

Chapter 85. Zoning

Article XIV. Residence Districts

§ 85-190. A Residence District.

A. Principal uses are as follows:

- (1) One-family dwellings, except that mobile homes shall not be a permitted principal use.
- (2) Churches or similar places of worship and parish houses.
- (3) Convents and monasteries.
- (4) Open farming; provided, however, that no storage of manure, compost, mulch or odor- or dust-producing substances shall be permitted within 150 feet of any street line. The sale at retail or wholesale of farm, garden or nursery products produced on the premises shall be permitted; however, nothing herein shall permit the screening and sale to others of compost or mulch materials.
[Amended 5-21-2015 by L.L. No. 7-2015, effective 6-2-2015]
- (5) Public and parochial schools and private schools having a curriculum similar to that ordinarily given in public schools, but not including day-care facilities.

B. Accessory uses, when located on the same lot with a permitted principal use, are as follows:

- (1) Private garages.
- (2) Offices of a physician, lawyer, architect, teacher or similar professional person residing on the premises and when such use is incidental to such residence; provided, however, that such use shall be within the main building and occupying not more than one-third of the first-floor area.
- (3) Customary home occupations only when conducted by the person residing on the premises.
- (4) Fences. No fence may be erected having a height greater than four feet from the ground, except as follows:
 - (a) Where a residence has been erected, a six-foot fence may be erected in the rear yard, provided that, if it is on an interior lot, said six-foot fence may be erected in the rear yard to extend along the rear lot line and along the side lot lines to a point not forward of the front foundation line of the residence, and thence from said lot lines to the front point of said foundation; on a corner lot, a six-foot fence may be erected in the rear yard to extend along the rear lot line and along the secondary front lot lines, except that no such fence shall project into the required primary front yard; and on a through lot, a six-foot fence may be erected in the rear yard along the two side lot lines and the secondary front lot line. Notwithstanding the foregoing, on corner lots, fences less than six feet in height may be located not closer than eight feet to the primary front lot line, provided the applicant demonstrates, to the satisfaction of the Commissioner of the Department of Planning, Environment and Land Management, that said fence will not interfere with vehicular traffic sight visibility. A six-foot fence in the primary and secondary front yards on corner lots and in the secondary front yard on through lots shall be considered a structure requiring a building permit. All such fences shall comply with the site visibility requirements of this Code.
[Amended 10-3-2019 by L.L. No. 22-2019, effective 10-16-2019]
 - (b) If such fence shall be erected along any street, the permitted height thereof shall be measured from the existing elevation of the center line of such street opposite such fence, unless such fence is of open woven wire or other such design as will not obstruct sight visibility. Such height so measured shall not exceed 2 1/2 feet in any point within a radius of 30 feet of the corner formed by any intersecting streets. The provisions hereof shall also apply to hedges or any other densely growing shrubbery.
 - (c) Wire strand and open woven wire fences six feet in height above ground level shall be permitted on all lot lines of property principally devoted to agriculture, provided that such height so measured shall not exceed four feet at any point within a radius of 30 feet of the corner formed by any intersecting streets.

- (d) Use of barbed-wire fencing, ribbon-wire fencing or electrical fencing shall be subject to approval by the Planning Division or, in the event that Planning Division review is not otherwise required, approval by the Zoning Board of Appeals pursuant to Subsection **C** below.
 - (5) Signs, as permitted and regulated in Chapter **57A**.
 - (6) Barns, as defined in this chapter, subject to the following:
 - (a) A maximum height of 18 feet;
 - (b) A fifty-foot rear yard and fifty-foot side yard setback shall be provided;
 - (c) To be located in the rear yard only; and
 - (d) No more than twenty-five-percent lot coverage of the rear yard shall be occupied by such structure, except that in the A-5 and A-10 Residential Zoning Districts, it shall be pursuant to the Residential Districts Table of Dimensional Regulations.^[1]
[1] Editor's Note: The Residential Districts Table of Dimensional Regulations is included as an attachment to this chapter.
 - (7) Other customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business. Except with regard to construction on property principally used for agriculture, any accessory building shall be located on the same lot with the principal building, and no accessory building shall be constructed on a lot until the construction of the main building has actually been commenced, and no accessory building on the lot shall be used until the main building is completed and used.
 - (8) Accessory apartments, subject to all requirements and limitations set forth in § **85-258**.
 - (9) Detached storage sheds, not greater than 12 feet in height above surrounding grade and not exceeding 600 square feet in floor area. All storage sheds shall be considered structures; however, storage sheds less than or equal to 144 square feet in floor area may be located not closer than three feet to a side or rear property line.
 - (10) Model dwellings. Model dwellings where the same are to be located on lots on an approved final subdivision map or an approved residential site plan and are intended to be used as model dwellings for the sale of homes to be located within the subject project site. Permission for location of said models shall be obtained from the Planning Board and shall be issued for a period not to exceed two years. The Planning Board may renew said permit upon application, provided that the model dwelling has been constructed and used in accordance with the approved site plan.
 - (11) Greenhouses. Greenhouses, so long as the use of said structure(s) is solely incidental to the permitted principal use and otherwise conforms with the applicable dimensional requirements set forth in this chapter.
- C. The following uses shall be permitted when authorized by special permit from the Board of Appeals:
- (1) Dwelling models, except for dwelling models approved by the Planning Board pursuant to Subsection **B(9)** above, provided that the following conditions are met:
 - (a) Site plan review and approval by the Planning Board shall be obtained simultaneously with or prior to the issuance of a special permit.
 - (b) Off-street parking for at least four automobiles for one model dwelling unit and two additional spaces for each additional adjoining model dwelling unit shall be required.
 - (c) No exterior spotlighting or floodlighting shall be permitted which will result in annoying glare directed or reflected toward residential dwellings or residential zoning districts.
 - (d) Prior to the issuance of a special permit for a model dwelling built on a lot that does not conform to the requirements of the zone in which it is located, the owner must execute a consent, in a form acceptable to the Town Attorney, which consent will authorize the Chief Building Inspector to demolish or cause to be removed said model dwelling if the same is not removed by the owner thereof within 45 days of the expiration of the special permit. The applicant shall also consent that all costs and expenses incurred by the Town of Brookhaven in connection with the removal of the model dwelling shall be assessed against the land on which said buildings are located. The amount of such cost and expense shall be determined and audited by the Town Board and shall be reported to the Board of Assessors of the Town of Brookhaven as an amount to be levied and assessed against said premises as an assessment for an improvement to be included in the next succeeding assessment roll of the Town of Brookhaven to be thereafter prepared. Thirty days after the expiration of the special permit, the Chief Building Inspector shall mail a notice to the applicant for the special permit and the latest assessed owner of record for the subject property. Such notice shall indicate that, unless the subject model dwelling is removed within 15 days, the Town will proceed to remove the dwelling and assess the costs against the property. The Chief Building Inspector shall also cause such notice to be posted on the front door of the subject model dwelling. If the dwelling is not removed, the Building Division may cause it to be removed or demolished as above provided.
 - (e) The special permit shall be issued for a period not to exceed five years. The Zoning Board of Appeals may renew said permit upon application, provided that the model dwelling has been constructed in accordance with the site plan, the conditions attached to the special permit, and this chapter.

- (2) Day-care facilities.
 - (3) Upon a showing of need to protect private property, where the safety of residents will not be placed in jeopardy, barbed-wire fencing, ribbon-wire fencing or electrical fencing, unless the Planning Division has approved or disapproved such use during site plan review.
 - (4) Other agriculture.
 - (5) A one-family dwelling occupied by more than eight persons living and cooking together as a single housekeeping unit though non-related by blood, adoption, or marriage, provided that all of the following conditions are met:
 - (a) Submission of proof of a valid operating certificate, permit, and/or approval having been issued by the appropriate federal, state and/or county agency or department for the proposed use when the same is mandated by law; and
 - (b) The location of the use does not unduly increase traffic congestion, off-site parking, and noise levels on public streets.
- D. The following uses shall be permitted when authorized by special permit from the Planning Board:
[Amended 5-12-2016 by L.L. No. 10-2016, effective 5-25-2016]
- (1) Colleges and universities; provided, however, that the plot has an area of not less than 75 acres and a continuous street frontage of not less than 400 feet; and provided further that the total building area shall not exceed 20% of the total plot area; the location of all buildings and structures shall be subject to approval by the Planning Board.
 - (2) Golf courses and country clubs having a plot area of not less than 50 acres.
 - (3) Human cemeteries.
 - (4) Museum reuse of historic structures identified on the State or National Register of Historic Places or designated as a local landmark.
 - (5) Parks, playgrounds, athletic fields, bathing beaches, bathhouses or boathouses, excluding uses permitted as set forth in § 85-511 of this chapter.
 - (6) Private community center, recreation buildings and outdoor recreation facilities as part of a homeowners', condominium or community association.
 - (7) Voluntary nonprofit ambulance companies.

§ 85-197. A Residence 1 District.

- A. Permitted uses are as follows:
- (1) All principal uses, accessory uses and uses authorized by special permit which are permitted in the A Residence District.
 - (2) All uses identified as incentive uses within the Transitional Area Overlay District established in connection with the Montauk Highway Corridor Study Land Use Plan for Mastic and Shirley Phase II.