign is no more than thirty-six (36) inches above the ground. One (1) real estate sign may be present on the property in one (1) of the following configurations:

[a] One (1) real estate sign may be displayed on the property while the property is for sale and must be removed immediately after transfer of title. The sign may include a placard

placed at the top or bottom of a real estate sign, provided the addition of the placard does not increase the overall size of the sign beyond four (4) feet; or

[b] One (1) real estate sign advertising the rental or lease of the premises upon which the sign is located; or

[c] One (1) real estate sign advertising open house on the premises upon which the sign is located during the hours of 9:00 a.m. to 5:00 p.m. daily; or

[d] If there is more than one (1) dwelling unit on a property, then one (1) real estate "for sale" sign may be displayed for each unit on the property which has a separate address and a separate owner. If two (2) or more units on a property are owned by the same owner, then only one (1) sign shall be permitted on the property for all units owned by that owner.

(2) One (1) nonilluminated construction sign is permitted on any premises for which a zoning or construction permit has been issued, which sign shall be removed within seven (7) days of either the completion of construction, or the issuance of the final Construction Department certificate of occupancy, or final Construction Department inspection of the project to which the sign relates, whichever comes first.

[a] Signs for one- or two-family uses shall comply with the size and location restrictions of subsection 27-7.2f,2(b)(1) above.

[b] For multiple lot, one- or two-family developments, the per lot sign area may be aggregated to create one (1) larger sign on one (1) of the subject properties, provided it does not exceed three (3) feet high by four (4) feet wide or twelve (12) square feet. These signs shall be no more than forty-eight (48) inches above the ground, supported by no more than two (2) posts not exceeding four (4) inches by four (4) inches.

[c] Signs on nonresidential, mixed-use or multi-family residential premises shall not exceed three (3) feet high by four (4) feet wide or twelve (12) square feet. These signs shall be no more than forty-eight (48) inches above the ground, supported by no more than two (2) posts not exceeding four (4) inches by four (4) inches.

(3) Decorations for a recognized officially designated holiday or casual observance provided that they do not create a traffic or fire hazard.

(4) Official municipal, County, State or Federal governmental signs.

(5) Change in the copy of a changeable copy or time and temperature sign, once a permit for the sign has been issued.

(6) Political signs are permitted on private property throughout the Borough provided that they do not create a traffic or fire hazard.

(7) Signs denoting the name and address of the occupants of the premises, which signs shall not exceed two (2) square feet in area.

(8) Signs for a demolition sale that has obtained a permit. (See Section 10:13). Such signs may not exceed three (3) square feet and shall not be attached to trees or utility poles. Demolition sale signs may not be erected more than three (3) days prior to such sale; and must be removed immediately after the sale.

(9) Portable signs, including a swinger, "A" frame, or sandwich sign, no larger than five (5) square feet when utilized to advertise daily specials, special events, restaurant menu specials and the like, providing the sign is only displayed when the establishment is open for business. These signs shall be located on the property to which they relate and under no circumstances shall these signs impede pedestrian flow, Borough right-of-way or be located in a sight triangle. One (1) sandwich sign per business with a minimum of twenty-five (25) feet between signs is permitted.

(10) Restaurant menus when displayed in a glass case affixed to the exterior building wall for that purpose, or when displayed on a signboard located in close proximity to the restaurant entrance located on private property. The area of the signboard or display case shall not exceed the menu size by more than thirty (30%) percent, and shall not be greater than four (4) square feet.

(11) Temporary window signs shall not impede a clear view through the total storefront window area, and shall be promptly removed upon termination of the sale or event, and shall not be displayed for longer than thirty (30) days.

(12) Directional and Informational window signs including hours of operation, credit card acceptance, and business affiliations are considered informational signs, and are not included in the twenty-five

(25%) percent maximum permitted window sign area. No sign with a commercial message legible from a position on the street shall be considered directional or informational.

(13) Open house directional signs, open house signs and streamers/pennants may be posted in accordance with this subsection only if the realtor/homeowner has on file with the Zoning Officer a current annual permit for such signs. Balloons are not permitted at any time. Open house directional signs and open house signs shall have a face no greater than three (3) square feet and a height no greater than three (3) feet and must be constructed of materials that will collapse or crush easily to avoid injury if a person contacts it. This is the only permissible sign. One (1) sign per intersection to a maximum of two (2) signs total may be posted at nearby intersections and within the public right-of-way (between the curb and the sidewalk). No other real estate sign shall be posted at a residence while an open house sign is posted there. A banner sign may be posted on-premises along with an open house sign posted in accordance with this subsection and hang no lower than seven a (7) feet from grade. Open house directional signs, open house signs, pennants/streamers and banner signs shall be posted only from 9:00 a.m. to 5:00 p.m. daily and a representative of the realtor or homeowner shall be present on the premises and, shall not hold an open house for no longer than three (3) consecutive days, and at the conclusion of each day, such signs shall be promptly removed by the realtor/homeowner. The Zoning Official and Code Enforcement Official are hereby authorized to remove any open house directional sign and to request the immediate removal of any open house sign, pennants/streamers, or banner signs that are posted in violation of these conditions. These powers shall be in addition to those remedies and penalties as set forth under subsection 27-8.6.

(14) Signs defined as "yard sale" and "yard sale directional signs" which does not include, open houses may be posted in accordance with this subsection only if the sponsor has a current permit for the "yard sale." Balloons are not permitted at any time. Yard sale directional signs and yard sale signs shall have a face no greater than three (3) square feet and a height no greater than three (3) feet and must be constructed of materials that will collapse or crush easily to avoid injury if a person contacts it. One (1) sign per intersection to a maximum of two (2) signs total may be posted at nearby intersections and within the public right-of-way (between the curb and the sidewalk). Yard sale signs and yard sale directional signs shall be posted only from 9:00 a.m. to 5:00 p.m. daily and a representative of the sponsor is present on the premises and must

be removed promptly when the sale is over. Yard sales at a premises may not be conducted more than twice between January 1 and December 31 of any year.

(15) Temporary banner signs on buildings promoting functions of nonprofit organizations shall be permitted fourteen (14) days prior to the event and shall be removed three (3) days after the event. These signs shall not exceed thirty-two (32) square feet.

[a] A temporary banner that is not larger than thirty (30) inches by twenty (20) feet located at the intersection of 30th Street and Dune Drive in the eastbound lane of 30th Street, on the Borough's banner poles. These banners are to be erected not more than thirty (30) days prior to an event or special program and shall be removed within three (3) days following the event or special program. These signs are subject to availability and the procedures set forth by the Borough.

3. Design Standards.

(a) All height limitations shall be measured from the average grade at the curbline to the top or bottom of the sign, as is specified, or its supporting structure.

(b) Where any sign, flag, or banner is located over a walkway, sidewalk, pedestrian way, or other public area, the bottom of the sign, flag, or banner shall be at least seven (7) feet above grade level of the pedestrian area.

(c) All signs shall be subject to the provisions of the landscape requirements of Chapter XXVI and Chapter XXVII.

(d) No existing sign shall be enlarged, rebuilt, structurally altered, or relocated except in accordance with the provisions of this chapter. Furthermore, the failure to issue a permit for any sign shall not relieve the owner or lessee of the premises from the duty of safely maintaining any such structures.

(e) Signs shall be located outside of sight triangles as defined in the Subdivision and Site Plan Review Ordinance (Section 26-4).

(f) No sign of any type will be permitted to obstruct driving vision, traffic signals, and traffic direction and identification signs.

(g) Signs using mechanical devices, electrical devices or both to revolve, flash, talk, play music, or display movement or the illusion of movement are prohibited in all zones. Time and temperature signs are exempt from this provision.

(h) Illuminated signs shall be arranged to reflect the light and glare away from adjoining lots and streets to prevent glare or blinding effects upon motor vehicle traffic and so as not to cause a nuisance to residents of the area. All exterior lighted signs shall be shielded or have translucent fixtures to prevent glare. The external light source shall be focused downward.

(i) Attached wall signs shall be affixed parallel to wall to which they are attached, and the face of the sign shall project no more than six (6) inches from the surface of the wall.

(j) All signs shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts or landscaping, painting, repainting, cleaning, and other acts required for the maintenance of said sign. The owner of any property on which a sign is located and those responsible for the maintenance of the sign shall be equally responsible for the condition of the area in the vicinity of the sign and shall be required to keep this area clean, sanitary, and free from noxious or offensive substances, rubbish, and flammable waste materials. If the sign is not made to comply with adequate safety standards, the Zoning Officer shall require its removal.

(k) It is recommended that all signs should have a consistent sign design throughout a particular project, and shall complement the architecture of the building and the site design elements. This includes the style of lettering, construction, material, type of pole or standard (wood or metal), size and lighting. Color of letters and background should be carefully considered in relation to the color of the material of the buildings or other location where the signs are proposed to be located. Signs should be a subordinate rather than a predominate visual feature of a plan.

(l) The sign area of two-sided signs shall be computed using one (1) side of the sign.

(m) The area of individual letter, or segmented wall signs shall be computed by first measuring the initial letter, number, logo, trademark or symbol or letters of the name independently as a rectangle enclosing the letter, number, logo, trademark, or symbol and adding thereto the area of a rectangle enclosing all the remaining letters, numbers, logos, trademarks, or symbols forming the sign. Other wall signs of a solid face construction, which are

placed and securely fastened to the building wall and are complete in themselves shall have the area computed on the basis of a rectangle or circle formed by a complete sign.

(n) All awnings and canopies shall be opaque and under no circumstances can an awning or canopy let light through. Awnings and canopies may extend a maximum of six (6) feet from the exterior wall of the building. Under no circumstance may any temporary sign, banner, or flag be attached to the bottom of any awning or canopy below a height of seven (7) feet from grade level of the pedestrian area.

(o) No advertising for real estate agents, developers, contractors, builders, architects or tradesmen is permitted on Neighborhood Identification Signs.

4. Prohibited Signs. All signs which are not expressly permitted or exempt from regulation in accordance with this chapter, are prohibited. The following are examples of signs which are expressly prohibited:

(a) Signs on the Dune Drive median islands other than traffic safety, directional, public warning signs and special event signs. Special event signs are further regulated by this chapter.

(b) Signs hung or attached to Boardwalk railings;

(c) Beacons;

(d) Tethered balloons;

(e) Signs using red, yellow, and green lights which mimic the operation of any traffic control signal;

(f) Signs using the words such as "stop," "look," "danger," which are placed to constitute a traffic hazard or interfere with the free flow of traffic;

(g) Roof signs or signs mounted on the roof;

(h) Strings of light (not including holiday lighting and decorations);

(i) Animated or moving signs;

(j) Internally illuminated awning and canopy signs;

(k) Internally illuminated wall, projecting, and suspended signs (except neon or gas tubing signs);

(l) Vehicle(s) or trailer(s) located to serve as a sign in circumvention of this chapter;

- (m) Signs which present lewd language or graphic sexual depictions;
 - (n) Bench signs which display a commercial message;
 - (o) Bus shelter signs; and
 - (p) Temporary signs of builders, architects, engineers, developers, contractors, mechanics, painters, paperhangers and/or artisans, except where expressly permitted.
 - (q) Any signs on trees or utility poles.
 - (r) Inflatable signs.
5. Residential Districts and Uses: (R-1AA, R-1A, R-1B, R-1C, R-2A, R-2B).
- (a) A permitted professional office or approved home occupation, may have one (1) sign not to exceed three (3) square feet and shall be setback a minimum of three (3) linear feet from all property lines.
 - (b) A church or nonprofit organization may have two (2) signs not to exceed a total of thirty-two (32) square feet displayed on the property. One (1) sign may be an identification sign and one sign may be a changeable copy sign. All signs shall be a minimum of three (3) feet from any property line.
6. Public Use and Public Conservation Districts and Uses: (P-U, P-C), In Public Use P-U and Public Conservation P-C Districts only, one (1) sign identifying each public use or (charitable or nonprofit) institution shall be permitted and shall not exceed an area of twenty-five (25) square feet. (A zoning permit is required for each sign, temporary or permanent, erected in the P-U and P-C Zones).
7. Commercial Districts and Uses: (R-M, B-1, B-2, M-B).
- (a) Any sign authorized for permitted uses in the residential districts as specified above is permitted in a commercial district.
 - (b) Freestanding Signs:
 - (1) Freestanding signs are not permitted in the B-1 Zone except where a lot has a minimum of one hundred (100) feet of frontage on a County road, and then only one (1) freestanding sign is permitted, fronting on the County road.
 - (2) Where permitted, one (1) freestanding sign shall be permitted at a rate of one (1) square foot of sign (per side), for every three (3) linear feet of street frontage. Freestanding signs shall not exceed a total maximum area of thirty (30) square feet per side.

(3) Freestanding signs shall be located a minimum of five (5) feet away from all property lines.

(4) Freestanding signs shall be no higher than fifteen (15) feet above ground level, and shall have no more than two (2) sides.

(5) Freestanding signs shall not be internally illuminated, but illuminated by a shielded, exterior, downward-facing light source.

(c) Building Signs:

(1) Facade, wall, suspended, projecting, awning and window signs shall have a maximum area of four (4%) percent of the total of the area of the building facade fronting on each public street, but in no case shall any individual sign area be greater than fifty (50) square feet.

(2) Wall signs shall be located between the top line of windows or doors on the first floor, and the bottom line of the second floor windows, roof, or cornice above, in an area that is uninterrupted by windows, architectural details, or openings. See **Signable Facade Area**.

(3) Wall signs shall not project beyond the roof or sides of the building. Wall signs may not project more than six (6) inches beyond the front surface of the building.

(4) Temporary banners, at least seven (7) feet above grade and not greater than thirty (30) square feet in total area, shall be permitted for seasonal or temporary sales for fourteen (14) days prior and three (3) days after the seasonal or temporary sale. A temporary banner may not be erected for more than twenty-eight (28) consecutive days, and a minimum of twenty-one (21) days shall elapse before another such sign is permitted on the property.

(5) Projecting or suspended signs with a display area not greater than four (4) square feet, shall be permitted for each storefront or business service having an individual public entrance from the exterior of the building.

(6) Projecting signs may not project more than thirty (30) inches from the exterior wall of the building.

(7) Suspended signs may not extend farther away from the exterior wall of the building than the structure from which it is supported. In no case shall the suspended sign be greater than four (4) feet from the exterior wall of the building.

(8) One (1) etched or painted permanent window sign shall be permitted in one (1) storefront window of any retail or commercial business, providing it does not exceed twenty-five (25%) percent of the window area.

(9) One (1) awning or canopy sign shall be permitted on the vertical fringe of the awning or canopy providing the maximum letter height does not exceed eight (8) inches. Under no circumstances shall the awning or canopy be internally illuminated.

(10) Changeable copy signs are permitted only for automobile filling and service stations to provide pricing information.

(11) Time and temperature signs are permitted but in no case shall the area of such signs exceed the maximums permitted.

(12) Neon or gas tubing signs are permitted and subject to the following conditions:

[a] Neon or gas tubing attached to facades and roof lines to accentuate architectural elements is considered to be a sign by definition in the chapter. A development application to the Board is required to seek approval of neon tubing used as an architectural element. In no case shall any neon or gas tubing exceed an initial output of two hundred (200) lumens.

[b] No neon or gas tubing sign may revolve, flash, or display movement or the illusion of movement.

[c] Neon or gas tubing signs can be installed in windows but shall not exceed twenty-five (25%) percent of the total window area. The area of neon signs is calculated by creating a rectilinear area around the sign and calculating the sign area within the rectilinear space.

[d] Whenever a parcel in the commercial district is directly across the street from residential districts as shown on the map of the Borough of Avalon, neon and gas tubing signs are prohibited.

[e] All neon or gas tubing signs are required to have an initial output of less than two hundred (200) lumens.

8. Billboard or Off-Premises Signs. The purpose of this paragraph is to promote the unique scenic beauty of Avalon. Specifically N.J.A.C. 16:41C-1 et al. entitled Roadside Sign Control and Outdoor Advertising prohibits billboards and

off-premises signs adjacent to the Garden State Parkway, scenic areas, and in residential areas. Whereas there are no highways located in or adjacent to the Borough and, whereas residential districts are located in proximity to commercial districts and there are no industrial districts located in or adjacent to the Borough, the Borough of Avalon hereby prohibits all billboard and/or off-premises signs.

g. *Home Occupations.*

1. General Requirements:

(a) Such occupations or professions shall be carried on wholly within a building.

(b) The business does not involve more than one (1) person not living on the premises.

(c) The office does not occupy more than two hundred (200) square feet of the principal residential structure nor more than one hundred eighty (180) square feet of any accessory structure.

(d) There shall be no exterior indication of a variation of the residential character of the premises.

(e) There shall be no storage of any materials outside of any structures.

(f) The bulk requirements shall be the same as for the zone within which the dwelling unit is located.

(g) No home occupation shall produce any offensive noise, vibration, smoke, dust, odor, heat or glare.

27-7.3 Supplemental Regulations.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

a. *Undersized Lots.* The Zoning Officer shall issue a zoning permit, upon application, to permit the construction of a single-family dwelling on a single and separate lot having, as of December 1959, an area less than required for a residential use in the zone in which the lot is located, provided that the following criteria are met:

1. The applicant owns no contiguous property.

2. If two (2) or more lots having contiguous frontage were held in single and separate ownership at the time of passage or amendment of this chapter, and if said lots considered separately do not meet the requirements for lot width and/or

area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purpose of applying the requirements of this chapter.

3. The applicant shall determine if any contiguous land is available for purchase.

4. If contiguous land is available, the applicant shall provide evidence, satisfactory to the Zoning Officer, which demonstrates that the applicant has made a good faith attempt to purchase said land.

5. If the evidence presented by the applicant demonstrates that the owner of the available contiguous land is unwilling to sell said land at or below the fair market value, as the same shall be herein determined, then the applicant shall have no further obligation to attempt to purchase any contiguous property. Before issuing a zoning permit pursuant to this section, the Zoning Officer may conduct an independent investigation to determine the accuracy and completeness of the evidence submitted in support of a zoning permit pursuant to this section. Such independent investigation by the Zoning Officer may include, but not necessarily be limited to, contacting the owner or owners of any contiguous property, by certified mail, regular mail, or otherwise, to determine whether said property is available for purchase and, if so, the terms and conditions thereof. The failure of an owner of contiguous property to respond to a certified letter from the Zoning Officer inquiring as to that individual's willingness to sell his/her land to the applicant shall be deemed evidence of an unwillingness to sell. The Zoning Officer shall deny a zoning permit if he finds that an owner or owners of contiguous property is/are willing to sell such contiguous property to the applicant.

6. The fair market value of any contiguous property shall be determined by a licensed New Jersey Real Estate Appraiser.

7. In order to qualify for a zoning permit pursuant to this section, a lot shall have a minimum of forty, (40) feet frontage.

8. A lot shall have a minimum of four thousand (4,000) square feet.

9. A lot shall have been in existence and appear on the Official Tax Map of the Borough of Avalon prior to December 15, 1959.

10. All provisions of the district, except as modified herein, shall be met.

b. *Nonconforming Buildings, Structures, Signs, Lots and Uses.*

1. Continuation and Enlargement.

(a) Any nonconforming buildings, structures, signs, lots and uses which existed and were lawful immediately prior to the effective date of this chapter, or any amendment thereto, but which became nonconforming by

virtue of this chapter may be continued so long as the use is continued without abandonment, including subsequent sales of the property; and any nonconforming buildings, structures or signs may be restored or repaired in the event of partial destruction thereof.

2. Expansion of Nonconforming Uses.

(a) The expansion of nonconforming uses shall be governed by the following rules:

(b) A nonconforming use shall not be expanded, enlarged, or increased in any way without the grant of a variance by the Board. A nonconforming building or structure shall not be expanded, enlarged, or increased in any way unless the addition is in full compliance with the provisions of this chapter.

(c) No structural alterations may be made to a building or structure which contains a non-conforming use unless

1. The alteration is ordered by a public official to eliminate a hazardous condition, or
2. The alteration is a restoration or repair of said building or structure as a result of partial destruction by a single event and not simply as a result of the passage of time and normal wear and tear.”

3. Expansion of Nonconforming Buildings or Structures.

(a) The expansion of nonconforming buildings, or structures shall be governed by the following rules:

(1) A non-conforming building or structure may be expanded without a hearing before the Board if the expansion meets with all yard setback and height requirements of the zone in which it is located and does not exacerbate the existing non-conforming condition.

(2) No structural alterations may be made to any building or structure which is itself non-conforming unless:

1. The alteration is ordered by a public official to eliminate a hazardous condition or

2. The alteration is a restoration or repair of said building or structure as a result of partial destruction by a single event and not simply as a result of the passage of time and normal wear and tear.

4. Discontinuation and Abandonment.

(a) A nonconforming use of land or of a building shall be presumed to have been discontinued if the active use of the land or building is abandoned or physically modified to preclude a nonconforming use.

(b) Once the discontinuation occurs, the issue as to abandonment of a nonconforming use shall involve a factual determination by the Board to stay the effect of abandonment upon presentation of evidence that there was no intention to abandon.

5. Certificate of Nonconformity.

(a) The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the building, structure, sign or use existed before the adoption of the ordinance which rendered the building, structure, sign or use nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the Zoning Officer within one (1) year of the adoption of the ordinance which rendered the building, structure, sign or use nonconforming or at any time to the Board. Denial by the administrative officer shall be appealable to the Board.

(b) The Zoning Officer shall issue a certificate of nonconformity only upon the presentation of satisfactory evidence that the nonconforming building, structure, sign and use was lawful prior to enactment of the ordinance rendering the building, structure, sign or use nonconforming. The burden of proof shall be entirely upon the applicant.

(c) A reasonable fee may be charged for the certificate of nonconformity.

c. *Yard Exceptions.*

1. Fences, Walls and Trelliswork. Except as otherwise permitted herein, fences, walls, or a combination thereof, shall not exceed forty-eight (48) inches in height. Fences erected in connection with pools shall be in compliance with subsection 27-7.2c Pools. Retaining walls may not be higher than permitted by subsection 27-7.3u Storm Water Management. Fences or walls built on or within

any lot shall not be considered to be a part of the occupied area, provided that they meet the following requirements:

(a) New material for fences shall be wood, vinyl, decorative finished masonry or metal. The use of barbed, strand or chicken wire is specifically prohibited. Woven mesh of the type known as "chain link" may be used, provided it is vinyl-coated.

(b) Retaining wall materials shall be as permitted by subsection 27-7.3u Storm Water Management.

(c) Fences or walls, or a combination thereof, not exceeding four (4) feet in height may be of open or closed construction. Walls and fences in excess of four (4) feet in height shall have a maximum opacity of fifty (50%) percent for the area of the structure in excess of four (4) feet.

(d) Trelliswork including, arbors and decorative gates must be at least eighty (80%) percent open and shall not exceed seven (7) feet in height or twenty (20) feet in length. These cannot be used as a lot divider.

2. Fences Abutting Other Zones. Fences may be erected upon a lot in a residential zone where said lot abuts a public or commercial zone, provided that:

(a) Such fence or wall may be erected along the boundary, and such fences or walls need not comply with side or rear yard setbacks.

(b) New material shall be wood, decorative finished masonry, vinyl, plastic or metal. The use of barbed, strand or chicken wire is specifically prohibited. Woven mesh of the type known as "chain link" is permitted, provided it is vinyl-coated.

(c) Fences or walls may be solid but may not exceed six (6) feet in height.

3. Yard Encroachments.

(a) Eaves and cornices shall not be considered to occupy required yard area, provided that such projections do not extend more than two and one-half (2 1/2) feet into the yard area. Under no circumstances is a cantilever considered a cornice and shall not extend into any yard area.

(b) Chimneys, canopies, roofs over exterior doors less than sixteen (16) square feet in area, bay and bow windows shall not be considered to occupy required yard area, provided that such projections do not increase the floor area, do not extend closer than four (4) feet to any property line, and do not extend into the yard more than two (2) feet on not more than two (2) sides

of the structure. Bay and bow window projections shall not exceed a total of eight (8) feet in length per side of structure.

4. Steps. Steps, outside stairways, and entrance platforms that are each less than twenty-six (26) square feet in area, shall not extend over four (4) feet into the front, rear and side yard areas but shall in no event be less than three (3) feet from any property line.

5. Air conditioners and Outside Showers. Placement of HVAC units, air conditioners and outside showers are prohibited from being located in a front yard. Placement of HVAC units, air conditioners and outside showers shall be specifically prohibited from being located in all side yard and rear yard setback areas”.

6. Flag Poles. Flag poles shall not exceed thirty (30) feet in height measured from grade and shall be set back six (6) feet from any property line.

d. *Height Exceptions.* Necessary accessory appurtenances to permitted buildings, such as radio aerials, television antennas, church spires, chimneys, etc., shall not be restricted to district height limitations. However, such exceptions shall not include unnecessary appurtenances such as false fronts, roof parapets, finials, cupolas, weather vanes or other architectural decorative structures. The height of any such excepted structure above the base to which it is fixed or attached shall not be greater than the shortest distance from such base to any property line, nor shall it exceed twice the height limitations in the district in which it is located. Chimneys may exceed the building height, but only by the minimum height necessary for compliance with applicable construction codes.

e. *Flat Roof Conversion.* Any structure having a flat roof may be converted to pitched roof, provided that the new roof does not exceed the permitted height, and does not increase the habitable area.

f. *Structure Below Base Flood Elevation.* Any structure in any zone may be raised or elevated to the base flood elevation or to replace a defective foundation, provided that the permitted height is not exceeded, and the habitable area is not increased.

g. *Space Used Once.* No part of a yard, other open space or off-street parking area required about or in connection with any building for the purpose of complying with this chapter shall be included as a part of a yard, open space or off-street parking area similarly required for another building.

h. *Building Beyond Bulkhead Lines.* No building or structure shall extend beyond the bulkhead line, bulkhead or retaining wall abutting wetlands, except a pier or dock which may extend not more than thirty (30) feet, or a greater distance only

when specified in a particular deed provided that a building permit therefore has been granted by the Building Inspector and the approval of all other officials having jurisdiction has been obtained.

i. *Building Beyond Boardwalk Line.* No pier, dock, boathouse, pavilion, jetty or other structure shall be constructed, altered or moved beyond the boardwalk line toward, over or into the Atlantic Ocean. This shall not be deemed to prohibit structures reasonably required for erosion control or public recreational uses when constructed by a public agency.

j. *Yard Reduction.* No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots, created after the effective date of this chapter, shall meet at least the minimum requirements as established by this chapter.

k. *Lots Contiguous to Dune Line.* Those lots contiguous to the established dune line of the Borough of Avalon and as further amplified upon the Official Tax Map of the Borough of Avalon shall have a yard with a minimum depth of ten (10) feet as measured from the easternmost boundary of the lot and the easternmost building line of the structure, except in those cases where the dune line lies west of the easternmost boundary of the lot, then, in such case, the yard depth shall be no greater than the area between the easternmost building line and the dune line.

l. *Multi-Story Dwelling Unit.* The primary means of access to each floor within a dwelling unit shall be by interior stairs.

m. *Public Utility Buildings.* A public utility substation building deemed necessary to the service, convenience or welfare of the public by the Board of Public Utility Commissioners in accordance with Chapter 276 of the Public Laws of New Jersey 1978, as amended and supplemented, will be considered an essential service and may be placed in any district, subject to site plan review and approval, provided that the building is in keeping with the neighborhood in which it is located, and provided further that the building will not be used as a storage depot for materials, a garage, repair shop or other service building in any residential district.

n. *Split Lot Zoning.* (Reserved)

o. *Conformity of Building Setback Lines.* The Board in review of variance cases, notwithstanding other requirements of this chapter, may encourage conformity of building setback lines with the median setback lines of existing structures on the same side of the street and within three hundred (300) feet of the proposed new construction.

p. *Porches and Decks.*

1. The floor of an outside porch or deck shall be no higher than the floor of the highest habitable floor in said structure.

2. No roofs shall be permitted above a third floor deck for one- and two-family residential uses.

q. *Roof Pitch.*

1. For single-family and two-family dwellings only, the average roof pitch must be a minimum of four feet of rise to every twelve feet of run (4:12). Any roof having a pitch less than two feet of rise to every twelve feet of run (2:12) shall be considered flat, and flat roofs may not exceed twenty (20%) percent of the roof area, measured in a horizontal plane.

2. The roof pitch plan must be to scale and submitted with the appropriate calculations at the time a zoning permit application is made.

r. *Oversized Lot Yard Requirements.* In order to preserve light and air, where a lot in any residential zone exceeds the minimum lot frontage requirements of the zone, by twenty-five (25%) percent or more, the minimum and total side yard areas shall be increased proportionally with the lot frontage.

Where a lot frontage exceeds the minimum requirement by twenty-five (25%) percent and the lot is rectilinear in shape, the lot width at the front and rear lot building setback lines must exceed the minimum lot frontage of the district by twenty-five (25%) percent or more in order for this requirement to apply; or

Where a lot frontage exceeds the minimum requirement by twenty-five (25%) percent and the lot is irregular in shape the average of the lot width at the front building setback line and the rear building setback line must exceed the minimum lot frontage requirements of the zone by twenty-five (25%) percent or more.

The equation shall read as follows:

$$Y = (X) (Z)$$

Where X = Minimum Total and Minimum Required Side Yard

And Y = The Additional Total and Minimum Required Side Yard Setback for Property

And Z = Percentage that Lot Exceeds Minimum Frontage Requirements of the Zone

27-7.3R ABOVE IS TEMPORARILY TABLED, SEE CHAPTER 27, REVISED 2/3/08 FOR LANGUAGE.

s. *Lots Contiguous to the Bulkhead Line or Mean High Water Line.* The purpose of this paragraph is to create rear yard setbacks that protect and enhance the natural environment while, creating a consistent appearance along the watercourse and protecting views from the parcels.

1. Where the mean high water line is between the bulkhead line and the upland, the mean high water line shall prevail.

2. All constructed bulkheads shall be measured from the edge closest to the water to determine the lot depth and when bulkheads are replaced the measurement from the new bulkhead shall prevail.

3. The rear yard setback shall be as follows:

(a) For lots where the distance from the street line to bulkhead line or mean high water line is one hundred ten (110) feet or less, the rear setback line shall be measured eighty-five (85) feet from the front property line provided the following:

(1) A minimum of nine (9) feet is maintained from the bulkhead line or mean high water line to the habitable building and/or architectural details;

(2) A minimum of five (5) feet is maintained from the bulkhead line or mean high water line for any structure more than eighteen (18) inches high, (except where other restrictions apply); and

(3) The rear yard setback can be zero (to the bulkhead line or mean high water line) for any structure less than eighteen (18) inches in height.

Or

(b) For lots where the distance from the street line to the bulkhead line or mean high water line is greater than one hundred ten (110) feet, the rear setback shall be twenty-five (25) feet measured at the closest point between the bulkhead line or mean high water line and the street line.

(1) The rear yard setback can be zero to the bulkhead line or mean high water line for any structure less than eighteen (18) inches in height.

t. *Landscaping.* The survival of most types of plant life is difficult on a barrier island such as where Avalon is located. Vegetation has to contend with nutrient poor, sandy soils, frequent northeast storms, strong west winds, and salt-laden air. These conditions make it difficult for most vegetation to develop and mature. Vegetation of all types, especially trees and shrubs, enhance absorption of run-off back into the soil,

reduce air pollution, and aid transpiration. Trees and shrubs reduce the perception of noise and act as a windbreak. Accordingly, conservation of these natural resources is in the public interest, satisfies the purposes of zoning, and benefits those who dwell on the island.

All existing trees and under-story vegetation should be preserved where feasible, and the plans must specify appropriate grading and tree protection details to assure the preservation of the vegetation. The plans must clearly indicate all vegetation to be preserved and removed. If the Board deems it appropriate, supplemental planting shall be provided. Quantities and types of supplemental plantings must be indicated on the landscape plan.

1. Green Space. All new one- and two-family developments shall address the planting of green space in accordance with the standards set forth herein, or in another appropriate manner. The provision and planting of green space shall be provided on fifteen (15%) percent of the cleared portion of any residential property and shall be planted with trees, grasses, shrubs and vegetative ground cover. Recommended vegetation is listed in the appendix. Decorative stone is not considered green space. The requirements of Chapter XXVI shall be followed.

2. Irrigation

A. Watering Restrictions

See restrictions in 14:1-29.3

B. Watering Systems. All newly installed or retrofitted watering systems shall meet the following minimum standards:

1. Drip and/or soaker technology may be utilized provided the system has pressure compensating emitters as per published manufacturers specifications.
2. Rotators and spray irrigation heads may be utilized only if they have a maximum precipitation rate not to exceed 1.25 inches per hour (1.25 ins./hr.) as per published manufacturer's specifications.
3. Systems shall be designed and positioned as to prevent overspray onto sidewalks, streets, adjacent properties or any natural body of water and shall follow industry design standards.

C. Control Systems:

1. All newly installed or retrofitted irrigation control systems shall utilize “smart” technology controllers approved by the National Irrigation Associations SWAT Certification (<http://www.irrigation.org/SWAT/>).
2. Each system shall utilize a rain sensor and/or at least one other weather or soil moisture sensor.
3. Effective use of these control systems is enhanced by following manufacturer design and installation specifications.

D. Contractor Certification:

1. All contractors installing and/or maintaining irrigation systems shall hold a valid Landscape Irrigation Contractor’s license issued by the NJ DEP in order to construct, repair, maintain, improve or alter a landscape irrigation system in accordance with P.L. 1991, c.27 (C.45:5AA-3).

E. Exemptions from the above watering restrictions include:

1. Manual, self-contained watering devices such as watering cans, buckets or rain barrels and hand watering utilizing a hose with an auto-shut off nozzle.
2. Portable sprayers and sprinklers attached to a hose.
3. Newly installed lawn and landscape bed sprinklers for the first forty-five (45) days.
4. All newly installed or retrofitted systems utilizing both a smart controller and the above drip or spray technology as per section C.

3. Selective Clearing and Protection of Vegetation. The preservation of existing vegetation is a crucial component in accomplishing the goals of this chapter. In order to maximize the opportunity to incorporate significant areas of existing vegetation into the design of the development, and to minimize damage to

said areas during and subsequent to construction, the following standards shall apply:

(a) A permit shall be required before a property can be cleared of forty (40%) percent or more of any vegetation. An exception will be for the removal of dead vegetation, or nuisance plants such as, but not limited to, poison ivy, poison oak, poison sumac and phragmites.

(b) An owner or developer is permitted to perform selective clearing to remove trees, underbrush and undesirable vegetation, within six (6) feet from the outside of the exterior wall of the proposed structure and where determined by the Board or Zoning Officer in the case of a single- or two-family residential unit, as practical for the location of utilities, parking areas, and other structures. Dead, damaged trees, underbrush, and undesirable vegetation may be removed from other areas of the property. The areas and extent of selective clearing must be clearly indicated on the plan of the development and/or the grading and landscape plan. All selective clearing must be approved prior to the commencement of any clearing. The site boundaries and limits of proposed improvements must be accurately staked out on the site for this review and approval. Only nuisance plants, as defined, may be removed from the vicinity of the property lines unless the presence of other trees or shrubs will interfere with access to rear/side yard garages. All sites shall be developed, to the greatest extent possible, in a manner that will result in the least amount of disturbance to the natural site.

(c) There shall be minimal disturbance to the root zones of all existing vegetation that is proposed to remain. Existing vegetation shall be protected by the construction of a temporary four (4) feet high snow fence at the drip line of the trees proposed to remain, or at the limit of disturbance.

(d) All selective clearing operations shall be performed in strict accordance with all applicable State, Federal and local regulations. All cleared material, including but not limited to refuse and other deleterious matter, shall be removed from the site and disposed of in a sanitary landfill licensed by the State of New Jersey to accept such waste. Vegetative materials consisting of trees, branches, stumps, and brush which are removed may be recycled for use as mulch or wood chips at an appropriate facility licensed by the State of New Jersey.

4. Applicability. All development shall comply with the provisions of this chapter.

For one- and two-family residential developments, a landscaping and vegetation plan for the parcel in question must be submitted, reviewed, and

approved by the Zoning Officer or designated official, prior to the issuance of a zoning permit for any of the following development:

- (a) Additions to an existing structure and/or site improvements which increases the impervious coverage of the lot by more than two hundred fifty (250) square feet.
- (b) The construction of a new dwelling unit or any swimming pool or spa.
- (c) The removal of more than forty (40%) percent of the vegetation covering the lot.

Routine maintenance, including pruning and planting of plant material is permitted, provided it is on private property. No pruning, clearing or alteration of vegetation is permitted on any public property, or on any dune, as defined by ordinance, whether privately or publicly owned.

All landscape development should be designed to maintain existing vegetation to the greatest extent possible within the confines of this chapter and ensure the survival of existing and supplemental vegetation.

5. For all development, the following information shall be provided:

- (a) An accurate limit of existing woodland areas, clearing limits and proposed planting locations shall be indicated on the landscape plan, individual plot plan or site plan.
- (b) The reason for removal or destruction of vegetation shall be apparent on the plan or explained in writing.
- (c) The quantity, caliper and species and condition of existing trees with a caliper of three (3) inches measured three (3) feet above the ground to be removed. Existing shrub masses such as bayberry shall also be shown on the plans.
- (d) Projected dates for the beginning and ending of the tree or shrub removal project and of the construction itself.
- (e) The name, address, and telephone number of the person supervising the removal of trees and shrubs.
- (f) A plan for the replacement and addition of trees, shrubs and ground cover as required by the ordinance with applicable planting details.

(g) Any additional information requested by the Board or Zoning Officer in the case of a single- or two-family residential unit, or other designated official to demonstrate substantial compliance with this section.

For all development, any new vegetation required by the landscaping and vegetation plan shall be installed prior to the issuance of a certificate of occupancy.

For one- and two-family residential developments, the plan and application for permit shall comply with certain sections of Chapter XXVI, the Site Plan and Subdivision Ordinance:

Acceptable Plant Materials
Streetscape
Formal Tree-Lined Avenue

For all other development, the landscape plan submitted to the Board shall comply with Chapter XXVI, Landscaping (subsection 26-7.10) of the Site Plan and Subdivision Ordinance.

u. *Storm Water Management.* For one- and two-family residential developments, a storm water management plan for the lot(s) in question must be submitted, reviewed, and approved by the Zoning Officer or designated official, prior to the issuance of a zoning permit for any of the following:

1. Additions to an existing structure and/or site improvements which increase the impervious coverage by more than two hundred fifty (250) square feet or
2. The construction of a new principal structure or
3. The construction of any pool.

The storm water management plan shall not adversely affect the adjoining properties. The minimum requirements are as follows:

1. All lots shall be graded toward the street(s) at a minimum slope of one-half (1/2%) percent and a maximum slope of one (1%) percent, measured from the existing top of curb or existing sidewalk elevation, whichever is higher to the center point of the rear lot line. If a grade difference between the adjoining properties results, then retaining walls shall be constructed. Retaining walls shall be constructed of masonry or plastic materials designed for the superimposed loading. (Exception: Any lots which are regulated under the Beach Protection Ordinance.)
2. The top of the retaining wall along the rear property line shall extend between 0.20 and 0.40 feet above the maximum permitted elevation.

3. No water shall run onto an adjacent property. Techniques such as raised driveway edges, low curbing or other similar methods shall be employed to direct water off site or to recharge areas.

4. The roof runoff or the equivalent impervious area shall be directed to subsurface recharge areas. Recharge areas and/or roof drains shall be provided with positive overflow(s). For analysis purposes the following parameters should be utilized:

- (a) All lots shall be considered vacant for predevelopment parameters.
- (b) A 25-year storm shall be utilized.
- (c) Runoff shall be estimated in accordance with N.J.A.C. 5:21-7.1 et al.
- (d) A minimum storage of twenty-five (25%) percent shall be provided on site.

5. All development shall provide a four (4) foot wide planted green space along the rear and side property lines within the rear yard, to increase infiltration, improve aesthetics, and provide space for grading and the conveyance of storm water.

6. To protect from flood by maintaining the integrity of the storm water management system of the Borough, and to protect the water quality of the bay, all development which is subject to review under this section, including the construction of a pool or spa, shall comply with the following:

- (a) Silt fence shall be installed according to subsection 26-7.23.
- (b) Each potentially affected inlet shall have protection measures installed such as hay bales, stone and filter fabric, or other methods as approved by the Borough.
- (c) All discharge water generated by the dewatering of excavated areas, including pools, shall be filtered prior to discharge off site. This shall be accomplished through the utilization of sediment control bags or tanks at the point of discharge.
- (d) Inspection, and where necessary, pumping out of affected storm drains, shall be performed by the Borough's contractor, which cost shall be borne by the applicant, and paid from their application fee(s) as established by the Borough.
- (e) The measures described herein shall comply with the Standards for Soil Erosion and Sediment Control in New Jersey, as amended.

(f) All protection measures shall be installed prior to construction, and remain in place until the site has been approved by the Borough.

w. **Geo-thermal Energy Systems**

1. Geo-thermal Open Loop Systems are prohibited within the Borough.
2. Geo-thermal Closed Loop Systems are permitted within all zoning districts, however, all associated equipment is prohibited from being located within the front yard and shall be prohibited from being located within all side and rear yard setback areas.

27-8 ADMINISTRATION.

27-8.1 Enforcing Officer.

The provisions of this chapter shall be enforced by the Zoning Officer, who shall be designated by the Mayor and Council of the Borough. It shall be his duty to examine all applications for zoning or occupancy permits for compliance with this chapter, to issue such zoning permits only when the application complies with the regulations of this chapter or upon authorization by the Board after a public hearing or upon written authorization by the Board when required by the provisions of this chapter or otherwise; and to file and record all applications, plans received and permits issued. After a permit is issued, the application and accompanying plans shall be a public record available for inspection.

No dereliction of duty or error on the part of the Zoning Officer shall legalize the erection, construction or alteration of any building or structure not in conformity with this chapter. No zoning permit shall be construed as authority to violate, cancel or set aside any provision of this chapter or of any other statute or ordinance pertaining thereto, except such variation as may be legally granted under the provisions of the New Jersey Uniform Construction Code.

27-8.2 Zoning Permits.

a. A zoning permit shall be required by the Building Inspector before he issues any building permit for the erection, construction or alteration of any building, structure or portion thereof. Application for zoning permits shall be made to the Zoning Officer in writing by the owner of the premises or his authorized agent and shall be in duplicate. Included shall be complete duplicate sets of plans drawn to scale, showing the proposed structure or alteration and all existing structures on the lot, their relation to each other and to bounding streets and the use or intended use of all buildings and land. All lots

shall be surveyed and marked out on the ground prior to the erection or construction of any building. The following shall be filed:

1. A site plan, pursuant to N.J.A.C. 13:40-7.3 (requires that the location of proposed buildings and their relationship to the site and immediate environs be prepared and signed and sealed by a licensed engineer or architect) showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines and the established street grades; accessible route(s) for buildings required by N.J.A.C. 5:23-7.1 to be accessible; and it shall be drawn in accordance with an accurate boundary line survey, pursuant to N.J.A.C. 13:40-7.2 and N.J.A.C. 13:41-4.3. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.

2. The roof pitch plan must be to scale and submitted with the appropriate calculations at the time a zoning permit application is made.

3. At specific intervals during the construction of all new single-family and duplex dwellings and the renovation/alteration of said dwellings when the building height or building foot print will be increased, a site survey shall be provided to the Zoning Official for review and approval as follows:

(a) Upon completion of the foundation, a survey indicating the elevation to the top of the block, top of the freeboard and finished grade in relation to mean sea level. In addition, all setbacks from property lines shall be indicated.

(b) Upon completion of the roof framing and shingling, a survey of the elevation to the highest peak of the roof from the top of the block, top of the freeboard and finished grade in relation to mean sea level. In addition, all setbacks from property line shall be indicated. This shall include the height and location of any accessory structures on the lot.

(c) Upon application for the final certificate of occupancy, a survey showing the elevation to the highest roof peak from the top of the block, top of the freeboard and finished grade in relation to mean sea level. In addition, the height and location of all structures on the lot, both in size and setbacks from the property lines shall be indicated.

Such permits shall be granted or refused within ten (10) working days of the date of application. A zoning permit shall be forwarded to the Building Inspector and to the owner of the property or his authorized agent.

27-8.3 Changes.

The Governing Body may from time to time amend, change or modify the regulations and districts herein established on its own motion, a motion from the Board or a petition after duly advertised public hearing prescribed by law. Such changes should not allow spot zoning and must not materially affect the population density in any particular area of the general intent of this chapter. All suggested changes shall be referred to the Board for study and report.

27-8.4 Public Notice and Hearing.

Public hearing and notice shall comply with the requirements of N.J.S.A. 40:55D-1 et seq.

27-8.5 Interpretation.

In their interpretation and application the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any provisions of the law or ordinance or any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of building or premises nor is it intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the height of buildings or requires larger yards or other open spaces than are imposed and required by such existing provisions of law or ordinance or by such rules, regulations, easements, covenants or agreements the provisions of this chapter shall control and where a greater restriction is provided by other ordinance or otherwise, such greater restriction shall control.

27-8.6 Violations, Remedies and Penalties.

If any structure or other improvement is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any structure, improvement or property is used, or any work performed thereon, in violation of this Chapter XVII, the Borough may, in addition to any other legal remedies available to it:

a. Commence an action before a court of law or administrative agency having jurisdiction to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of the structure, improvement or property; or to prevent any illegal act, conduct, use or activity on or about the property.

b. Revoke any permit or approval issued or granted pursuant to this Chapter XVII without regard to whether work has begun or a use has commenced pursuant to such permit or approval.

c. In addition to the rights of civil and administrative enforcement provided herein, any person violating any of the provisions of this Chapter XVII shall, upon conviction, be subject to a fine and/or other penalty in accordance with the provisions of Chapter 7, Section 31 of the Revised General Ordinances.

27-8.7 District Changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming uses then existing in the district.

27-9 APPEAL.

Nothing contained herein shall be construed so as to preclude an applicant for a zoning permit to file an application for a variance directly with the Board, nor shall anything contained herein be construed as preventing an applicant who has been denied a zoning permit by the Zoning Officer pursuant to this section from filing an appeal directly with the Board. In addition, any interested party may appeal the decision of the Zoning Officer to the Board pursuant to law.