

Town of Oyster Bay, NY
Saturday, August 3, 2019

Chapter 246. Zoning

§ 246-5.. DISTRICT REGULATIONS

5.5. Individual standards and requirements for certain uses.

5.5.1 Accessory outdoor sales and display. The outdoor sale or display of merchandise, excluding perishable items such as fruit, vegetables, plants or flowers, shall require a permit from the Department of Planning and Development. Such use shall only be permitted if it is incidental to the permitted *principal use* and only on a temporary basis for special sale events, not to exceed two weeks in any six-month period. The display of any merchandise, perishable or otherwise, shall not be placed in any required parking or loading spaces, sidewalks or fire lanes, or be located in any required yards, and shall not exceed 15% of the indoor store floor area.

5.5.2 *Agriculture*. No storage of manure or odor or dust-producing substances shall be permitted within 100 feet of any *side* or *rear lot line* or within 150 feet of any *street*.

5.5.3 *Animal hospitals*. Outdoor runs, pens or other facilities used for the boarding of animals shall be set back at least 200 feet from any property in a residence district. The hospital shall be designed and operated in such a manner as to produce no objectionable noise, odors or other nuisances beyond the boundaries of the site on which it is located. Waste materials shall be stored and disposed of in accordance with all applicable federal, state, county and Town laws.

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.4 *Antennas*.

5.5.4.1 Purpose. In the interest of public health, safety and aesthetics, the Town Board has determined that it is necessary to provide reasonable regulations for the installation and maintenance of *antennas*.

5.5.4.2 Permit required. All antennas and wireless telecommunications facilities shall require a permit and any other approvals as required by Chapter **242**, unless such antenna or wireless telecommunications facility is excluded as provided by § **242-4**.

[Amended 9-12-2017 by L.L. No. 6-2017]

5.5.4.3 (Reserved)^[1]

[1] *Editor's Note: Former Subsection 5.5.4.3, Application, was repealed 9-12-2017 by L.L. No. 6-2017.*

5.5.4.4 Standards and requirements.

5.5.4.4.1 Freestanding *antennas* shall not be located in any minimum required side or *rear yard*.

5.5.4.4.2 Freestanding *antennas* shall not be located in any yard along a *street* line and shall conform with all setback requirements for *accessory buildings* as identified in § **246-5.3**, Schedule of Dimensional Regulations,^[2] but in no case shall any portion of an *antenna* be located less than 10 feet from any property line.

[2] *Editor's Note: The Schedule of Dimensional Regulations is included as an attachment to this chapter..*

- 5.5.4.4.3 Not more than one freestanding *antenna* shall be permitted on any *lot* located in a residence district.
- 5.5.4.4.4 Every *antenna* must be adequately grounded for protection against a lightning strike.
- 5.5.4.4.5 Freestanding *antennas* shall be provided with fencing and/or evergreen plantings to screen the visibility of the *antenna* to the satisfaction of the Department of Planning and Development, while not interfering with operational requirements.
- 5.5.4.4.6 The design and location of *antennas* shall minimize visual impact on neighboring properties and *streets*.
- 5.5.4.4.7 The operation of any *antenna* shall not interfere with the radio, television, telephone reception or similar signals serving nearby properties and shall include appropriate anti-climbing measures.
- 5.5.4.4.8 Freestanding amateur radio *antennas* used for noncommercial purposes shall be permitted to be constructed to a height of not more than 35 feet above grade. Such an amateur radio *antenna* may exceed 35 feet in height above grade, provided it is retractable and does not exceed 75 feet in height above grade when fully extended nor 35 feet in height above grade when fully retracted ("nested"). Such a retractable shall only be extended above 35 feet in height when actually being used for communications as part of amateur radio services.
- 5.5.4.4.9 All other freestanding *antennas* shall be permitted to be constructed to a height of not more than 18 feet above grade.
- 5.5.5 *Apartments over stores or offices.* Residential *dwelling units* may be permitted on the upper (not grade level) stories of *buildings* in accordance with the following conditions:
[Amended 4-25-2006 by L.L. No. 5-2006]
- 5.5.5.1 Such mixed use development shall only be permitted in *buildings* which conform to the New York State Uniform Fire Prevention and Building Code for the proposed mixed use.
- 5.5.5.2 The residence and nonresidence uses of the *building* shall have separate means of access (i.e., the entrance/exit for the residence use shall not be through the nonresidence use of the *building* and vice versa), except that the reviewing authority may permit the use of a common lobby or plaza.
- 5.5.6 *Bars.* No more than two *amusement devices* used in connection with and customarily incidental to a *bar* or tavern is permitted. In those districts where a *bar* is permitted as an *accessory use*, it shall only be permitted as an *accessory use* with *country clubs* and *private membership clubs*. Such *accessory bars* shall be limited to functions involving only members having all of the membership rights and privileges of the club.
[Amended 9-21-2004 by L.L. No. 11-2004]
- 5.5.7 *Catering services.* In those districts where catering services are permitted as *accessory uses*, such uses shall only be permitted with *country clubs*, *private membership clubs* and places of worship. Accessory catering services shall be limited to functions involving only members having all of the membership rights and privileges of the club or place of worship.
- 5.5.8 *Colleges, universities or private schools.*
- 5.5.8.1 The minimum required *lot area* for a college or university shall be 75 acres, and the minimum continuous *street frontage* shall be 400 feet.

5.5.8.2 The maximum total *building coverage* shall be 10%.

5.5.8.3 No *buildings*, parking or loading areas shall be located within 150 feet of any *lot line*.

5.5.8.4 No *structure* shall be erected in excess of three stories or 45 feet in height.

5.5.8.5 *Private schools*, including full curriculum religious schools, shall comply with New York State public school site size and layout requirements.

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.9 Wireless telecommunications facilities.

[Amended 9-12-2017 by L.L. No. 6-2017]

5.5.9.1 All antennas and wireless telecommunications facilities shall require a permit and any other approvals as required by Chapter **242**, unless such antenna or wireless telecommunications facility is excluded as provided by § **242-4**.

5.5.10 *Country clubs*. The minimum *lot area* shall be 50 acres. No *building*, parking or loading area shall be located within 50 feet of any *street* or *lot line*. The maximum *building coverage* shall be 2% of the *lot area*.

[Amended 9-21-2004 by L.L. No. 11-2004]

5.5.11 *Day care*, play care, nursery school and similar facilities.

5.5.11.1 *Day-care facilities* shall conform to the NYS Office of Children & Facility Services licensing requirements.

5.5.11.2 Any *day care*, play care, nursery school or similar facility with a capacity of more than 12 patrons, attendees or students in a residence district shall be permitted only on a *lot* with *frontage* on a *street* that has a minimum right-of-way width of at least 80 feet and with a minimum area equal to at least the minimum required *lot* size for a single-family *dwelling* in that district for each 12 *persons'* capacity, or portion thereof. For example, a proposed facility with a capacity of between 37 and 48 *persons* in an R1-10 District must have a *lot area* of not less than 40,000 square feet.

5.5.11.3 Required outdoor play areas for children shall be fenced on all sides, and landscaping or other screening shall be provided to the satisfaction of the Department of Planning and Development. Play areas shall not be located within any required yard setbacks.

5.5.11.4 A drop-off/pick-up plan shall be provided for each such facility. If the driver is to remain in the vehicle when picking up or dropping off the attendee, a separate drop-off/pick-up area shall be provided directly in front of the main entrance to the facility. Such area shall provide sufficient queuing space for at least one vehicle for each 12 *persons* capacity, or portion thereof, expected to attend the facility during the peak period of attendance, or as otherwise required by the Department of Planning and Development in order to provide for safe pick-up and drop-off. If the driver will be exiting the vehicle to bring the attendee into the facility, or to pick up the attendee, specific parking spaces shall be designated and reserved for such use. Such spaces shall be located in proximity to the main entrance to the facility, shall each be a minimum of 10 feet in width, shall be limited to a maximum of 10 minutes use, shall be appropriately signed, and shall be provided in sufficient quantity so that at least one such space will be available for each 12 *persons* capacity, or portion thereof, expected to attend the facility during the peak period of attendance, or as otherwise required by the Department of Planning and Development.

[Amended 4-25-2006 by L.L. No. 5-2006]

5.5.12 Domestic employees' residences.

5.5.12.1 Accessory living quarters for domestic employees may be located either in a *one-family dwelling* or in an *accessory building*.

5.5.12.2 Accessory living quarters for domestic employees shall be limited in size to a maximum of 1/4 of the *habitable area* of the *one-family dwelling* or 750 square feet of *habitable area*, whichever is less.

5.5.12.3 Any *accessory building* containing living quarters for domestic employees shall comply with the minimum setback requirements for *principal buildings* in the district in which it is located.

5.5.13 Drive-through services. All accessory drive-through services, excluding those for *fast-food restaurants*, shall be subject to site plan review by the Department of Planning and Development. Drive-through services for *fast-food restaurants* shall require special permit approval from the Town Board. Drive-through services shall provide per lane on-site queuing spaces as follows:

<i>Fast-food restaurant</i>	6 spaces
Car wash	10 spaces
All others	5 spaces

5.5.14 *Home businesses and home offices.*

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.14.1 Purpose. The Town Board recognizes that *home businesses* and *home offices* may provide benefits to the Town and to its residents through the opportunity to work at home for two-working-parent households, single-parent households and the handicapped, the reduction of peak-hour traffic on the roadway system and the added protection afforded by increased daytime population in residential neighborhoods. The Town Board also recognizes that unrestricted use of *dwellings* for nonresidence uses may create the potential for detrimental impacts on the primarily residential purposes and character of the residence districts, including increases in traffic, noise, odor, light, *solid waste*, utility services and other similar types of impacts. In order to prevent the potentially detrimental impacts of *home businesses* and *home offices*, the Town Board hereby enacts the following regulations.

5.5.14.2 *Home office.* The operation of a *home office* shall be permitted as-of-right so long as such use complies with all of the following standards and limitations:

5.5.14.2.1 All activity is conducted solely by a resident of the *dwelling* and no nonresident employees are involved.

5.5.14.2.2 All activity is conducted fully within the *dwelling*.

5.5.14.2.3 The maximum area in use as a *home office* is 300 square feet or 15% of the *gross floor area* of the *dwelling unit*, whichever is less.

5.5.14.2.4 The *home office* involves no business-related visits by patients, students, clients or others.

5.5.14.2.5 The *home office* does not involve merchandising, storage of materials or equipment or the exchanging of commodities by sale to *persons* who come to the premises or by shipment to or from the premises.

5.5.14.2.6 There is no *sign* or any other external evidence of the *home office*.

5.5.14.2.7 The use is strictly limited to typical *home office* functions only and there is no equipment other than light *office* equipment such as a typewriter, computer, fax machine, copier or postage meter.

5.5.14.2.8 There is no production of materials, other than written or computer-generated materials of a type and quantity typically associated with a residential hobby; and in no case shall there be any manufacturing, assembly or food preparation.

- 5.5.14.2.9 The *home office* does not generate significant demand for pick-ups and/or deliveries nor generate additional *solid waste* or sanitary sewage beyond that which would typically be expected from a *dwelling* without a *home office*.
- 5.5.14.3 *Home business*. Operation of a *home business* shall require special permit approval from the Zoning Board of Appeals and shall be approved only if the *applicant* demonstrates compliance with all of the following standards:
- 5.5.14.3.1 The *home business* shall be operated by a *person* residing on the premises who is a properly certified physician; psychologist; physical, occupational or speech therapist; chiropractor; dentist; licensed social worker; engineer; architect; lawyer; accountant; teacher; or who is conducting a similar type of professional activity.
- 5.5.14.3.2 No more than one nonresident employee shall be allowed.
- 5.5.14.3.3 All activity shall be conducted fully within the *dwelling*. Additionally, there shall be no display of the *home business* visible outside of the *dwelling* other than permitted signage and there shall be no outside storage of materials or equipment associated with the *home business*.
- 5.5.14.3.4 The maximum area in use as a *home business* shall not exceed 500 square feet or 30% of the *gross floor area* of the *dwelling unit*, whichever is less.
- 5.5.14.3.5 The maximum number of visits by patients, students, clients or other visitors shall be two per hour.
- 5.5.14.3.6 At least two additional off-street parking spaces shall be provided in addition to those required for the residence use. The off-street parking shall be buffered from neighboring properties and *streets* with *fences* and/or landscaping.
- 5.5.14.3.7 The *home business* shall not involve merchandising, storage of materials or equipment or the exchanging of commodities by sale to *persons* who come to the premises or by shipment to or from the premises.
- 5.5.14.3.8 A maximum of one *sign* not more than two square feet in area shall be permitted.
- 5.5.14.3.9 The creation of the *home business* shall not interfere with maintaining the character of the *dwelling* as a residence. The exterior of the *dwelling* shall not be modified to accommodate the *home business* in a manner that is inconsistent with the residential character of the neighborhood.
- 5.5.14.3.10 No production of materials other than written materials, computer-generated materials or a type and quantity of materials that might typically be created as part of a residential hobby shall be permitted; in no case shall any manufacturing, assembly or food preparation be permitted.
- 5.5.14.3.11 The nature and intensity of the *home business* shall not create hazardous or detrimental conditions or generate any objectionable noise, odors, fumes, lighting, glare or other adverse impacts.
- 5.5.15 Keeping of domestic animals. A maximum of six customary household pets above the age of six months shall be permitted per single-family residence and two per other permitted type of *dwelling unit*.
- 5.5.16 Keeping of farm animals. No *building*, *structure* or premises shall be erected, altered or used in any residence district for the housing or harboring of pigeons, fowl, swine, goats, horses, rabbits, foxes, mink and bees, except when authorized by special use permit from the Board of Appeals.

No accessory building or structure or part thereof used for the housing of such farm animals shall be located less than 50 feet from any lot line.

5.5.17 Motor vehicle fuel sales and service, motor vehicle repair, auto body, tow car operations, car washing establishments, and *public garages*.

5.5.17.1 All repairs and or servicing shall be performed indoors.

5.5.17.2 In addition to the buffer and landscaping requirements of the site design standards^[3] of this chapter, a buffer screening area of not less than 10 feet in width shall be provided along all abutting *streets*. Said buffer shall consist of planting of such type, height, spacing and arrangement as, in the judgment of the reviewing agency, will provide an attractive appearance from neighboring *streets*.

[3] *Editor's Note: See § 246-7.*

5.5.17.3 All fuel, oil or similar substances shall be stored at least 35 feet from any *street* or *lot line* unless stored in underground tanks. Underground tanks shall be buried at least three feet from any *street* or *lot line*, and the top of said tank shall be at least two feet below the surface of the ground. Tanks buried adjacent to *buildings* having *basements* shall be set back at least 10 feet from the foundations of those *buildings*. All such uses and setbacks shall comply with applicable rules and regulations of governmental agencies and the National Fire Protection Association Standards.

5.5.17.4 No automobile parts, dismantled vehicles or similar items shall be stored in the open.

5.5.17.5 Between the hours of 8:00 a.m. and 6:00 p.m., all motor vehicle fuel sales establishments shall provide at least one clearly identified full-service location for handicapped drivers.

5.5.17.6 Hours of operation. The reviewing authority may restrict hours of operation of motor vehicle fuel sales and service establishments because of proximity to residential areas. In any event, only those establishments with *frontage* on the following *streets* may operate between the hours of 10:30 p.m. and 6:30 a.m.:

- Glen Cove Road.
- Hempstead Turnpike.
- Hicksville Road (between South Oyster Bay Road and Central Avenue).
- Jericho Turnpike.
- Merrick Road.
- Newbridge Road (south of Old Country Road).
- North Broadway (between Jericho Turnpike and West John Street).
- North Hempstead Turnpike (west of Cedar Swamp Road).
- Old Country Road (west of Manetto Hill Road).
- South Oyster Bay Road (between Woodbury Road and Stewart Avenue).
- Sunrise Highway.

5.5.17.7 Gasoline filling stations providing an air compressor for inflating tires to do so without charge. All gasoline filling stations which provide an air compressor capable of inflating automobile tires for the use of motorists shall do so at no charge to the user thereof.

5.5.18 *Parent-child residences*. It is the specific purpose and intent of the Town Board to provide the opportunity for the development of small *dwelling units* designed to meet the special housing needs of a member of the immediate *family* of a resident/owner. It is understood that a member of the immediate *family* of a resident/owner shall be deemed to be a resident/owner's spouse, child, mother, father, brother, sister, grandparents, step-parents, step-child, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, grandchild, aunt (limited to a sister,

natural-born or adopted, of the resident/owner's father or mother) or uncle (limited to a brother, natural-born or adopted, of the resident/owner's father or mother), living in the Town of Oyster Bay. It is also the Town Board's intent to allow the more efficient use of the Town's existing housing stock, to protect property values and to maintain the one-family character of R-1 Residence Districts.

[Amended 10-16-2012 by L.L. No. 3-2012; 6-26-2018 by L.L. No. 6-2018]

5.5.18.1 The owner of the property upon which the *parent-child residence* is located shall occupy either the principal or accessory *dwelling unit* on the premises as the owner's primary residence.

5.5.18.2 A maximum of one *parent-child residence* shall be permitted on any *lot*.

5.5.18.3 The accessory residence shall be subordinate in area to the principal unit and shall contain a maximum of two bedrooms.

5.5.18.4 The *principal use* on the *lot* shall be a *one-family dwelling*.

5.5.18.5 A *lot* which contains a *home office* or *home business* shall not also contain a *parent-child residence*.

[Amended 6-26-2018 by L.L. No. 6-2018]

5.5.18.6 The *principal building* on the *lot* must continue to maintain the outward appearance of a *one-family dwelling*. Both units shall share a common *building* entranceway, doorbell, mailbox and electric meter.

5.5.18.7 A minimum of three off-street parking spaces shall be provided on the site to serve both units.

5.5.18.8 In making its determination, the reviewing agency shall give consideration to the character of the area, including the exterior appearance, the number of *parent-child residences* in the neighborhood in relation to *one-family dwellings* and traffic and parking conditions.

5.5.18.9 Approval of the Nassau County Department of Health shall be obtained prior to or as a condition of the issuance of the special use permit, unless the *dwelling* is connected to public sewerage.

5.5.19 Places of worship. The minimum *lot area* shall be one acre. Temporary *structures*, such as tents which are accessory to places of worship, shall be permitted to extend into required yards, provided that such placement of temporary *structures* is limited to two weeks' duration during any calendar year. Customary *accessory uses* associated with a place of worship shall include a carnival, subject to the approval by the Department of Planning and Development and provided such carnival is limited to two weeks' duration during any calendar year. Full-curriculum religious schools shall be subject to the same requirements as *private schools*.

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.20 *Private garages, carports and storage sheds*.

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.20.1 Detached *private garages* and *storage sheds* on certain *lots*. On any *corner lot* in an R1-6, R1-7, R1-10, R1-10/OHG, NB, CB or GB District, a detached garage may be erected on the innermost corner but not nearer to any *street* line than the projection of the building line of the main *dwelling*, and must meet accessory side and *rear yard* setbacks for the district in which it is located.

[Amended 8-9-2011 by L.L. No. 2-2011]

5.5.20.2 Attached garages or carport. On any *lot* with a *lot width* of not greater than 65 feet, an attached garage may be erected with a total *side yard* of not less than 12 feet. Neither *side yard* shall be less than four feet.

5.5.20.3 Conversion of garages to habitable space. In any Residence District or NB, CB or GB Business District, an existing attached garage not erected pursuant to a variance from the Zoning Board of Appeals which has a *side yard* of not less than four feet, may be converted to habitable space three years subsequent to issuance of certificate of occupancy for garage, provided the required amount of off-street parking is provided on the site.

5.5.20.4 Small *storage sheds*. On any *lot* in an R1-6, R1-7, R1-10, R1-10/OHG, NB, CB or GB District, a *storage shed* of 100 square feet or less may be erected in the *rear yard* but must be set back at least three feet from any *lot line* and must not be closer to any *street* than the setback of the principal *dwelling*.
[Amended 8-9-2011 by L.L. No. 2-2011]

5.5.21 *Private membership clubs*. Where a *private membership club* is adjacent to any residence district, the minimum required setbacks shall be twice that otherwise required in the district in which the property is located.

5.5.22 *Public markets*.

5.5.22.1 The minimum *lot size* used for the operation of a *public market* shall be no less than 20 acres.

5.5.22.2 No vending or selling of any produce, merchandise or other material shall be permitted outside of any *structure* or *building* used or intended to be used as a *public market* and under permit from the Department of Planning and Development and any other body having jurisdiction thereof.

5.5.22.3 No floodlighting or string of lights shall be permitted beyond the hours of 8:30 p.m. during the months of October through March and 10:00 p.m. during the months of April through September.

5.5.22.4 The use of a public address system for the purposes of vending any wares, merchandise or materials is prohibited.

5.5.23 *Rooming or boarding houses*.

5.5.23.1 The minimum *lot area* shall be 12,000 square feet.

5.5.23.2 The minimum *habitable area* shall be 2,000 square feet.

5.5.23.3 The maximum *building coverage* shall be 25%.

5.5.23.4 At least one of the occupants shall reside on the premises and shall be the agent for the rental or lease of the rooms.

5.5.23.5 There shall be at least one annual inspection of each *rooming* and *boarding house* in the Town by duly authorized inspectors of the Department of Planning and Development.

5.5.24 Storage of vehicles. The parking or storage of vehicles on property in residence districts shall be restricted, as follows:
[Amended 7-22-2003 by L.L. No. 7-2003; 1-18-2005 by L.L. No. 1-2005]

5.5.24.1 *Commercial vehicles*. A maximum of one *commercial vehicle*, as defined herein, may be parked on any premises in addition to *commercial vehicles* parked during the act of loading or off-loading merchandise or during the act of performance of a commercial service or duty undertaken by the operator of such vehicle in connection with said premises. The permitted

commercial vehicle must be used by a resident of the premises, must have a current registration, must have a maximum of two axles and must not exceed 20 feet in length and eight feet in height, nor be designed to refrigerate, cook or sell food or to carry a cargo of flammable or other *hazardous materials*. Any vehicle not conforming to the above requirements shall be removed within 60 days of the effective date of this local law.

[Amended 10-16-2012 by L.L. No. 3-2012]

5.5.24.2 Unregistered vehicles. It shall be unlawful for any *person* to store or park more than one unregistered motor vehicle on a property in a residence district at any time. Such vehicle shall be stored or parked either in a garage or on a paved surface which complies with the locational requirements as set forth in § 8.2.6 of this chapter. A special permit may be issued by the Zoning Board of Appeals to park an additional unregistered vehicle(s), provided said vehicle(s) are parked within an approved garage.

[Amended 4-25-2006 by L.L. No. 5-2006]

5.5.24.3 Agricultural use vehicles. A *commercial vehicle* used for agricultural or horticultural purposes on the same premises as its storage shall be exempt from this section, provided it is not stored or parked outside, within 100 feet of any property line.

5.5.25 Security barriers.

5.5.25.1 Purpose. In order to better facilitate fire and police protection, preserve property values and enhance both the safety and attractiveness of commercial areas, the Town Board has determined that it is necessary to provide reasonable regulations for the installation and maintenance of security barriers.

5.5.25.2 A security barrier shall include any device intended to limit or block access to individual doors or windows on a *building* facade, or to an entire *building* facade. This term shall include, but not be limited to, window bars, fixed metal grilles and side-mounted or overhead-mounted retractable metal security gates or grilles, regardless of whether such devices are solid or semi-transparent. It shall not include strengthened vision glass, child safety gates, non-glass transparent materials, electronic alarms or security cameras.

5.5.25.3 Exterior security barriers prohibited. No new security barrier shall be placed on the exterior of any portion of a *building* facade visible from a *street*.

5.5.25.4 Preexisting exterior security barriers. Any exterior security barrier existing prior to the adoption date of this chapter is permitted to remain until such time as a new certificate of occupancy is issued for the premises on which said barrier is located.

5.5.25.5 Interior security barriers. Security barriers placed on the interiors of *building* facades shall be permitted, provided that such barrier be solid or impermeable in nature. Barriers shall be of a type commonly referred to as the "grate" or "lattice" type, with a minimum of 80% of the gate area being of see-through composition. Barriers shall be fully retracted and out of view while a business is in operation.

5.5.26 Swimming pools.

5.5.26.1 No property owner shall commence construction of any in-ground *swimming pool* or aboveground *swimming pool* with a capacity of over 5,000 gallons on any property before obtaining a permit from the Department of Planning and Development. Said permit application shall be accompanied by plans indicating the width, length and depth of such *swimming pool*. In addition, a survey of the property upon which the *swimming pool* is to be located shall be filed with the application, and said survey shall specifically indicate the location of the proposed *swimming pool*, including all related deck area, fencing, landscaping, lighting and mechanical equipment. The *applicant* may be required to furnish complete plans, data and specifications regarding the pool if necessary to enable the Department of Planning and Development to evaluate the *structure*.

5.5.26.2 No portion of any *swimming pool* permitted by this chapter shall be located closer than five feet to any *lot line* or the minimum *accessory building* setback, whichever is greater. On a *corner lot* or a *double frontage lot*, the *swimming pool* shall comply with the *front yard setback* along all *street frontages*. The Department of Planning and Development may increase the setback requirements for a pool installed to serve a multifamily or nonresidence use.

5.5.26.3 Spill-offs and drainage from any *swimming pool* shall be controlled in a method approved by the Department of Planning and Development. Spill-offs and drainage shall not be permitted to flow onto adjacent property or roadways. Pool water shall be directed to flow into a drainage system designed to prevent erosion and to properly dissipate pool chemicals.

5.5.26.4 *Fencing* and screening. Adequate *fencing* shall be provided to completely enclose the outer perimeter of any pool or the perimeter of the *yard* in which the pool is situated, in accordance with applicable law. A *building* may serve as part of the *fence* enclosure, provided that such *building* complies with state and Town *swimming pool* enclosure regulations (including, but not necessarily limited to, self-closing, self-latching, lockable devices on any doors providing access to the pool enclosure). The *fencing* shall be located at least five feet from the pool edge, unless attached to any aboveground pool. *Fences* shall be constructed of metal, wood or other similar durable material, and shall contain no openings or projections which would be sufficient for climbing, as determined by the Department of Planning and Development. *Fences* shall be at least four feet but not more six feet above grade, shall be no more than one inch from the ground at the bottom at any location and shall be supported by posts that are no more than eight feet on center. All gates must be equipped with a self-closing, self-latching device located on the inside of the gate or door. Removable and/or hinged lockable ladders may be a sufficient substitute for fencing for aboveground circular pools only.

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.26.5 Any lights illuminating *swimming pools* shall be directed so as to eliminate direct rays of light on neighboring *streets* and properties. The filter pump and electrical switch, and other mechanical equipment, shall be in a vented enclosure or screened with dense evergreen planting, and shall comply with required setbacks for *accessory buildings* or required pool setback, whichever is greater.

5.5.27 Tennis courts. No property owner shall commence construction of a tennis court on any property before obtaining a permit therefor from the Department of Planning and Development. Said permit application shall be accompanied by plans indicating the width, length and precise location of said tennis court on a survey of the property. The *applicant* may also be required to provide information regarding materials and maintenance. No portion of any tennis court, including the *fence* immediately surrounding the court, shall be located closer than 10 feet from any *lot line* or the minimum setback for an *accessory building*, whichever is greater. The Department of Planning and Development may require an increased setback for a tennis court serving a multifamily or nonresidence use. The Department may also require evergreen screening, as it deems appropriate for screening purposes. Any lights illuminating a tennis court shall be directed so as to eliminate direct rays of light on neighboring *streets* and properties. All *fencing* shall comply with the provision governing *fences* as set forth in this chapter.^[4]

[4] *Editor's Note: See § 246-4.7, Provisions Governing Fences and Walls.*

5.5.28 *Two-family dwellings.*

[Amended 7-22-2003 by L.L. No. 7-2003]

5.5.28.1 The minimum *lot area* for a *two-family dwelling* shall be 12,000 square feet.

5.5.28.2 The minimum *habitable area* of a *two-family dwelling*, not including garages, shall be 2,000 square feet.

5.5.28.3 At least one of the two *dwelling units* shall be owner-occupied.

- 5.5.28.4 A *two-family dwelling* shall only be permitted where it results from the conversion of a lawfully existing *one-family dwelling* which was constructed at least three years immediately prior to the filing of such application for a *two-family dwelling*; a certificate of occupancy for such *one-family dwelling* shall have been issued at least three years prior to the filing of such application for a *two-family dwelling*, unless such *one-family dwelling* was erected prior to May 4, 1943; and, no variances shall have been granted for the erection of the *one-family dwelling*.
- 5.5.29 Undertaking establishments. Sufficient driveway aisle width and length shall be provided on-site to permit the queuing of a minimum of eight vehicles forming a funeral procession. The *applicant* shall demonstrate that sufficient on-site loading area will be provided. An accessory *dwelling unit* for the manager or on-site custodian may be allowed.
- 5.5.30 *Discotheques, dance halls, cabarets and nightclubs.*
- 5.5.30.1 *Discotheques, dance halls, cabarets and nightclubs* in any LI Light Industry District shall not be permitted to be located within 500 feet of any *lot* on which is located a school, public park, place of worship, community center or other *discotheque, dance hall, cabaret* or *nightclub*, or within 1,000 feet of any residence district.
- 5.5.30.2 All *discotheques, dance halls, cabarets and nightclubs* shall be required to comply with all applicable laws, regulations and requirements of federal, state, county and Town agencies.
- 5.5.30.3 No *discotheque, dance hall, cabaret* or *nightclub* shall be permitted in any *building* used in whole or in part for residential purposes.
- 5.5.30.4 There shall be no outdoor display or advertising of any kind, other than signage as permitted in § 246-11 of this chapter.
- 5.5.31 *Accessory uses in office buildings.* For the purpose of minimizing traffic generation and maximizing convenience for *office* employees, the following uses shall be permitted as *accessory uses* in *office buildings*, subject to such uses being designed and operated for the exclusive use of employees within said *building*: *fitness center* and food service facilities. In addition, personal and business services, retail stores and banks shall be permitted, provided they do not occupy a total of more than 4% of the *gross floor area* of the *office building*.
[Added 4-25-2006 by L.L. No. 5-2006]
- 5.5.32 *Collateral loan brokers.* *Collateral loan brokers* shall only be permitted to operate within the Town of Oyster Bay if such operation is conducted fully in accordance with Article 5 of the General Business Law of the State of New York, Chapter **94** of the Code of the Town of Oyster Bay and all other applicable requirements of law.
[Added 3-31-2009 by L.L. No. 3-2009]
- 5.5.33 *Commercially Zoned Property Abutting or Within one-hundred-foot radius of Residential Districts.* The hours of operation of any establishment located in a commercial district (any district other than a Residence District) which abuts a Residence District or is located within a one-hundred-foot radius of any Residence District, shall be limited to 6:00 a.m. to 11:00 p.m., and deliveries to said establishment and operation of property maintenance and any other potential sources of noise disturbance shall also be limited to those hours.
[Added 6-26-2018 by L.L. No. 6-2018]