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Article X Accessory and Temporary Uses

§ 165-67 **Purpose.**

Certain uses, whether permitted as of right, by special development or by special exception, have singular, individual characteristics which make it necessary, in the public interest, to specify regulations in greater detail than would be feasible in the individual use regulations for each zoning district. This section therefore provides such regulations for accessory uses and temporary uses. These requirements are intended to meet the economic development and housing objectives outlined in Articles **IX** and **X** of the Town of Bel Air's Comprehensive Plan.

§ 165-68 **Accessory uses.**

Generally, except as otherwise restricted in Article **III**, Establishment and Regulation of Zoning Districts, accessory buildings and uses customarily incidental to any principal permitted use or authorized special exception or special development shall be permitted in any district in connection with the principal use, subject to the following:

A. General.

- (1) No accessory use or structure, except fences, shall be located within any recorded easement area unless approved by the Director of Public Works.
- (2) Uses generally prohibited or not permitted as principal permitted uses in a district shall not be permitted as accessory uses.
- (3) No enclosure for refuse/recycling shall be located within the front yard setback required in the district. **[Amended 4-3-2017 by Ord. No. 780-17]**
- (4) A small wind energy system used to generate electricity of less than 100 kw through a wind turbine conversion system shall be considered an accessory use in all zoning districts. The wind tower shall be set back from all property lines, rights-of-way and overhead utility lines a distance equal to the height of the tower plus 20 feet. The tower cannot be readily accessible to the public for a minimum height of 12 feet. The appearance of the wind generator, blades and tower must blend into the existing environment. The wind generator shall comply with the state-regulated Noise Ordinance. **[Added 11-25-2011 by Ord. No. 744-11]**
- (5) A solar energy system used to provide electrical power through photovoltaic cells and related accessories or harness thermal energy for heating water or air using thermal collectors or similar structures shall be considered an accessory use in all zoning districts. Ground-mounted systems must adhere to accessory building requirements and must be screened with appropriate landscape from any right-of-way or adjacent residential property. Structurally attached solar collectors cannot project vertically above the peak of a sloped roof and cannot project more than five feet above a flat roof. **[Added 11-25-2011 by Ord. No. 744-11]**

B. Residential districts.

- (1) Accessory structures shall be no more than 20 feet in height **as measured from the ridgeline of the roof to the average contact with grade**, nor shall they exceed the height of the principal use or structure, whichever is less. The height between the eaves and the ridge for gable, hip and gambrel roofs cannot exceed more than 35% of the overall height of the accessory building. **[Amended 10-21-2019 by Ord. No. 794-19]**
- (2) No accessory use or building shall be erected in any required court or in any yard other than a side or rear yard, except as provided hereinafter. Accessory uses or buildings shall be distanced at least six feet from alley lines and at least three feet from lot lines of adjoining lots. If approved by the Zoning Administrator, cluster mailbox structures may be permitted in the front yard.
- (3) Accessory buildings, except stables, may be erected as a part of the principal building or, if at least six feet therefrom, may be connected thereto by a breezeway or similar structure, in which case it shall be considered to be a part of the principal building, provided all yard and Fire Code requirements for a principal building are satisfied. Open carports may be erected over driveway pads if screening is provided and if located at least five feet from the lot line.
- (4) Satellite receiving dishes in excess of 24 inches in diameter must be ground-mounted and shall require a building permit in accordance with the Town Building Code. All satellite receiving dishes shall be treated as any other accessory structure with the same setback and yard requirements. All dishes shall be properly screened from view with landscaping or fencing, as appropriate and as determined by the Zoning Administrator. Dishes less than or equal to 24 inches in diameter may be mounted on the principal structure or an accessory **structure unit on the lot**. **[Amended 11-25-2011 by Ord. No. 744-11]**
- (5) The total square footage, including upper floor space, of all accessory uses or structures shall not exceed 50% of the square footage of habitable space of the principal use or structure. However, a minimum of 480 square feet may be permitted regardless of the size of the principal structure. **[Amended 4-3-2017 by Ord. No. 780-17; 10-21-2019 by Ord. No. 794-19]**
- (6) Pens and runs for domestic animals shall not be located within 50 feet of an adjacent residential primary structure. Kennels **as defined in Article XIV are not** shall be permitted **only as special exception in residential districts**. Honeybee hives may **also** be permitted on parcels with a minimum size of **10,000 square feet and located 50 feet from an adjacent residential primary structure 1/2 acre** provided honey is not produced for commercial purposes. **On properties consisting of a minimum of 10,000 square feet, a coop for chickens housing no more than two hens may be located no less than 50 feet from the adjacent residential primary structure. One additional hen may be added for every 5,000 square feet in lot area. Roosters are not permitted.** On properties of two acres or more, pens, barns or stalls for farm animals shall be permitted, provided that the number of animals shall not exceed one per acre, the animals are contained within a fenced area, and the following minimum setbacks for principal and accessory uses are met: **[Amended 10-1-2012 by Ord. No. 754-12; 4-3-2017 by Ord. No. 780-17]**

Setback From Adjacent

Residential Primary Structure

(feet)

Number of Animals

~~31~~ to ~~52~~

100

~~63~~ to 10

150

11 or more

200

- (7) Residential recreational facilities, such as swimming pools and tennis courts, shall be located not less than six feet from any side or rear lot line. For community pools and tennis courts, the edge of the facility shall be located not less than 50 feet from any residential unit or side or rear lot line.
- (8) Recreational vehicles, campers, trailers and similar equipment **shall** ~~should~~ be stored in a garage or similar enclosed structure. Open storage shall be permitted in **the** side and **the** rear yard areas. Open storage on driveways may be permitted for short-term storage or maintenance purposes for a period not to exceed a total of seven days within any ninety-day period. No living, sleeping or other occupancy of a recreational vehicle, camper or trailer shall be permitted for more than seven days within any ninety-day period. Except as stated above, storage of any recreational vehicle, camper or trailer is prohibited in the front yard area. For lots with more than one public road frontage, storage of a recreational vehicle or trailer may be permitted by the Zoning Administrator in the front yard, provided there is no practical alternative that meets the Code and adequate screening is provided. **[Amended 4-3-2017 by Ord. No. 780-17; 9-16-2019 by Ord. No. 792-19]**
- (9) No commercial vehicles or commercial equipment shall be parked or stored on any lot in any residential district, except when such vehicle is **actually** engaged in loading and unloading passengers, merchandise or materials. This subsection shall not apply to a public utilities truck engaged in repairs or to a truck parked or being used during the construction or renovation process of a residential building.
- (10) One inoperative or untagged motor vehicle may be parked or stored on any lot of less than two acres for a continuous period of no more than six months. Two inoperative or untagged motor vehicles may be **parked or** stored on any lot of two acres or more for a continuous period of no more than six months. Open storage **of a vehicle** requires a permit issued by the Department of Planning and Community Development. Inoperative or untagged vehicles which are stored completely within an enclosed building are not subject to these restrictions.
- ~~(11) No more than four yard sales per year shall be conducted on a residential property in any residential district.~~
- ~~(12)~~**11**) Temporary **refuse dumpsters**, storage containers or trailers **shall** ~~may~~ not be placed on grass or pervious surface. No such storage may be located on a residential parcel for more than **30** ~~45~~ days unless **extended** ~~permitted~~ by the Zoning Administrator based on hardship or practical difficulty not caused by the property owner. **[Added 4-2-2018 by Ord. No. 783-18]**

C. Business and industrial districts. Customary accessory uses are permitted in commercial or industrial

districts, including the following:

- (1) The storage of goods normally carried in stock, used in, or produced by commercial or industrial uses, unless the storage of particular goods is prohibited under the commercial or industrial district regulations. No refuse or recycling enclosures or storage shall be permitted within the front yard, and all enclosures and storage facilities must be effectively screened as stipulated in Article **VIII** of this Part **2**. Storage facilities shall be located within a fully enclosed area, and such facilities shall not include tractor-trailer bodies. **[Amended 4-3-2017 by Ord. No. 780-17]**
- (2) Satellite receiving dishes may be installed on roofs in the business and industrial districts, and those over 24 inches in diameter shall require a building permit for installation. **[Amended 11-25-2011 by Ord. No. 744-11]**
- (3) Incidental repair facilities, unless expressly prohibited under the commercial or industrial regulations, may be permitted by the Zoning Administrator.
- (4) Canopies and awnings may be permitted with a minimum eight-foot clearance from the lowest edge of the canopy/awning to sidewalk or grade level, whichever is applicable.
- (5) In commercial and industrial districts, one inoperative or untagged motor vehicle may be parked or stored on any lot of less than two acres for a continuous period of no more than six months. Two inoperative or untagged motor vehicles may be parked or stored on any lot of two acres or more for a continuous period of no more than six months. Open untagged vehicle storage requires a permit issued by the Department of Planning and Community Development. Vehicles that are stored within a completely enclosed building or on a lot that is approved for motor vehicle sales, service and storage are permitted as of right.
- (6) Temporary refuse dumpsters, storage trailers or containers shall not be placed on grass or pervious surface. No such storage may be located on an area visible to a public road for more than 30 days unless extended by the Zoning Administrator based on hardship or practical difficulty not caused by the property owner.**

§ 165-69 Fences and walls.

Fences, walls and hedges may be located in required yards as follows:

- A. Fences, walls and hedges not exceeding four feet in height above the elevation of the surface of the ground may be located in any yard or court unless the property is located at a roadway intersection, in which case, the requirements noted in § **165-65** of this Part **2** shall apply. Ornamental gates, fence post caps or finials may exceed the height limit by no more than 12 inches.
- B. Fences and walls not exceeding six feet in height above the elevation of the surface of the ground may be located in any rear yard or side yard area for a residential use. Ornamental gates, fence post caps or finials may exceed the height limit by no more than 12 inches. If the property abuts a business or industrial district, a fence or wall, not to exceed eight feet, may be erected. **[Amended 4-2-2018 by Ord. No. 783-18]**

- C. **Business and Industrial** uses may locate fences or walls, not to exceed 10 feet in height, in any yard area if necessary for safety or security reasons and said reasons are documented to the satisfaction of the Zoning Administrator. **Uses in business zones must adhere to the front yard height requirements for fences. Exceptions may be permitted by the Zoning Administrator for corner and through lots as described in Section 165-69.E. [Amended 4-2-2018 by Ord. No. 783-18]**
- D. In no instance shall barbed wire fencing be used alone or in combination with other fence materials, except when the Zoning Administrator determines, through the administrative waiver process, that, due to the character or use of a parcel, the additional security of such fencing is necessary.
- E. **Single family residential through lots as defined in this Part 2 may increase the height of a fence located along the rear right-of-way line to a maximum of six feet. Single family residential corner lots may increase the height of a fence to a maximum of six feet provided the fence is setback a minimum of six feet from right-of-way and is located behind the rear façade of the residence. The Zoning Administrator may require a survey to determine if visibility at the intersection is impeded by the increase in fence height.**

§ 165-70 **Handicap ramps.**

Handicap ramps shall be provided as required by the Americans With Disabilities Act and applicable Town building regulations.

§ 165-71 **Temporary uses.**

[Amended 1-7-2013 by Ord. No. 758-12; 4-3-2017 by Ord. No. 780-17]

- A. Temporary uses shall be permitted as specified in Articles **III, VII and XI** of this Part 2 **and shall not exceed 30 days unless otherwise specified.** A permit may be issued by the Zoning Administrator **or designee** if all the specific requirements as stated below are satisfied:
- (1) Performance standards.
 - (a) A temporary use permit application shall be filed specifying the use, dates and hours of operation of the activity/event.
 - (b) Adequate arrangements for temporary sanitary facilities must be approved by the State or County Department of Health and Mental Hygiene, if applicable.
 - (c) No permanent or temporary lighting shall be installed without an electrical permit.
 - (d) Adequate off-street parking shall be provided, and a stabilized drive to the parking areas shall be maintained.
 - (e) The site shall be cleared of all debris at the end of the event and cleared of all temporary structures within three days thereafter.
 - (f) It shall be the responsibility of the applicant to guide traffic to parking areas and to provide adequate parking control.

- (g) The applicant shall be responsible for adequate crowd control.
 - (h) **Any Signs may be posted during the duration of the temporary use with a maximum total area of 72 square feet unless otherwise specified by the Zoning Administrator provided the operator meets shall conform to** all **other** applicable **temporary** sign restrictions for the district.
 - (i) The use/event shall not obstruct pedestrian or vehicular circulation.
 - (j) A description of means to provide any necessary sanitation/maintenance provisions shall be provided to the reviewing agency for approval.
 - (k) A certificate of insurance shall be provided to the reviewing agency.
- B. Modular classrooms, modular sales/construction office/sales trailers.
- (1) Such modular facilities shall be subject to performance standards as specified below. A permit may be issued by the Zoning Administrator **or designee** if applicable requirements are satisfied.
 - (a) Performance standards.
 - [1] Modular classrooms.
 - [a] The applicant shall fully describe the proposed use/activity to the satisfaction of the reviewing agency, including the means to prevent interference with traffic, both pedestrian and vehicular, and shall specify the precise time during which the use shall be in operation.
 - [b] The applicant shall specify the method for and ensure that removal of trash and clearing of debris and restoration of the site is to be accomplished.
 - [c] The unit shall be totally removed from the site and returned to the exact previous appearance once classroom use is abandoned.
 - [d] Setback requirements for the district shall apply. However, in no case shall the setback be less than 10 feet.
 - [2] Sales/construction/**office** trailers.
 - [a] **No office or sales trailer may be permitted on a property longer than thirty days. A trailer associated with construction may be permitted for no longer than 18 months.** The applicant shall fully describe the proposed use/activity to the satisfaction of the reviewing agency, including the **operation, appearance**, means to prevent interference with traffic, both pedestrian and vehicular, and shall specify the precise time during which the use shall be in operation.
 - [b] The applicant shall specify the method for and ensure that removal of trash and clearing of debris and restoration of the site is to be accomplished.
 - [c] The unit shall be totally removed from the site and returned to the exact previous appearance within

the time frame specified by the reviewing agency.

- [d] If longer duration than **thirty days** ~~18 months~~ is required, the **Zoning Administrator** ~~Board of Appeals~~ may approve the use for no more than **six months** ~~a one-year period~~ for good cause shown.
- [e] ~~Modular sales or~~ Construction trailers shall be removed within 15 days of completion of construction or within 18 months of installation, whichever is less **unless an extension is approved by the Director of Public Works.**

C. Outdoor promotional event/sales event/yard sale.

(1) Such events shall be subject to performance standards as specified below. A permit may be issued by the Zoning Administrator if all applicable requirements are satisfied.

(a) Performance standards.

[1] General.

[a] With the exception of special promotional or sales events requiring street closure, no goods shall be located closer than six feet to the curb. No goods or merchandise shall be displayed within the intersection sight triangle, as defined in § **165-65** of this Part **2**.

[b] Any proposed display area shall be limited to 10% of the lot area or 500 square feet, whichever is greater.

[2] Promotional event.

[a] Events shall be permitted for a maximum of 30 days in a calendar year.

[~~3~~]**2** Yard sale.

[a] Private yard sales **in residential districts** shall not be held for more than four continuous days or more than four separate times in a calendar year.

[~~4~~]**3** Outdoor sale event.

[a] The number and type of ~~motor vehicle~~ sales **from a vehicle or trailer is regulated shall be determined** by the provisions in Chapter 272, Itinerant Dealers, Peddlers and Solicitors.

[b] Christmas tree sales (~~nonprofit organizations~~) shall be permitted for a maximum period of 45 days.

[c] Temporary outdoor sales events **or tent sales may not be conducted for no more than 30 days per calendar year. This temporary use is permitted through a process outlined** ~~sponsored by for-profit groups or individuals other than the~~

~~established on-site business, as provided in Article XI of this Part 2, may be approved for no more than 14 days per calendar year.~~

~~[d] Tent sales and outdoor events sponsored by for-profit groups or individuals shall be permitted in business or industrial districts only.~~

~~[e] Yard sales in residential areas are exempt from the provisions of this section.~~

~~[f] A temporary banner not to exceed 36 square feet is permitted during the period of the sale event. [Added 4-2-2018 by Ord. No. 783-18]~~

~~[5]~~ **4** Snowball stands **or other seasonal uses.**

[a] The applicant shall fully describe the proposed use/activity to the satisfaction of the reviewing agency, including the means to prevent interference with traffic, both pedestrian and vehicular, and shall specify the precise time during which the use shall be in operation. **Temporary seasonal uses are subject to a temporary use permit and cannot exceed six months per calendar year.**

[b] Hours of operation shall be specified.

[c] Trash and debris shall be removed from premises, and lots shall be cleared of same daily.

[d] Signage is limited to a total of 24 square feet.

D. Sidewalk café **or retail sales.**

(1) This section is only applicable to sidewalk sales and service in the public right-of-way. Exterior dining or bar service on a lot **of** record are addressed in § **165-53.I(2)(i)**.

(a) Performance standards.

[1] Outdoor sidewalk café **or retail sales**

[a] No building exit, entrance, or fire escape shall be obstructed by **product display, cafe** fixtures, seating or landscape materials.

[b] Lighting, except for existing building lighting, shall be restricted to **tabletops and shall be** very low intensity.

[c] Planters, if displayed, shall be in scale with the space of the adjacent sidewalk and the adjacent building. Materials shall be compatible with the adjacent building facade.

[d] Sidewalk **sales or** cafes shall be open to adjacent walks and may be partially enclosed by fences, planters, barriers, lattice, railings or ropes of any type.

- [e] The **outdoor** sidewalk **sales or** cafe area shall be restricted to areas with a minimum sidewalk width of eight feet. A five-foot sidewalk area must be maintained to allow adequate pedestrian circulation.
 - [f] Stacking of **product display**, tables and chairs on sidewalks for storage is prohibited.
 - [g] Proof of liability insurance and submission of an agreement to hold the Town harmless in case of accidents, losses, claims, etc., is required.
 - [h] Submission of a detailed plan **and design** for the **temporary use** facility outlining plans for operation or management, proposed use, materials, colors and signage shall be submitted for Zoning Administrator for review and approval.
 - [i] A description of proposed hours of operation, services to be provided, maintenance, cleaning and storage plans shall be submitted for Zoning Administrator review and approval.
 - [j] Should **sales or café seating** area extend in front of adjacent property, written permission from the property owner is required.
 - [k] Waste from dining or sales operations shall be located inside the establishment and the sidewalk shall be cleaned by the user a minimum of once per six months.**
 - [l] Sidewalk café or sales are subject to a seasonal temporary use permit as outlined Section 165-87. Advertising is limited to one sandwich board sign.**
- E. Itinerant dealer, peddler and solicitor.
- (1) Sales from any cart, wagon, trailer, or vehicle; any distribution of samples, pamphlets or sales in a public place; and any person seeking sales by going place to place must adhere to requirements of the Town Code, Chapter **272**, Itinerant Dealers, Peddlers and Solicitors, which shall be satisfied prior to operation.