



City of Marlborough

DRIVEWAY

REGULATIONS

Article VII. DIMENSIONAL, LANDSCAPING AND PARKING REGULATIONS

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§ 650-40. Location and height of buildings.

- A. No building or other structure nor any land shall be used, nor shall any building or structure be erected, except in conformity with the provisions of this chapter and any amendments thereof which apply to the district in which the building, structure or premises shall be located.
- B. No three-family dwelling, multifamily dwelling, two-family dwelling having two or more lodgers in addition to the family units contained therein, nor boardinghouse having facilities for four or more lodgers located in a district in which the building is otherwise permitted or exceeding 2 1/2 stories in height shall be erected or created through conversion or otherwise unless a special permit is granted in each case by the City Council after a public hearing, except as may otherwise be specifically provided in this chapter.
- C. A minimum accessway of at least 30 feet in width is required for any and all multifamily dwellings.
- D. Within any district, no building, structure or lot shall be used or arranged or designed to be used in any part for any trade, business, industry or purpose of any kind that is noxious or offensive by reason of the emission of odor, dust, refuse matter, vapor, smoke, gas, noise, vibration, wastes or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of or otherwise managed.
- E. No uninhabitable structure which exceeds 30 feet above the ground shall be located in any district, unless otherwise provided.
- F. For the purposes of this chapter, all principal buildings may be built on any lot located in a district in which the building is permitted, provided that:

- (1) The lot has frontage abutting a public or private way or on a way shown on a plan previously approved under the Subdivision Control Law or on a way which existed when the Subdivision Control Law became effective and which, in the opinion of the Planning Board, has sufficient width, suitable grades and adequate construction to provide for vehicular traffic and for the installation of municipal services.
- (2) It is located so as to comply with the following requirements for height and yards. *Editor's Note: See § 650-41 and the Table of Lot Area, Yards and Height at the end of this chapter.*
- (3) No building in any district need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In determining such average, a vacant side lot having a frontage of 50 feet or more shall be considered as though occupied by a building having the required setback, and a lot separated from the lot in question only by a vacant lot having a frontage of less than 50 feet shall be deemed an adjacent lot.
- (4) The front, side and rear yard provisions hereof may be varied by the Board of Appeals in the specific case of an irregular, narrow or shallow lot or a lot unusual either in shape or topography, provided that in the opinion of the Board it is impossible or extremely difficult to adhere to such provisions.
- (5) Nothing herein shall prevent the projection of cornices or eaves not exceeding 18 inches in width or of uncovered steps, unroofed porches or window sills into a required yard or other open space.
- (6) In all districts except within the flight path of commercial or governmental airports, farm buildings, churches, municipal or institutional buildings and spires, domes, steeples, radio towers, chimneys, broadcasting and television antennas, bulkheads, cooling towers, ventilators and other appurtenances usually carried above the roof may have any height.
- (7) Every building shall have frontage on a way, public or private, or a clear unobstructed passageway at least 20 feet wide for its entire length over the lot on which it is located to said way. If a building is located in the rear of another building located on the same lot, the open space between such buildings shall be at least 50% greater than the rear yard requirement for the district. The rear building shall be subject to side and rear yard requirements of the district in which it is located. For purposes of this Subsection **F(7)**, separate buildings within a shopping mall or retail lot shall be treated as a single building.
- (8) In all districts in which multifamily dwellings are allowed, there shall be provided with each apartment building a landscaped area equal to the greatest single floor area of the building.

- (9) Land used for outdoor storage for commercial purposes shall be screened from streets abutting the property and for adjacent properties by a solid fence of sufficient height to obscure materials stored therein. Affected parties shall be given six months from date of adoption of this chapter to comply.
- (10) Bridges, walkways or passageways, enclosed or otherwise, connecting buildings located on a large tract development lot shall not negate the existence of each such building as a separate building, and each building so connected shall be deemed to be a separate building for all purposes of this Zoning Ordinance.

§ 650-41. Table of Lot Area, Yards and Height.

(The Table of Lot Area, Yards and Height of Structures is included at the end of this chapter.)

§ 650-42. Size of lots.

For the purposes of this chapter, all principal buildings may be built on any lot located in a district in which the building is permitted, provided that the lot complies with the requirements included in the Table of Lot Area, Yards and Height of Structures, except where specifically provided otherwise by this chapter, and further provided that:

A. Lot area requirements.

(1) Lot area.

- (a) Minimum lot area. The lot contains the minimum area required.
- (b) Minimum area for principal building. The minimum lot area shall not be counted for more than one principal building, except in the case of:
 - [1] Limited Industrial and Industrial Districts.
 - [2] Multifamily dwellings located in any district where said dwellings are permitted, subject to requirements specified elsewhere in this chapter for said dwellings.
- (c) Single- or two-family dwellings. In all districts in which single- or two-family dwellings are allowed, only one principal building containing said one- or two-family dwelling shall be permitted on any one lot, no matter what the lot area, unless said lot is located in a district where more than one of said principal buildings is specifically permitted by other provisions of this chapter.
- (d) Area within street not included. In determining lot area, no part thereof within the street lines or within a private road or right-of-way for travel by motor vehicles to another lot shall be included. Street lines shall determine lot boundaries.

- B. Lot shape. The lot shall be large enough to contain a rectangle having one side equal in length to the required frontage and situated parallel to the mean direction of the front lot line and the other side equal to $\frac{3}{4}$ of the required frontage. Where the front lot line is curved, the mean direction of the front lot line shall be the line established by connecting the intersection points of the side property lines with the street line. Said rectangle shall touch the front lot line, but no part of said rectangle shall intersect any lot line.
- C. No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, setback, yard or height provisions of this chapter applicable to the construction of the building on the lot. This provision shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.
- D. On corner lots, the setback provisions governing the location of the building shall apply in relation to both streets or ways.
- E. Any lot or lots of land described in a deed and officially recorded with the Registry of Deeds or included in a subdivision approved in writing in accord with the Subdivision Regulations of the Planning Board of Marlborough by said Board at the time of the adoption of this chapter may be used for any permitted use in the district in which the lot or lots are located, provided that:
- (1) In the case of a nonconforming lot, the adjoining lot is not vacant and not in the same ownership.
 - (2) Any lot on which more than one house existed at the time of the adoption of this chapter may be divided and sold to separate owners and used with a minimum of nonconformance.
- F. Any increase in the area, frontage, width, yard or depth requirements of this chapter shall not apply to a lot to be used for dwellings with one- and two-dwelling units which, at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land; conformed to then-existing requirements and had less than the proposed requirement but at least 5,000 square feet of area and 50 feet of frontage. The provisions of this subsection shall not be construed to prohibit a lot being built upon if, at the time of the building, building upon such a lot is not prohibited by this chapter.
- G. In the application of the requirements of this chapter, including, without limitation, those set forth in §§ **650-42, 650-43, 650-45, 650-47** and **650-48**, the same shall not be applied to the individual lots comprising a developing lot or a retail lot but shall be applied as if the development lot or a retail lot were the lot, notwithstanding the fact that the individual lots within the development lot or a retail lot may be in different ownership.

§ 650-43. Maximum lot coverage.

- A. Structures in all zones together with all parking and driveways shall conform to the maximum lot coverage provision indicated in the Table of Lot Area, Yards and Height of Structures. *Editor's Note: The Table is included at the end of this chapter.* Within a Limited Industrial District, maximum lot coverage for development of a shopping mall on a development lot may be increased to 85% when approved by the City Council, as provided in § **650-59**, in writing, provided the City Council finds that, in connection with such development, infrastructure improvements are to be made by the applicant that will benefit not only the development but other property within the City.
- B. Maximum lot coverage for development of retail stores, shops, restaurants or service establishment uses, excluding automotive service establishments (such as gasoline filling stations and places for the repair and service of motor vehicles), on a retail lot may be increased to 85% when approved by the City Council, as provided in § **650-59**, in writing, provided the City Council finds that, in connection with such development, infrastructure and/or open space improvements are to be made by the applicant that will benefit not only the development but other property within the City.

§ 650-44. General off-street requirements.

- A. Underground utility lines. All electric, telephone, cable television and other utility lines shall be installed underground, subject to the approval of the City Engineer. This requirement shall apply to all new structures and all additions and major renovations to existing structures requiring site plan approval.
- B. Refuse areas required. In all districts all structures except one- and two-family dwellings shall be provided with an area or areas suitable for storage of refuse and like matter, in compliance with regulations of the Board of Health, screened as required in this chapter, located away from living quarters and within the setback requirements for accessory buildings. Said refuse or like matter shall be removed and disposed of periodically and as required to prevent accumulations and to further ensure the health and safety of the tenants of such building or buildings or of abutters and to protect the property values of abutting property.
- C. Identification of buildings. All buildings shall be identified as follows: There shall be attached the number of each building, issued by the City Engineer at the time of site plan approval, in letters or numbers a minimum of four inches high, in at least one location clearly visible from the street and in any event at the front entrance of all buildings and the rear entrance of multifamily and nonresidential buildings. *Editor's Note: See Ch. 439, Numbering of Property.*

§ 650-45. Location of accessory structures.

- A. The yard provisions for principal structures shall apply to accessory structures, both detached or attached to the principal structure, when used for human occupancy.

- B. A detached accessory structure of one story shall not be closer to the principal structure than 10 feet. A detached accessory structure of two stories or more shall not be closer to the principal structure than 15 feet.
- C. No accessory structure or structures shall occupy more than 25% of the required rear or side yard areas.
- D. No accessory building shall be nearer than five feet to any side or rear lot line.

§ 650-46. Floor area.

All dwelling units, except those in detached one-family residence buildings, shall provide a minimum habitable floor area as follows:

- A. Six hundred square feet for a dwelling unit on one floor.
- B. Five hundred square feet for a dwelling unit on the first floor of a dwelling unit of 1 1/2 floors.
- C. Four hundred square feet for a dwelling unit on the first floor of a dwelling unit on two floors.
- D. Trailer coaches and mobile homes situated in a trailer court or trailer park shall have a minimum of 200 square feet per dwelling unit.
- E. Motels and hotels shall have a minimum of 125 square feet of floor area per motel or hotel unit.
- F. In a residential conference and training center, each dwelling unit which includes one bedroom and a portion of related common residential space to be occupied by no more than two persons shall have a minimum of 200 square feet of floor area.

§ 650-47. Landscaping and screening.

Editor's Note: Landscaping and screening diagrams are included at the end of this chapter.

- A. Objectives. The provisions of this section are intended to achieve the following purposes:
 - (1) To provide a suitable boundary or buffer between zoning districts.
 - (2) To separate different and otherwise incompatible adjacent land uses from each other in order to partially or completely reduce potential nuisances, such as dirt, dust, litter, noise, glare from motor vehicle headlights, the intrusion from artificial light, including the ambient glow therefrom, signs or the view of unsightly buildings and parking lots.
 - (3) To provide visual relief to parking lots and protection from wind in open areas.

- (4) To preserve or improve the visual and environmental character of a neighborhood and of Marlborough generally.
- (5) To offer property owners protection against possible diminution of property values due to adjacent commercial construction or a change in existing ostensibly incompatible land uses.
- (6) To assure public safety requirements for sight distance visibility.

B. Applicability. Landscaping, planting areas and screening shall be provided in accordance with all provisions of this section as specified below:

- (1) When the building or site undergoes a change of use or is enlarged by more than 10% of the floor or ground areas of use or when any new principal building is built on the site or when any new building, addition, alteration or change of use requires a parking increase of five or more spaces.
- (2) Compliance with all provisions of this section to the maximum extent practicable, as determined at site plan approval, shall be a requirement for approval of any site plan or off-street parking plan or issuance of any building permit, occupancy permit or special permit.
- (3) An application for a special permit for a use, structure or activity that does not comply with the provisions of this section shall not be granted until compliance to the maximum extent practicable is demonstrated.

C. Landscaping plan required.

- (1) A landscaping plan demonstrating compliance with the standards contained in this section for landscaping, planting areas and screening shall accompany each application for site plan approval and building permit. The plan shall be drawn to scale and may be part of a site plan application. A landscaping plan shall not be required for a single- or two-family dwelling.
- (2) The landscaping plan for any lot used or zoned for multifamily or nonresidential use shall be certified by a landscape architect registered in the Commonwealth of Massachusetts.
- (3) The landscaping plan shall show, apart from information normally required on a site plan:
 - (a) A layout plan showing existing and proposed grades, the proposed landscaped area and planting areas, the existing plant materials to be retained, the proposed plant materials to be provided and the location, size and type of such plant materials and of any nonplant materials to be retained or provided.
 - (b) A plant schedule giving botanical and common names of plants to be used, size at time of planting and quantity of each.

(c) The methods for protecting plant materials during and after construction.

D. Planting area requirements. The following requirements shall apply to all planting areas required by this section, except as provided hereinafter:

(1) Planting areas and lot coverage. Planting areas on a lot shall be considered a part of the total landscaped area on a lot required by the maximum lot coverage provisions of § **650-43**. Any landscaped area required by the lot coverage provisions and located outside of a planting area required by this section shall meet the requirements of Subsection **D(3)**, Ground surface materials, but need not meet the requirements of Subsection **D(4)** or **(5)** for planting type and size and planting quantity and spacing.

(2) Location. The planting area required by this section shall be located entirely within the lot. Additional planting area may be provided outside the lot but shall not be credited to the area required within the lot.

(3) Ground surface materials.

(a) Paving. The planting area shall not be paved over with asphalt, concrete or similar material, or covered with gravel, except for access drives and walks located essentially perpendicular to the area. No structure, parking area or paved play area may be located in a required landscape area.

(b) Plant materials. The planting area shall have a ground surface cover of live plant material, such as lawn grass or live ground cover, over at least four inches of topsoil, except that bark mulch may be used in place of live ground cover, and except for nonplant materials solely as provided for hereinafter under Subsection **D(3)(d)**.

(c) Substitution with artificial plants. The substitution of artificial shrubs, grass or other plants shall not be permitted.

(d) Nonplant materials. Nonplant ground surface material, such as brick, decorative stones or other similar material (but not gravel, concrete or asphalt paving), may be used in place of live plant material or bark mulch, provided that the nonplant material covers no more than 30% of any planting area required by this section and has shrubs and trees distributed over its surface as required below under Subsection **D(5)**.

(4) Planting type and size. Required plantings shall include both trees and a mix of deciduous and evergreen shrubs to maintain effectiveness throughout the winter and preferably will include vegetation existing on the site. To be credited towards meeting these requirements, trees must be at least two inches caliper four feet above grade at the time of planting, be of a species common in the area and which reach an ultimate height of at least 20 feet when mature. Shrubs must be at least 12 inches in height at the time of building occupancy and be of a species common in the area. Live ground

cover, lawn grass or hedgerows may be substituted for shrubs as provided under Subsection **D(5)** below.

(5) Planting quantity and spacing.

- (a) Plantings shall consist of at least one shrub per five linear feet or 35 square feet of ground area, whichever results in a greater number of shrubs, and at least one tree per 40 linear feet of planting area length, except one tree per 30 linear feet of street frontage planting area abutting Routes 20 and 85.
 - (b) Planting layout. Plantings may be grouped, not evenly spaced, but groups of shrubs shall be spaced no further apart than 10 linear feet and groups of trees no further apart than 50 feet.
 - (c) Substitution of shrubs with lawn grass or ground cover. Shrubs required by this section may be substituted with live ground cover or lawn grass, but not bark mulch or nonplant ground surface material, under the following conditions. To be credited for substitution:
 - [1] The substitution may occur in the street frontage planting area but not in the side line or district boundary planting areas.
 - [2] The substitution must be in a contiguous area of not less than 100 square feet.
 - [3] No more than 50% of the total number of shrubs otherwise required in the entire frontage landscaped strip may be substituted in the above manner.
 - [4] No substitution may be made for tree plantings required by this section.
 - [5] The lawn grass or live ground cover must be properly maintained in presentable appearance. Additional areas of live ground cover or lawn grass may be provided in planting areas but cannot be used in substitution of the required number of shrubs or trees.
 - (d) Substitution of shrubs with hedgerow. Shrubs required by this section may be substituted in full by a continuous hedgerow not less than two feet high when planted and attaining a height of at least three feet within three years. Such substitution may be made in any planting area, provided that live ground cover or lawn grass is planted in the remainder of the planting area along with the hedgerow. Trees may not be substituted with hedgerows.
 - (e) Egress visibility. Plantings shall be located or trimmed to avoid blocking egress visibility. (See Subsection **N**, Sight Distance.)
- (6) Existing vegetation. Wherever possible, the above requirements shall be met by retention of existing plants, including as follows: If located within the street frontage planting area required by this section, no existing tree of six inches in caliper or greater (measured four feet above grade), dense hedgerow of four or more feet in

both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one foot unless required by plant health or access safety.

- (7) Curb protection of landscaping from vehicles. Except for single- and two-family dwellings, wherever landscaping areas are adjacent to parking areas or driveways, the landscaped areas shall be suitably protected by raised curbing to avoid damage to the plant materials by vehicles and by snowplows and to define the edge of the landscaped area. The edge of the landscaped area shall also be defined by tall stakes during winter season. Curb specifications for parking areas and driveways are included in § **650-49**.
- (8) Walls or fences. Walls or fences may not be substituted for plant materials to reduce the required planting area. A wall or fence may be added where a mass of plant materials would not provide an adequate screen, in which case planting shall be provided along the side of the wall or fence.

E. Street frontage planting area.

(1) Location and width.

- (a) A continuous landscaped strip shall be provided adjacent to the right-of-way line of any street (existing, proposed, paper, public or private) or highway, except for driveways or walkways located essentially perpendicular to the street frontage. This landscaped strip shall have a minimum width as prescribed below, provided that said minimum width shall be increased if required by provisions of Subsection **E(1)(b)** following, and also provided that, if the front yard (building setback) as built, not as required, is less than the width of the landscaped strip, then the landscaped strip may be reduced to not less than the depth of the front yard. Said minimum width shall be as follows.

[1] One- and two-family dwellings: the minimum width of the required front yard.

[2] Multifamily dwellings: the minimum width of the required front yard.

[3] Nonresidential uses and districts:

[a] Commercial and Automotive Districts: 10 feet.

[b] Other districts: 15 feet.

- (b) In nonresidential districts or where nonresidential uses or multifamily housing exist in a residential district, the street frontage landscaped strip shall have a greater width than the requirements of the above subsection by providing, where applicable, an additional one foot of width for each 20 feet or fraction thereof of street frontage over 100 feet in length. The maximum required width for said street frontage landscaped strip shall be 25 feet.

(2) (Reserved)

(3) Planting in right-of-way. The landscaped strip adjacent to the right-of-way required by this section must be located within the affected parcel, and state or City property within the right-of-way may not be used to meet the requirements of this section. However, wherever possible, the extension of grass or ground cover into said right-of-way is encouraged but must be approved on the landscaping plan and maintained by the owner of the affected parcel.

(4) Planting requirements.

(a) For other than residential uses in all districts, the street frontage planting area shall be planted with trees and shrubs according to Subsection **D**, Planting area requirements, entirely within the frontage planting strip next to the right-of-way.

(b) For residential uses in all districts, the required plantings shall consist of one shrub per five linear feet and one tree per 30 linear feet of frontage. Said plantings shall be located anywhere within the front yard.

(c) For one- and two-family dwellings, the plantings may be installed within one year of the issuance of the certificate of occupancy, provided that the dwelling is not built for profit or for the use and occupancy of the builder or developer. (See Subsection **M**, Inspection, date of completion and enforcement.)

F. Side line planting area. Side line planting areas are required with the following minimum widths.

(1) One- and two-family dwellings: No side line planting is required.

(2) Nonresidential and multifamily residential uses on lots with under 40,000 square feet of lot area: five feet.

(3) Nonresidential and multifamily residential uses on lots with over 40,000 square feet of lot area: seven feet.

(4) All lots where common driveways on the lot line are approved at site plan approval: No side line planting is required.

G. District boundary planting area. A district boundary planting is intended as a buffer or transition between different uses and shall be provided as follows:

(1) Location. District boundary planting is required in the following locations:

(a) Nonresidential parcels. On any nonresidential zoned or used premises along the full length of any boundary, which:

[1] Abuts a residential district;

[2] Is located across a street from a residential district; or

[3] Extends into a residential district and said premises are being developed for a use not allowed in that residential district, unless abutting property is unbuildable because of wetlands as determined by the Conservation Commission.

(b) Residential parcels. On any residentially zoned parcel to be used for residential purposes, along the full length of any boundary which abuts nonresidential zoned or used premises which are already developed in whole or part and do not contain said boundary planting.

(2) Width. The width of the district boundary planting area, located adjacent to the boundary, shall be sufficient to act as a buffer or transition between uses. Said width shall be determined at site plan approval but shall not be less than the widths prescribed in the table below:

Minimum Width of District Boundary Planting Area

| Lot Area (square feet) | Width Planting Area (feet) |
|-----------------------------------|---------------------------------------|
| Under 40,000 | 5 |
| 40,000 to 80,000 | 7 |
| 80,001 to 120,000 | 10 |
| Over 120,000 | 15* |

NOTE:

* For lots over 120,000 square feet in area, the minimum width shall be as provided in the table above plus an additional one foot of width for each 10 feet or fraction thereof of district boundary over 100 feet in length. The maximum required width for said district boundary planting area shall be 25 feet unless it is determined by the Planning Director at site plan approval that a greater width is required.

(3) Planting. Said planting area shall be densely planted with shrubs and trees at least four feet high when planted and of a type expected to form a year-round dense screen or wall at least six feet high within three years or by an opaque fence or wall at least six feet high supplemented by landscaping on the residential side of the fence.

(4) Topographic features. If the abutting parcel is presently visually separated by topographic features, the planting area shall be provided with the required width, but the plantings need not be installed until and unless said topographic features are removed.

H. Parking lot planting area.

- (1) Perimeter of parking lot. On at least three sides of the perimeter of an outdoor parking lot containing 10 or more parking spaces, there shall be a planting area or strip with a minimum width equal to the width required for side line planting areas under Subsection **F** above, except that, where the perimeter is along the street frontage or district boundary, the planting areas shall have the larger dimensions required by this section. The plantings in the perimeter area shall be according to Subsection **D**, Planting area requirements.
- (2) Interior of lot.
 - (a) A minimum of 3% of the interior area of a parking lot containing a total of 50 or more spaces must be planted as landscaped islands or areas exclusive of perimeter landscaping. The interior area of the lot shall be computed as the paved area excluding all parking spaces abutting the perimeter of the parking lot.
 - (b) Planting on landscaped islands. Planting islands or areas on the interior of a parking lot shall each contain not less than 100 square feet of unpaved soil area and have a minimum dimension of seven feet. Each island shall be planted with at least one tree and four shrubs. A minimum of one tree and four shrubs, exclusive of perimeter plantings, must be planted for every 12 cars in the interior area of the parking lot.
 - (c) Location of landscaped islands. The landscaped islands shall be contained within or project into a parking lot and be so located that some part of every parking space is not more than 45 feet from a landscaped area on the perimeter or interior of the parking lot. See the Landscaping and Screening Diagram at the end of this chapter for alternative layouts.
 - (d) Protection of landscaped islands. Each such landscaped island shall be surrounded by curbs at least six inches high for protection from vehicles, and the area may be used to locate fire hydrants.
- (3) Site plan approval. The above requirements shall be complied with to the extent practicable. Grouping of landscaped islands into larger landscaped areas may be allowed if the result meets the intent of this section as interpreted by the City Planner at site plan approval.
- (4) Within a Limited Industrial District, the requirements of Subsection **H(2)** may be suspended for the development of a shopping mall or a retail lot when approved by the City Council, as provided in § **650-59**, in writing, provided that the City Council finds that, at the perimeter of the development lot or a retail lot, the strip required under Subsection **H(1)** is increased by a minimum of 125% of the area that would be devoted to the islands under Subsection **H(2)** if the requirements of Subsection **H(2)** were applicable to the development lot or a retail lot.

I. Screening of parking lots from residential uses. In all residential districts or on a lot used for residential purposes the following provisions shall apply: Any outdoor parking lot containing five or more parking spaces, all loading bays, maneuvering aisles and driveways shall be screened in a manner to protect abutting residential lots from the glare of headlights, noise and other nuisance factors by the following screening:

- (1) A planting area not less than seven feet wide adjacent to the parking lot, densely planted with shrubs and trees at least four feet high when planted and of a type expected to form a year-round dense screen at least six feet high within three years; or
- (2) A fence or wall of uniform appearance at least six feet high above the parking lot surface. Such wall or fence may be supplemented by planting and shall be located at least seven feet away from any parking or loading space to allow for vehicle overhang or snow clearance. Such wall or fence may be opaque or perforated, provided that no more than 50% of the fence face is open. If snowdrifts are likely, the fence shall be designed accordingly.

J. Screening of other use areas within lots.

- (1) Outdoor storage and loading areas, refuse disposal.
 - (a) All outdoor storage areas for nonresidential uses in all districts, all loading areas for nonresidential uses located in a residential districts and all facilities for refuse disposal for all uses in all districts, except one- and two-family houses, shall be screened from view at normal eye level from any residential living unit, public or private street, common parking lot or adjoining lot residentially used or zoned to the extent practicable. Refuse storage areas shall be located no closer to the property line than the applicable setback requirements for accessory buildings.
 - (b) Screening shall consist of a solid wall or fence compatible with surrounding architecture and materials, of a height sufficient to completely screen the area at the time of installation but not less than six feet high. The fence or wall may be supplemented but not replaced by plantings.
- (2) Mechanical equipment. Wherever possible, in all districts on nonresidential properties all air-conditioning equipment, transformers, elevator equipment or similar mechanical equipment on any roof or building or on the ground shall be screened from public view to the maximum extent practicable.
- (3) Transfer, equipment lockers and underground installation of utility lines. In all districts when electric, telephone and all other utility lines or cables are proposed to be extended or relocated in connection with the development or redevelopment of land or a building for nonresidential purposes, they shall be installed underground. Transformers and other equipment located above ground shall be screened from public view by planting or fencing.

(4) Exterior lighting.

(a) All artificial lighting used to illuminate a parking or storage area, maneuvering space or driveway shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property.

(b) The level of illumination of lighting for parking and loading areas shall be low so as to reduce the glow of ambient lighting perceptible at nearby properties or streets.

K. Retaining walls and embankment stabilization. Retaining walls and embankments requiring stabilization, visible from the exterior of the lot, shall utilize natural rock material for facing where practical and technically feasible and shall be planted with suitable shrubs at not less than one plant per 50 square feet to enhance appearance.

L. Maintenance.

(1) The owner of the lot shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with the approved landscaping plan required under Subsection C.

(2) All plant materials required by this section shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Bark mulch and nonplant ground surface materials allowed by the section shall be maintained so as to control weed growth. Dead plantings shall be replaced with new live plantings of the required size and quantity at the earliest appropriate season. Shrubs and live ground surface plant materials, such as grass or ground cover, shall be properly maintained in presentable appearance or replaced in kind at the earliest appropriate season.

(3) Plantings shall be selected and designed so as not to require high water use for maintenance. If grassed lawn areas or thickly planted shrubs or ground cover are used in the street frontage planting areas, a permanent water supply system, sufficient to serve the landscaped areas, shall be provided by the installation of a sprinkler system and/or hose bibs placed at appropriate intervals.

(4) Fences and walls shall be maintained in good repair and presentable appearance or replaced.

M. Inspection, date of completion and enforcement.

(1) The landscaping plan and plantings, as approved, shall be completed and installed according to specifications prior to the issuance of a certificate of occupancy for any residential or nonresidential use or building, other than for single-family houses. If the completion of the structure occurs after the planting season has passed, only a temporary certificate of occupancy may be issued until the landscaping is completed.

- (2) For single-family houses the same provisions shall apply, except that, for those houses not built for profit or for the use and occupancy of the builder or developer, the landscaping shall be completed within one year after the issuance of the certificate of occupancy.
- (3) If at any time after the issuance of a certificate of occupancy the landscaping of any parking or vehicular area to which this section is applicable is found to be in nonconformance, notice shall be issued to the owners that corrective action is required to be in compliance with this section and shall describe what action is necessary to comply. The owners shall have 30 days to fulfill the landscaping requirements. Failure to comply within the allotted time shall be considered a violation of this section.
- (4) At the time of site plan approval, a bond may be required to ensure the satisfactory planting of required landscaping and to ensure the survival of such landscaping for up to 18 months following such planting.

N. Sight distance.

- (1) Measurement. In order to provide an unobstructed sight distance for motorists, there shall be no obstruction as described below within a triangle which measures at least 25 feet on two sides of the intersection of a street with another street or a driveway, interior drive or bikeway. The triangle shall be measured from the point of intersection or, in the case of a rounded corner, the point of intersection of the tangents, in a direction away from the intersection for a distance of at least 25 feet along the street right-of-way line; along the side line of the other street, driveway, interior drive or bikeway for a distance of at least 25 feet; and by a third line connecting these two points.
- (2) Obstruction. The word "obstruction," as used in this section, shall mean anything erected, placed, planted or allowed to grow in such a manner as to impede vision for motorists between a height of two feet and eight feet above the grade of the center line of the street and the intersecting street, driveway, interior drive or bikeway.
- (3) Ground elevation. In all cases of new construction and in other cases when deemed necessary by the permitting authority, ground elevation (hills, embankments, etc.) shall be considered as an obstruction to sight requirements if said elevation is higher than the two feet put forth above within the prescribed area.
- (4) Illustration. The illustration of sight distance is included at the end of this chapter.

O. Nonconforming landscaping and screening.

- (1) Any landscaping, screening and fencing legally provided or erected and conforming to the requirements of this section when so erected may continue to be maintained, even though as a result of changes to this section the landscaping and screening no longer conforms to its requirements, provided that such landscaping and screening

shall not be reduced, enlarged, redesigned or altered except so as to make them conform to said requirements, and further provided that any such landscaping and screening which has been destroyed or damaged to such an extent that the cost of restoration would exceed 50% of the replacement value of the landscaping and screening at the time of destruction or damage shall not be repaired, rebuilt or altered, except so as to make such landscaping and screening conform to the requirements of this section.

- (2) The exemption for nonconforming landscaping and screening and fencing herein granted shall terminate with respect to any landscaping and screening which shall:
 - (a) Have been abandoned; or
 - (b) Not have been repaired or properly maintained for at least 60 days after notice to that effect has been given by the Building Inspector.

P. Exceptions. Where plant materials required by this section would harmfully obstruct a scenic view, substitution of additional low-level plantings which will visually define the street edge or property line may be authorized on the landscaping plan required by Subsection **D**, provided that proposed buildings are also designed and located to preserve that scenic view.

§ 650-48. Off-street parking.

- A. In all zoning districts, permanently maintained off-street parking shall be provided as part of the plan for any new construction as follows:
 - (1) Stores and shops for the conducting of retail business shall provide one parking space, 350 square feet, for each 100 square feet of public floor space or area.
 - (2) Theaters, stadiums, auditoriums, halls, undertaking establishments or other places of public assembly, excluding churches, shall provide one parking space for each two legal occupants.
 - (3) Hospital or nursing home: one space for each two beds.
 - (4) Boardinghouse, lodging house, inn, hotel or motel: one space for each room.
 - (5) Offices and banks shall provide one parking space for each 250 square feet of office space or area.
 - (6) Industrial and manufacturing establishments shall provide one parking space for each three workers based on peak employment and adequate space for loading and unloading all vehicles used incidental to the operation of the establishment.
 - (7) Multifamily dwellings: one off-street parking space per dwelling unit, plus one off-street parking space per bedroom; apartment buildings shall provide two off-street

parking spaces for each dwelling unit over and above access roadways and maneuvering.

- (8) Home occupation: one off-street parking space for each nonresident employee and two additional spaces.
- (9) All parking spaces, other than for single-family dwellings, shall be provided with adequate fencing to prevent the creation of a nuisance to abutters from headlights of cars entering and leaving the property.
- (10) Any other nonresident uses not otherwise covered in this chapter: Minimum requirements as shall be determined by the Building Inspector must be adequate to serve the customers, patrons or visitors and the employees of such use.
- (11) Clubs, restaurants, taverns and other eating places shall provide one parking space for every three seats, plus one space for every three employees.
- (12) Residential conference and training center: two parking spaces for each three bedrooms.
- (13) Shopping mall shall provide a minimum of one parking space for each 225 square feet of gross leasable area. Retail stores, shops, restaurants and service establishment uses, excluding automotive service establishments (such as gasoline filling stations and places for the repair and service of motor vehicles), on a retail lot shall provide a minimum of one parking space for each 225 square feet of gross leasable area.
- (14) A large tract development shall provide one parking space for each 333 square feet of office space or area. For purposes of this section, structured off-street accessory parking areas, areas used for employee amenities (including, but not limited to, cafeterias, lounges, fitness centers, convenience stores, and bank teller machines), and rooms for mechanical equipment, including but not limited to telephone, heating, air-conditioning or other mechanical equipment, shall not be considered as office space or area.

B. Application of parking requirements.

- (i) Approvals and permits.
 - (a) Site plan approval. No driveways, curb cuts or parking areas (whether such parking areas are required or not) shall be created, graded or constructed of any material, through expansion or otherwise, without receiving prior site plan approval.
 - (b) Permits. No permit shall be issued for the erection of a new structure, the enlargement of an existing structure or the development of a land use, unless the plans show the specific location and size of the off-street parking required to comply with the regulations set forth in this Zoning Ordinance and the means of access to such space from public streets. In the event of the enlargement of an

existing structure, the regulations set forth in the Zoning Ordinance shall apply only to the area added to the existing structure.

- (2) Buildings and land uses in existence on the effective date of this chapter are not subject to these parking requirements, but any parking facilities then serving or thereafter established to serve such buildings or uses may not in the future be reduced below these requirements.
- (3) Common parking areas and mixed uses. Parking required for two or more buildings or uses may be provided in combined parking facilities where such facilities will continue to be available for the several buildings or uses and provided that the total number of spaces is not less than the sum of the spaces required for each use individually, except that said number of spaces may be reduced by up to 1/2 such sum if it can be demonstrated that the hours or days of peak parking need for the uses are so different that a lower total will provide adequately for all uses served by the facility. The following requirements shall be met:
 - (a) Evidence of reduced parking needs shall be documented and based on accepted planning and engineering practice satisfactory to the City Planner and Engineer.
 - (b) If a lower total is approved, no change in any use shall thereafter be permitted without further evidence that the parking will remain adequate in the future, and if said evidence is not satisfactory, then additional parking shall be provided before a change in use is authorized.
 - (c) Evidence of continued availability of common or shared parking areas shall be provided satisfactory to the City Solicitor and shall be documented and filed with the site plan.
 - (d) The determination of how a combined or multi-use facility shall be broken down into its constituent components shall be made by the Planning Department.
 - (e) If any reduction in the total number of parking spaces is allowed as a result of this subsection, then 150 square feet of open space (per parking space reduced) shall be provided in addition to that required by lot coverage provisions of this chapter.
- (4) Temporary parking reserve. Where it can be demonstrated that a use or establishment will temporarily need a lesser number of parking spaces than is required (such as phased occupancy of large new facilities), the number of such spaces required may be reduced by not more than 50%, subject to the site plan approval, provided that the following requirements are met:
 - (a) The applicant shall submit documentary evidence that the use will temporarily justify a lesser number of spaces for a period of time not less than one year.
 - (b) A reserve area shall be provided sufficient to accommodate the difference between the spaces required and the lesser number provided.

- (c) Said reserve area shall be maintained exclusively as landscaped area and shall be clearly indicated as "Reserve Parking Area" on the site plan.
- (d) The landscaping may either consist of existing natural vegetation or be developed as a new landscaped area, whichever is granted site plan approval.
- (e) No structure or mechanical equipment may be placed in the reserve parking area.
- (f) Said reserve area shall not be counted toward the minimum open space required by lot coverage provisions of this chapter.
- (g) When in the opinion of the Building Inspector additional parking is required, said reserve area may be required to be improved as a parking lot.

C. Location and layout of parking facilities.

- (1) Required off-street parking facilities shall be provided on the same lot as the principal use they are required to serve. The required parking areas may be provided on any lot under the same ownership and within 400 feet of the building or structure to be served.
- (2) The requirement that parking areas be provided within 400 feet of the building or structure to be served set forth in Subsection **C(1)** above shall not be applicable to parking provided on a large tract development lot. Parking areas provided on a large tract development lot shall be within 600 feet of the nearest building or structure to be served.
- (3) Full-size parking dimensions. The minimum dimensions of full-sized parking stalls and aisles shall be as indicated in the Table of Parking Dimensions: Full-Sized Spaces. [See Subsection **C(4)** below for compact-sized spaces.] The complete stall dimensions shall be paved and no deduction shall be obtained for bumper overhang.

Table of Parking Dimensions: Full-Sized Spaces

| Angle of Parking (degrees) | Width of Parking Space (feet) | Depth of Parking Space (feet) | Width of Maneuvering Aisle* | |
|----------------------------|-------------------------------|-------------------------------|-----------------------------|--------------|
| | | | 1-way (feet) | 2-way (feet) |
| 61° to 90° | 9 | 18 | 24 | 24 |
| 46° to 60° | 9 | 18 | 18 | 20 |
| 45° | 9 | 18 | 15 | 20 |

Table of Parking Dimensions: Full-Sized Spaces

| Angle of Parking (degrees) | Width of Parking Space (feet) | Depth of Parking Space (feet) | Width of Maneuvering Aisle* | |
|-----------------------------------|--------------------------------------|--------------------------------------|------------------------------------|---------------------|
| | | | 1-way (feet) | 2-way (feet) |
| Parallel | 9 | 20 | 12 | 20 |

NOTES:

* Aisle widths may be different than driveway widths. For driveway width requirements, see § 650-49C(1) and D(1).

(4) Compact-sized parking spaces.

- (a) Applicability. This subsection shall apply only to parking lots primarily used by employees or residents occupying the site in question and shall not apply to parking areas used by the general public and/or having constant turnover, such as shopping centers, unless authorized at site plan approval based upon determination that safety will be adequately protected and that commonly employed engineering and planning standards have been met in full.
- (b) Percentages. Up to 33% of parking spaces may be designed for use by cars smaller than full size, hereinafter called "compact cars."
- (c) Additional open space required. For any reduction in total parking area obtained as a result of using compact-sized spaces, an equal or greater area of open space shall be provided in addition to the minimum open space required by the lot coverage provisions of the chapter.
- (d) Location. Compact-sized parking spaces, unless restricted for use by and located adjacent to a dwelling unit, shall be located in one or more continuous areas and shall not be intermixed with spaces designed for full-sized cars.
- (e) Identification. Compact-sized parking spaces shall be clearly designed by pavement marking and by direction signs in conformance with the Sign Ordinance, Chapter **526**, and labeled as "Compact Cars Only."
- (f) Dimensions. The minimum dimensions of compact-sized parking stalls and aisles shall be as indicated in the Table of Parking Dimensions: Compact-Sized Spaces. [See Subsection **C(3)** above for full-sized spaces.] The complete stall dimension shall be paved and no deduction shall be obtained for bumper overhang.

Table of Parking Dimensions: Compact-Sized Spaces

| Angle of Parking (degrees) | Width of Parking Space (feet) | Depth of Parking Space (feet) | Width of Maneuvering Aisle* | |
|----------------------------|-------------------------------|-------------------------------|-----------------------------|--------------|
| | | | 1-Way (feet) | 2-Way (feet) |
| 61 to 90 | 8 | 16 | 22 | 22 |
| 46 to 60 | 8 | 16 | 18 | 18 |
| 45 | 8 | 16 | 15 | 18 |
| Parallel | 8 | 18 | 12 | 18 |

NOTES:

* Aisle widths may be different than driveway widths. For driveway width requirements, see § 650-49C(1) and D(1).

(5) Parking setbacks. For purposes of maintaining adequate, open landscaped space in yards, adequate separation of parking and driveways from lot boundaries, streets and buildings and adequate space for snow stockpiling, the following provisions shall apply:

(a) Parking in front yard.

[1] One- and two-family dwellings. Off-street parking shall not be permitted in the area between the front lot line and the prescribed minimum front yard (building setback line), except on a driveway not exceeding 24 feet in width located essentially perpendicular to the front lot line and authorized at site plan approval. This provision may also apply where three or more dwelling units are provided through conversion of a one- or two-family dwelling, subject to site plan approval.

[2] Multifamily residential uses. Off-street parking shall not be permitted in the area between the front lot line and the prescribed minimum front yard (building setback line).

[3] Nonresidential uses. Where a front yard is required, off-street parking shall be allowed no closer than the minimum distances from the front lot line prescribed in § 650-47E governing the requirement for a street frontage planting area.

[4] Districts or areas where no front yard is required. In districts or areas where no front yard is required parking areas shall be set back at least five feet from the front lot line, and said setback shall be landscaped.

(b) Parking in side and rear yard. Parking areas shall be set back the following minimum distance from any side or rear lot line:

[1] One- and two-family dwellings: five feet.

[2] Multifamily residential uses in all districts: The minimum distance for parking setback from side and rear lot lines shall be the same as the minimum width required for side line planting areas as prescribed in § **650-47F**.

[3] Nonresidential uses in all districts: The minimum distance for parking setback from side and rear lot lines shall be the same as the minimum width required for side line planting areas as prescribed in § **650-47F**.

[4] All lots where common driveways are approved on the lot line at site plan approval: No minimum width.

(c) Parking setback from building. No parking space shall be located within five feet of a building.

(d) Parking in rights-of-way. No parking space shall be located on land which is reserved as a vehicular right-of-way, whether developed or undeveloped or whether public or private.

(6) (Reserved)

(7) Parking areas shall not be used for automobile sales, gasoline sales, dead storage, repair work, dismantling or servicing of any kind, and lighting that is provided shall be installed in a manner that will prevent direct light shining onto any street or adjacent property.

(8) Access to parking spaces.

(a) Backing into street. In no case shall parking or loading stalls be so located as to require the backing or maneuvering of vehicles onto the sidewalk or into a public way upon entering or leaving the stall, except for single- or two-family houses. An exception may also apply where three or more dwelling units are provided through conversion of a one- or two-family dwelling, subject to site plan approval.

(b) Access to nonresidential and multifamily residential parking spaces. All required parking spaces serving nonresidential or multifamily residential uses shall be so arranged as to permit vehicle access and egress to any space when all other required spaces are filled.

D. Construction of parking and loading areas.

- (1) Paving type. All parking spaces, loading bays and maneuvering aisles shall have a durable, dustless, all-weather surface suitable for year-round use and acceptable to the City Engineer and the Building Inspector, such as bituminous concrete or cement concrete.
- (2) Parking grades. The maximum grade of any parking or loading area shall be 5%.
- (3) Paving drainage. All paving shall be designed and constructed in such a manner that the amount of surface water draining onto any public way or onto any lot in other ownership, other than through a drainage easement or stream, shall be minimized.
- (4) Striping of parking spaces. All parking spaces, except those for single- and two-family houses, must be clearly striped and remain striped at the required dimensions and locations as shown in an approved site plan.
- (5) Curbing required. For purposes of protecting landscaped and pedestrian areas next to parking or driveways from damage by vehicles and snowplows and to assure proper maintenance and drainage, all parking lots and loading areas, except those for single- or two-family houses, shall be provided with durable curbing a minimum of six inches high, as follows:
 - (a) Granite or cement concrete. Said curbing shall be constructed of cement concrete or better subject to site plan approval in the following areas:
 - [1] In heavily used areas of multifamily residential and nonresidential parking lots.
 - [2] In all loading areas.
 - [3] Surrounding all landscape islands or landscape projections within parking lots.
 - [4] Sloped granite may only be used in areas approved at site plan approval.
 - (b) Asphalt. In all other areas, the curbing may be asphalt if approved at site plan approval.
- (6) Driveways. See § **650-49** for the provisions for driveways.

§ 650-49. Driveways and curb cuts.

A. Purpose and objectives.

- (1) Purpose. The purpose of this section is to ensure adequate access for traffic generated by development and for emergency vehicles; to increase public safety for vehicles and pedestrians; and to reduce traffic congestion, dust and erosion within the development and in adjacent public ways.

- (2) Objectives. The means to accomplish this purpose shall include reducing the number of driveway openings onto public streets; regulating the spacing, design and construction of driveways; requiring joint or shared use of driveways; and requiring off-site improvements where appropriate as specified in the following subsections.

B. All driveways. All driveways for all uses in all districts shall comply with the following minimum requirements:

- (1) Road opening/curb cut permit required.

- (a) Anyone wishing to construct a driveway on a lot having frontage on a public way or a way which the Clerk of the City certifies is maintained and used as a public way or a way shown on a plan heretofore approved and endorsed in accordance with the Subdivision Control Law or a way in existence when the Subdivision Control Law became effective in the City having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic, shall first obtain site plan approval followed by a road opening/curb cut permit from the City Department of Public Works.
- (b) In all cases, said permit shall be limited to the project granted site plan approval. Any substantial change in use of the curb cut (see below) shall require modification of the permit or application for a new permit which may contain new restrictions. "Substantial change" shall mean an increase of 10% or more in vehicle trips caused by expansion of the project or by a change of use from one use category to another as listed in § **650-48** of this chapter, or by addition of a drive-through facility, or a substantial impact on traffic caused by a change in the type, pattern or timing of such traffic.

- (2) Location.

- (a) Driveways per frontage. Driveway locations and number shall be subject to site plan approval, with the specific intent of meeting the purpose and objectives listed in Subsection **A** above. Where appropriate, particularly in commercial areas, joint driveways shall be required where practicable. There shall be no more than one driveway street connection for lots with less than 200 feet of frontage and not more than one additional driveway for each 200 feet of frontage in excess of 200 feet, unless granted site plan approval for an alternative configuration based upon determination that public safety will be adequately protected and that commonly employed engineering and planning standards have been met in full.
- (b) Distance from property line. The edge of the driveway shall be located no closer than the minimum distance governing parking areas as provided for under § **650-48C(5)**.
- (c) Distance from building. No driveway shall be located within five feet of a building, except for driveways intended for drive-up window service, which shall be subject to site plan approval.

- (d) Distance from hydrant. Within the street right-of-way, the paved edge of the driveway shall be no closer than 15 feet to a hydrant unless otherwise granted site plan approval based upon determination that public safety will be adequately protected.
- (3) Grades.
- (a) Elevation at street. The elevation of the finished grade of the driveway at the right-of-way line of the street shall be equal to the elevation of the center line of the traveled way directly opposite the opening.
 - (b) Within street layout. In the event the horizontal distance from the edge of the existing street pavement to the side line of the street is five feet or less, the grade of that area lying between the edge of the traveled way and the side line of the street shall have a minimum, positive grade of 3% from the edge of the traveled way for a horizontal distance of not less than five feet. See also Subsection **B(3)(a)** above.
 - (c) Outside street layout. No driveway outside the street right-of-way shall exceed a positive or negative grade of 3% for a distance at least 15 feet, and 12% for a distance of at least 40 feet from the street right-of-way. Beyond said 40 feet, the grade of a minor driveway shall not exceed 15%, but major driveways shall in no case exceed a grade of 12%.
- (4) Paving material.
- (a) Within street. All driveway openings shall be paved with a minimum of three inches of bituminous concrete between the traveled way and the side line of the street. If the area between the traveled way and the side line of the street includes a cement concrete sidewalk, the new driveway apron shall also be cement concrete for at least the width of the sidewalk. The cost of this work shall be borne by the owner of the driveway.
 - (b) Outside street. All driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as bituminous concrete or cement concrete or pavers or other approved impervious material. Driveways to commercial, industrial and multifamily residential units shall in all cases be paved. Alternatives for single-and two-family houses must be approved by the Building Inspector and City Engineer.
- (5) Utilities relocation. The cost of any relocation of existing, City-owned and maintained utilities, mains and services due to the construction of a new driveway or repair or modification to an existing one shall be borne by the owner of the driveway.
- (6) Paving drainage. All paving shall be designed and constructed in such a manner that the amount of surface water draining onto any public way or onto any lot in other ownership other than through a drainage easement or stream shall be minimized.

- (7) Maximum curb opening. The maximum width of any curb opening measured at the street line shall be 25 feet, not including the driveway returns, unless authorized by the City Engineer and City Planner at site plan approval based on safety and planning considerations.
- (8) Sight distance. The location of all driveways shall have adequate sight distance as required by § **650-47N**.

C. (Reserved)

D. Major driveways. "Major driveways" shall be defined as driveways likely to carry more than 200 vehicle trips per day. A "motor vehicle trip" shall be as defined in Article II of this chapter. Major driveways shall comply with the following requirements:

- (1) Dimensional requirements. The following requirements shall be met unless granted site plan approval for an alternative configuration based upon determination that safety will be adequately protected and that commonly employed engineering and planning standards have been met in full:

Dimensional Requirements for Major Driveways

| Minimum Requirement | On Route 20 | On Route 85 | Other Locations |
|--|--------------------|--------------------|------------------------|
| Sight distance of exiting vehicle at edge of traveled way (feet) | 400 | 300 | 200 |
| Center-line separation: | | | |
| Between 2 major driveways or between a major driveway and intersecting street (feet) | 200 | 150 | 100 |
| Between major and minor driveway | Case-by-case | | |
| Traveled width (feet)* | | | |
| 2-way** | 24 | 24 | 24 |
| 1-way*** | 15 | 15 | 15 |
| Curb radius (feet) | 40 | 30 | 20 |
| Acceleration/ deceleration lanes required | Yes | Yes | Case-by-case |

NOTES:

* Traveled width may be required to be greater if necessitated by traffic volume or safety considerations or smaller if justified by engineered design.

** See Subsection C(6) of this section, titled "Parking restrictions."

*** One-way width must be increased if driveway is used as parking aisle. See § **650-48C(3)** and **(4)** for parking aisle dimensions.

(2) Obligations. The City may require, as a condition of site plan approval, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening to a safe width accessways leading to a development and that the developer either make physical improvements within such way or compensate the City for the cost of such improvements.

(3) No lot division. No existing parcel shall be divided into lots with frontage which would preclude meeting the driveway separation requirements, unless access rights-of-way are deeded to enable shared egress.

(4) Shared access and egress. The requirements of Subsection C(1), Dimensional requirements, above, may be met by means of shared or common driveways. (See § **650-49**.)

(5) Curbing. Vertical granite curbing shall be required beside driveways within the street right-of-way or sloped curbing subject to site plan approval. Said granite curbing shall also be required outside the right-of-way extending from the right-of-way continuously along the driveway as far as any parking area, but in no case more than 35 feet, unless otherwise required by provisions of § **650-48D(5)**.

(6) Parking restrictions. A major driveway shall not be used as a parking lot aisle, and no parking spaces shall be permitted requiring vehicles to reverse into a major driveway, unless the driveway is likely to carry less than 500 vehicle trips per day, and unless granted site plan approval based upon determination that public safety and traffic flow will be protected, such as by substantially increasing the driveway width.

E. Minor driveways. "Minor driveways" shall be considered as driveways likely to carry less than 200 vehicle trips per day. Minor driveways shall be governed by the following minimum requirements:

(1) Dimensional requirements. The following requirements shall be met unless granted site plan approval for an alternative configuration based upon determination that safety will be adequately protected and that commonly employed engineering and planning standards have been met in full:

Dimensional Requirements for Minor Driveways

Uses Generating the Following Number of Vehicle Trips Per Day

| Minimum Requirement | Under 10* | 10 to 50 | Over 50 |
|---|------------------|-----------------|----------------|
| Center-line separation (feet): | | | |
| Between minor driveway and intersecting street | 75 | 75 | 75 |
| Between two minor driveways in nonresidential area | 50 | 50 | 75 |
| Between two minor driveways in 1- or 2-family residential areas | 30 | 30 | 50 |
| Traveled width (feet)** | | | |
| 2-way *** | 12 | 18 | 24 |
| 1-way *** | 12 | 15 | 15 |
| Curb radius (feet) | 9 | 10 | 15 |

NOTES:

- * Including one- and two-family dwellings.
- ** Traveled width may be required to be greater if necessitated by volume or safety considerations or smaller if justified by engineered design.
- *** Width must be increased if driveway is used as parking aisle. See § **650-48C(3)** and **(4)** for parking aisle dimensions.

F. Common driveways. Common or shared driveways shall be permitted, provided that they meet the following requirements:

- (1) Purpose and approval. A common driveway shall not be permitted unless said driveway is determined at site plan review and approval to provide a reasonable public benefit which would not otherwise be obtained without use of a common driveway. Said benefit or purpose may include reduction in the number of curb openings or driveways onto major streets or at unsafe or unsuitable locations which can be avoided by provision of common or shared driveways.

- (2) Number of single-family lots. No more than five single-family residential lots shall be served by a common or shared driveway, unless permitted under the provisions of the Subdivision Control Law or under an approved site plan as provided for in this chapter. Notwithstanding the foregoing, owners of lots developed under an approval-not-required plan in accordance with and permitted by Massachusetts General Laws may use a common driveway for more than five residential structures, provided that such driveway meets minimum road standards of the City as specified in the Rules and Regulations of the Planning Board for Subdivisions, unless such standards are modified during site plan review.
- (3) Number of lots other than single-family lots. The number of lots, other than single-family lots, shall be determined on a case-by-case basis, based upon determination that safety will be adequately protected and that commonly employed engineering and planning standards have been met in full.
- (4) Frontage. Common driveways may never be used to satisfy zoning frontage requirements. All the proposed building lots must have frontage on an acceptable way as defined in MGL c. 40, § 81L, and each lot frontage must also provide the possibility of independent practical access from the proposed structure or use to the way without using a common driveway.
- (5) Point of access. Access obtained by way of easement over an abutting lot shall only be authorized by site plan approval.
- (6) Covenants. Provisions for proper maintenance of common driveways shall be included in covenants and deed restrictions which shall be recorded.
- (7) Construction. Common driveways must meet the dimensional and construction standards of major or minor driveways, as applicable.

§ 650-50. (Reserved)

§ 650-51. (Reserved)

§ 650-52. (Reserved)

§ 650-53. (Reserved)

§ 650-54. (Reserved)

§ 650-55. (Reserved)



Chapter 551. STREETS AND SIDEWALKS

ARTICLE I. Miscellaneous Provisions

- § 551-1. Street names.
- § 551-2. Driveways, openings and curb cuts.
- § 551-3. License fee.
- § 551-4. Issuance dates of license.
- § 551-5. Contents of license.
- § 551-6. Conditions of license.
- § 551-7. Copy of license to be kept.
- § 551-8. Responsibility for damages.
- § 551-9. Repair of streets within three years of activity.
- § 551-10. Unnecessary obstructions; restoration.
- § 551-11. Issuance to previous violators.
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- § 551-24. Moving of buildings.
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ARTICLE II. Obstructions Over Sidewalks

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ARTICLE III. Repairs on Private Ways

- § 551-37. Temporary repairs by City personnel.

[HISTORY: Adopted by the City Council of the City of Marlborough as Secs. 17-1 and 17-3 through 17-36 of the 1965 Code (Ch. 172 of the 1986 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Building and site development — See Ch. 270.

Fire lanes and fire hydrants — See Ch. 333.

Littering — See Ch. 406.

Numbering of property — see Ch. 439.

Peace and good order — See Ch. 462.

Poles, wires and conduits — See Ch. 473.

Article I. Miscellaneous Provisions

§ 551-1. Street names.

- A. The several streets in the City shall continue to be called and known by the names by which they are now called and known, until the same shall be altered by the City Council. The City Council may change or alter the name of any street, highway or public place. The Council shall establish the names of all streets, highways and public places hereafter laid out and accepted by the City, or by any other authority within the City, and shall cause signposts to be erected, designating the names.
- B. Effective March 1, 1986, and thereafter, all newly accepted streets, all newly built and/or heretofore unnamed schools, parks and other publicly owned buildings shall be named after deceased Marlborough residents who were veterans of declared wars and/or armed conflicts.

[Added 2-10-1986 by Ord. No. 86-784]

§ 551-2. Driveways, openings and curb cuts.

[Amended 12-7-1970 by Ord. No. 10036; 1-26-1976 by Ord. No. 15358]

- A. The Commissioner of Public Works may grant licenses in writing on the prescribed license form to persons having authority in the premises to open, occupy, obstruct, encumber and use parts of any public way for the purpose of installation or repair of a utility, driveway curb cuts or roadway curb cuts.
- B. Driveways.

[Amended 12-16-1985 by Ord. No. 85-192A]

- (1) Driveway openings shall be at least 10 feet but not more than 24 feet in width measured at and perpendicular to the side line of the street.

- (2) The elevation of the finished grade of the driveway at the side line of the street shall be equal to the elevation of the center line of the traveled way directly opposite the opening. In the event that the horizontal distance from the edge of the existing pavement to the side line of the street is five feet or less, the grade of that area lying between the edge of the traveled way and the side line of the street shall have a minimum positive grade of 3% from the edge of the traveled way for a horizontal distance of not less than five feet.
 - (3) No driveway shall exceed a grade of 9%.
 - (4) Paving.
 - (a) All driveway openings shall be paved with a minimum of three inches of bituminous concrete between the traveled way and the side line of the street, as directed by the Commissioner of Public Works.
 - (b) The cost of paving shall be borne by the owner of the driveway.
 - (5) Proposed driveways.
 - (a) The cost of any relocation of existing, City-owned and maintained utilities, mains and services due to the construction of a new driveway or repair to an existing one shall be borne by the owner of the driveway.
 - (b) The limits of any proposed driveway shall not fall within 65 feet of the intersection of the center line of intersecting streets.
- C. A minimum accessway of at least 30 feet in width is required for any and all multifamily dwellings. All curb cuts shall not be within 65 feet of the intersection of the center line of intersecting streets.
- D. On state highways, street or driveway curb cuts must be obtained from the State Department of Public Works.
- E. Subdivision street curb cuts must comply with applicable Planning Board rules and regulations.
- F. The licensee, under Chapter **270** *Editor's Note: Reference in the original ordinance was to § 63-21 in the 1986 Code, which has been repealed.* of the Code of the City of Marlborough, as amended, may be required to supply appropriate plans or sketches along with the application to adequately explain the specific work involved.
- G. The Commissioner of Public Works may require, as a license restriction, that the licensee provide that a traffic control officer be present during working hours.

§ 551-3. License fee.

[Added 5-5-1980 by Ord. No. 20309] Each license issued under the provisions of § 551-2 of this chapter shall be subject to a fee of \$10.

§ 551-4. Issuance dates of license.

[Added 6-17-1985 by Ord. No. 85-369; amended 1-12-1987 by Ord. No. 87-1367] Licenses referred to under the provisions of § 551-2 of this chapter shall be issued from April 1 through and including November 30. No license shall be issued from December 1 through March 31, except in cases of emergency as approved in writing by the Commissioner of Public Works or by majority vote of the City Council.

§ 551-5. Contents of license.

Every license referred to in § 551-2 shall specify the time, place, size and use of such opening, occupation or obstruction and the time within which the street shall be put in a condition satisfactory to the Commissioner of Public Works. The Commissioner may, in addition to the specifications, specify in the license or after the issuing thereof, in writing, the kind of rail or fence to enclose the place and the kind of way over or around such place and the manner of constructing the same. Nothing herein contained shall be constructed to prevent the insertion in the license of any other specifications deemed advisable by the Commissioner of Public Works.

§ 551-6. Conditions of license.

Each license granted under the provisions of § 551-2 shall be upon the following conditions:

- A. The person accepting the same shall conform to the statutes and ordinances of the City in force and that may thereafter be in force and to the specifications in the license.
- B. The license may be revoked at any time by the Commissioner of Public Works.
- C. Before performing any work authorized by such license, the party licensed shall execute a bond to the City, conditioned as hereinafter mentioned and subject to the additional condition that he will cause the excavation and obstruction to be properly fenced during the whole time the street is opened and obstructed.
- D. He will place and maintain from the beginning of twilight, through the whole of the night, over or near the place so occupied, opened, obstructed or used and over or near any dirt, gravel or other material when thereupon or to be used by him, a light or lights fixed to such fence or in some other proper manner sufficient to protect travelers from injury.

- E. He shall place and maintain a safe and convenient way for the use of foot travelers and a safe and convenient passage for public travel around or over such place.
- F. If he does not, within the time prescribed by the Commissioner of Public Works, put the street into good condition, satisfactory to the Commissioner of Public Works, he shall pay whatever sum the Commissioner shall expend for putting it into good condition.
- G. He will deliver up the license to the Commissioner of Public Works on or before the expiration of the time fixed in the license for completing the work or any extension of the same.

§ 551-7. Copy of license to be kept.

Before any license hereinbefore described is delivered to any person for the applicant therefor, such person, unless he is an employee of the City employed on public works, shall certify that a copy of the license entered in a book kept for the purpose is a correct copy of the license he received.

§ 551-8. Responsibility for damages.

[Amended 6-17-1985 by Ord. No. 85-370] Whenever any department of the City or any person shall lawfully make any opening or cause any obstruction in any street, such department or person shall be held responsible for any damages that may result from such opening or obstruction for a period of three years from the time of making the same.

§ 551-9. Repair of streets within three years of activity.

[Amended 6-17-1985 by Ord. No. 85-370] Should any portion of the street which has been excavated require repaving or resurfacing within a period of three years from the time it has been disturbed, the Commissioner of Public Works shall, by mail, postage prepaid, notify in writing the person applying for the license under authority of which the disturbance was made to forthwith make such repairs as, in the opinion of the Commissioner, are necessary, and in case of the failure of such person to make such repairs within 24 hours after sending of such notice aforesaid to the last known address of such person, the Commissioner of Public Works shall then have the right to make such necessary repairs, and the expense of the same shall be paid by the person.

§ 551-10. Unnecessary obstructions; restoration.

Whenever any street is opened, occupied, obstructed, encumbered by any department of the City, or person, the Commissioner of Public Works shall prevent any unnecessary obstruction while the work is in progress and shall see that the street is repaired and put

in good order when the work is completed. If the street is not repaired to his acceptance, he shall forthwith put the same in good order and shall render a bill for the expense of such repair to the department or person whose duty it was to repair the street. All openings made for any purpose whatever shall be filled back in layers six inches in depth, and each layer shall be properly rammed and, when necessary, shall be wet down to prevent settling of the filling.

§ 551-11. Issuance to previous violators.

The Commissioner of Public Works shall not issue any license to a person who has, within one year previous to his application, violated or failed to observe the conditions or specifications of any such license without special authority from the City Council.

§ 551-12. Notices of defects.

The Commissioner of Public Works shall keep a record of the notices of defects sent to him, with the name of any person giving the notice and the time when given, and he shall, without delay, cause the locality of the alleged defects to be examined and, if the defect is of such a character as to endanger the safety of public travel, shall do whatever may be necessary to prevent the public from injury by the defect, and cause it to be immediately repaired. Every person in the employ of the City shall send to such Commissioner notice of every defect of which he has any knowledge.

§ 551-13. Bond requirements.

The bond to be given under the provisions of §§ 551-2 through 551-12 shall contain, in addition to the foregoing provisions and conditions, any further provisions and conditions which the City Council shall require to be inserted from time to time. The penal sum of such bonds shall be prescribed by the City Council; the surety or sureties shall be approved by the Mayor, City Treasurer and City Auditor, unless otherwise provided by the City Council, and the form thereof approved by the City Solicitor. A new or strengthening bond may be required from time to time by the City Council, and such new or strengthening bond shall not be taken to release the surety or sureties on any prior bond unless by vote of the City Council expressly releasing such surety or sureties from liability.

§ 551-14. Duty of Commissioner of Public Works prior to street construction.

- A. Whenever the Commissioner of Public Works is about to construct a new street or to break up the surface of any street, he shall, at least two weeks before beginning work, notify all public utilities engaged in a service necessitating the digging up or breaking up of the surface of any of the streets or ways. If any public utility company has any work to be done in the street so designated, it

shall consult and arrange with the Commissioner of Public Works, in order that such work may be done before the surface of such street is again prepared for and open to public travel.

- B. After such notice and opportunity have been given, such utilities shall not, for the space of 12 months, break up such street within the area of such previous disturbance, except in case of obvious necessity, to be certified to and approved by the Commissioner of Public Works.

§ 551-15. Commissioner to erect certain barriers.

Whenever any highway, street or bridge is from any cause unsafe or inconvenient for travelers, the Commissioner of Public Works shall forthwith put up a suitable fence or barrier across such highway, street or bridge and exclude all travelers from passing over the same or cause the parts thereof so rendered unsafe and inconvenient to be enclosed by a sufficient fence or barrier, which shall be maintained so long as the same remains unsafe, inconvenient or unsuitable for travel; he shall also fix one or more lighted lanterns to such fence or barrier or in some other proper manner, to be kept every night, from twilight in the evening through the night, so long as such fence or barrier is maintained.

§ 551-16. Tampering with safety lights or barriers.

Whoever maliciously or wantonly and without legal cause removes, extinguishes or diminishes a light or removes, displaces or interferes with a fence or barrier fixed or placed in position, in accordance with the provisions of the preceding section, shall be punished as provided in Chapter 1, General Provisions, Article I. *Editor's Note: See § 1-7, General penalty.*

§ 551-17. Tampering with streetlights.

No person shall remove, extinguish or diminish a light placed in any public way in accordance with the provisions of this chapter. No person shall extinguish any public lamp, except by the permission of the City Council.

§ 551-18. Obstructions in public ways.

- A. Except as otherwise provided in this chapter, no person shall place or deposit or permit to be placed or deposited, in any public way, any impediment or obstruction of any kind and suffer the same to remain more than one hour nor occupy or obstruct any public way to interfere with the convenient use of the same for public travel nor place, or cause to be placed, in any gutter any obstruction to a free flow of water.

B. The foregoing prohibitions shall not prevent the unloading or temporary deposit in any public way of merchandise, fuel, building materials or other articles, in course of carriage to or from premises adjacent or neighboring; provided, however, that such articles shall in no case be suffered to remain more than five hours, except by license as provided in § 551-2.

§ 551-19. Overhanging tree limbs and branches.

[Added 8-10-1987 by Ord. No. 87-1757] No person shall allow any branch or limb of a tree owned by them to extend over a public way at a height of less than nine feet.

§ 551-20. Erection of posts.

No person shall erect any post in any public way except by permission of the City Council.

§ 551-21. Entranceways and projections onto public ways.

No person shall erect or maintain any doorstep, portico, entrance, bay window or other projection or a passageway to any cellar, basement or other structure in or upon any public way, without permission from the City Council.

§ 551-22. Protection from cellar openings.

No person shall suffer the platform or grate of the entrance or passageway to a cellar or basement in any public way to rise above the even surface of such public way, and every such entrance or passageway shall be kept covered with a suitable platform or grate or shall be guarded and protected by a sufficient railing on both sides thereof, at least 2 1/2 feet high, and well lighted at night. No person shall leave any coal hole or aperture open or unfastened, except while actually in use, in which event it shall be properly guarded.

§ 551-23. Wells near streets.

Whenever any person shall dig or sink any well, cistern or other cavity in the ground near to or adjoining any public way, he shall maintain, on the line of such public way, a sufficient and suitable railing or fence, well lighted at night.

§ 551-24. Moving of buildings.

[Amended 10-6-1986 by Ord. No. 86-897A]

- A. No person shall move or cause to be moved any building through or over any public way, unless said person has received a written building moving permit from the City Council.
- B. Before the City Council shall consider said request, it shall receive the following:
- (1) A written statement of the size and weight of the building to be moved.
 - (2) A certification from the Public Works Department approving the route and method of passage through and over any public way and approving all measures taken to reduce damage to the road surface and subterranean public service installations.
 - (3) A certification from the Forestry and Parks Division that states that requirements of MGL c. 87, § 3, have been complied with. In the event that a public hearing is required for complete removal of a tree or trees as put forth in said § 3, the results of said public hearing shall be forwarded to the City Council for its use in approving or denying said permit.
 - (4) Copies of any necessary permits from any departments or agencies required for the installation or insertion of said building at a new location or site.
 - (5) Certifications from the Marlborough Police and Fire Departments that a route plan has been filed with said Departments.
- C. After receipt of all said items, the City Council shall hold a public hearing and shall grant or deny said request. The City Council may grant said permit subject to any restrictions the Council feels appropriate in any particular circumstances, including a provision for the filing of a bond prior to issuance of said permit.
- D. Any costs incurred by any City department in the review of the application or in assistance provided during said moving of the building shall be billed to the applicant.
- E. The Police Department and the Fire Department must receive a copy of the building moving permit at least 72 hours prior to said move.

§ 551-25. Snow removal.

[Amended 1-11-1971 by Ord. No. 10149]

- A. The tenant or occupant and, in case there shall be no tenant or occupant, the owner or any person having the care of any building or lot of land bordering on any street, lane, court, square or public place within the City where there is a sidewalk shall cause all snow that may be on such sidewalk to be removed therefrom within 12 hours after the snow ceases to fall, if it ceases to fall in the daytime, and before 12:00 noon, if it ceases to fall in the nighttime, and if he

neglects so to do, he shall be liable to a penalty of not less than \$2 nor more than \$10 for each offense. The provisions of this section shall apply to snow which falls from buildings as well as to that which falls from the clouds.

- B. No person shall deposit snow or ice on any public way or sidewalk in such a manner as to interfere with or detract from the plowing of said public way or sidewalk, and no property owner or person in control of property shall permit or suffer any employee, agent or servant to deposit snow or ice on any public way.

[Amended 5-9-1994 by Ord. No. 94-5433A]

- C. No person shall deposit snow or ice in such a way as to obstruct the access to or the operation of any fire hydrant, and no property owner or person in control of property shall permit or suffer any employee, agent or servant to deposit snow or ice in such a way as to obstruct the access to or the operation of any fire hydrant.

[Added 5-9-1994 by Ord. No. 94-5433A]

- D. No person plowing snow or ice from private property or public property adjacent thereto shall, if crossing any public way or sidewalk, permit any plowed snow or ice to remain on such public way or sidewalk in such a manner as to interfere with or detract from the plowing of said public way or sidewalk, and no property owner or person in control of property shall permit or suffer any employee, agent or servant, plowing snow or ice across a public way or sidewalk, to permit any plowed snow or ice to remain on such public way or sidewalk in such a manner as to interfere with or detract from the plowing of said public way or sidewalk.

[Added 5-9-1994 by Ord. No. 94-5433A]

§ 551-26. Ice removal.

Whenever any sidewalk or any part thereof adjoining any building or lot of land on any street, lane, court, square or public place is encumbered with ice, it shall be the duty of the tenant or occupant and, in case there is no tenant or occupant, the owner or any person having the care of such buildings or lot to cause such sidewalk to be made safe and convenient by removing the ice therefrom or by making such ice even and keeping it covered with sand, ashes or some other suitable material to prevent slipping within 12 hours after the ice forms, if in the daytime, and before 12:00 noon, if it forms in the nighttime, and if he neglects so to do, he shall be liable to a penalty of not less than \$2 nor more than \$10 for each offense.

§ 551-27. Coasting.

[Amended 4-22-1991 by Ord. No. 90-3652A]

- A. No person shall course, coast or slide down, across, in or along any of the sidewalks or streets, upon any handsled or otherwise, except in such places and under such restrictions as the City Council shall designate and require.
- B. No person shall run, drive or ride any bicycle, tricycle or any vehicle, other than a child's or invalid's carriage or sled, on any sidewalk nor on any part of the street which is commonly used for foot travel.
- C. No persons shall ride or use in any way or manner a skateboard, or similar device, upon a public way or upon a public sidewalk, plaza or mall or other public property so as to endanger the lives and safety of the public or so as to interfere with or impede pedestrian or vehicular traffic.
- D. No person shall ride or use in any way or manner a skateboard, or similar device, in or upon public property, of any nature, if such riding or use may or might cause or would tend to cause damage to or destruction of such property.
- E. The provisions of Subsection D shall not prohibit the use of a skateboard, or similar device, in or upon public property, when such property had been specifically designated for such use by the City Council or by the committee, board or commission in lawful control of such property.
- F. A violation of any of the provisions of this section shall be deemed to be a civil infraction and shall subject the violator to a penalty of \$25.

§ 551-28. Prohibited activities in public ways.

No person shall, in any public way, throw any snowball, stone or other substance, or engage in any amusement, game or exercise, interfering with the free, safe and convenient use of such public way.

§ 551-29. Transport of garbage.

No person shall transport through a public way any garbage, ashes, rubbish or other refuse matter, unless the same be entirely covered so as to prevent such garbage, ashes, rubbish or other refuse matter from falling or being blown onto the public way or property adjacent to a public way.

§ 551-30. Water runoff onto public ways.

No person shall suffer his building to shed water on any public way.

Article II. Obstructions Over Sidewalks

§ 551-31. Shades or awnings.

No person shall construct, erect, place, establish or maintain any shade or awning over any part of a public street or sidewalk, unless the same shall be securely and safely supported and the lowest part thereof shall be not less than seven feet above the level of such street or sidewalk, nor shall any person have the right to maintain any such shade or awning as aforesaid until the Inspector of Buildings shall have certified to the City Council that the same is securely fastened so as not to endanger persons on the sidewalk or street.

§ 551-32. Signs.

- A. No person shall construct, erect, establish or maintain, or cause to be constructed, erected, established or maintained, in or over any part of the public street or sidewalk, any sign, signpost, inscription or advertising device without permission from the City Council.
- B. Bond.
- (1) The permit required by § 551-32 shall not be effective so as to authorize the establishment or maintenance of any such sign, until the person to whom such permit is granted has furnished a bond with sufficient sureties, in a penal sum of \$4,000, unless otherwise determined by the City Council, or has furnished an indemnity insurance policy issued by a reliable insurance or indemnity company in like sum; the obligation of such bond or insurance policy shall save the City harmless from all liability of any nature whatsoever caused directly or indirectly by the erection or maintenance of such sign.
 - (2) The bond or indemnity insurance policy shall be subject to the approval of the City Solicitor as to form and also subject to the approval of the City Treasurer as to sufficiency and acceptance by the City Council. Upon acceptance by the City Council of such bond or indemnity insurance policy, it shall be filed with the City Treasurer.
 - (3) A person to whom a permit has been granted to erect or maintain such a sign shall annually thereafter file a bond or indemnity insurance policy in renewal or extension of the bond or insurance policy filed at the time such permit was granted.

§ 551-33. Height and distance of signs from sidewalks.

No projecting sign erected shall extend closer than two feet to the roadway or be less than 15 feet above the level of the sidewalk.

§ 551-34. Hanging gasoline signs.

A. No person shall erect, maintain or use any projecting or bracket arm or similar device, or any other swinging device, the principal use and purpose of which is to extend over any street or sidewalk for the sale of gasoline; provided, however, that the use of such projecting or bracket arms or other device may be permitted by the City Council upon the filing of a bond or indemnity insurance policy in the manner set out in the following section.

B. Bond.

- (1) The applicant for a permit required by the preceding section shall file a bond with sufficient sureties and in a penal sum of \$4,000 or the maximum amount of liability, which may be asserted against the City under the provisions of MGL Chapter 84, or in such other sum as otherwise determined by the City Council, or an indemnity insurance policy issued by a reliable insurance or indemnity company, the principal sum of which shall be in like sum. The obligation of such bond or insurance policy shall save the City harmless from all liability of any nature whatsoever caused directly or indirectly by the erection, use or maintenance of such projecting bracket or arm or other swinging device.
- (2) The bond or indemnity insurance policy required to be filed shall be subject to the approval of the City Solicitor as to form and also subject to the approval by the City Treasurer as to sufficiency and acceptance by the City Council. Upon acceptance by the City Council, such bond or indemnity insurance policy shall be filed with the City Treasurer.
- (3) A person to whom a permit has been granted to erect, use or maintain any projecting or bracket arm or other swinging device, as described in the preceding section, shall annually thereafter file a bond or indemnity insurance policy in renewal or extension of the bond or insurance policy filed at the time such permit was granted.

§ 551-35. Removal by City Council.

The City Council may order any shade, awning, sign or signpost within the limits of any street to be removed at any time, and the same shall thereupon be forthwith removed by the person maintaining the same.

§ 551-36. Certification by Building Inspector.

No permit to erect or maintain any sign as required under the provisions of this chapter shall become effective until the Inspector of Buildings shall have certified to the City Council that such signs are securely fastened so as not to endanger persons or property upon the sidewalks or streets.

Article III. Repairs on Private Ways

[Added 4-24-1995 by Ord. No. 94/95-5735B]

§ 551-37. Temporary repairs by City personnel.

Temporary repairs on private ways may be made by the City's personnel only under the following conditions:

- A. Repairs will be limited to the filling and patching of potholes.
- B. Prior to any said repairs, the drainage system for the way must be satisfactory to the Commissioner of the Department of Public Works.
- C. The said repairs must be required by public necessity.
- D. At least 50% of the abutters to the said way must petition the City Council for the said repair.
- E. Betterment charges will not be assessed.
- F. The City shall have no liability for or on account of any damage caused by said repairs.
- G. The said way must have been open to public use at least two years, as determined by the City Clerk.
- H. No cash deposit shall be required prior to the making of said repairs.
- I. The said way must meet certain minimum design standards as promulgated by the City Engineer.

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