

ARTICLE 3. GENERAL PROVISIONS

100 Activities Governed by these Regulations.

- A. New Structures. All structures built hereafter shall comply with all of the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure built hereafter. Any structure rebuilt or restored after damage, by any means, shall be considered to be a structure built hereafter, unless Article 8 of these regulations permits such structures to be rebuilt or restored. (See Section 2-102 for definition of STRUCTURE.)

- B. New Uses of Old Structures. If a use of any structure is hereafter changed to another, then the new use must comply with the use regulations of these regulations, unless permitted by provisions in Article 8. The mere establishment of the new use does not require an existing structure to conform to the lot size requirements or the bulk regulations.

- C. Structural Alterations. If any structure is hereafter structurally altered as defined in Section 2-102:
 - 1. The entire structure as altered shall comply with the use regulations of these regulations.

 - 2. Any alterations, enlargements or additions to the structure shall comply with the bulk regulations of these regulations, except as permitted by Section 8-102B for nonconforming structures.

 - 3. The off-street parking facilities shall not be reduced below or if already less than, shall not be further reduced below the requirements applicable to a similar new structure or use.

- D. Uses of Open Land. If any use of open land is hereafter established or if any use of open land is hereafter changed to another use, such new use shall comply with all the provisions of these regulations, unless permitted by Sections 8-103 and 106.

- E. Exemptions. The following structures and uses shall be exempt from the provisions of these regulations:
 - 1. Poles, wires, cables, conduits, vaults, lift stations, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including major utility substations located on or above the surface of the ground. (See Section 3-103F for lot size and bulk regulations for utility facilities.)

2. Railroad tracks, signals and similar facilities and equipment located on railroad rights of way, and maintenance and repair work on such facilities and equipment. Related bridges are exceptions but not from the floodplain district.
3. Buildings, structures or land used, but not just leased, but the federal government.
4. Use of land for agricultural purposes as defined in Section 2-102, including accessory buildings and structures thereon **not** in a designated floodplain. When any land or accessory buildings or structures cease to be used only for agriculture, then it shall be subject to the applicable provisions of these regulations.
5. Drilling and operation of oil and gas wells.

101 Districts, Zoning Maps and Boundaries.

- A. Establishment of Districts. The zoning jurisdiction is hereby divided into the districts as described in Article 4. References to "agricultural districts" shall mean those districts in which agricultural uses are the predominant activity. References to "residential districts" shall mean those districts in which residential uses are the main permitted use. References to "business districts" shall mean those districts in which commercial uses are the main permitted uses. References to "industrial districts" shall mean those districts in which industrial uses are the main permitted use. The "floodplain district" is considered an overlay zone to be used in conjunction with the other districts.
- B. Zoning Maps.
 1. The boundaries of the districts described in Article 4 are as indicated on the Official Zoning Map(s) which is on file with the Zoning Administrator and identified on its face as part of these regulations. The zoning map(s) with all notations, references and other matters shown thereon is as much a part of these regulations as if specifically set forth herein. (See Section 9-100A9 for zoning map(s) certificate and revisions.)
 2. It is the intent of these regulations that the entire area of the zoning jurisdiction, including all the land and water areas, rivers, streets, alleys and railroads and other rights of way, be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.
- C. Boundaries. In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the Official Zoning Map(s), the following rules shall apply:

1. Where boundary lines are indicated as approximately following roads, streets, alleys, easements, railroads, rivers, streams or water, such boundaries shall be construed as following the centerlines thereof, unless otherwise indicated.
 2. Where boundary lines are indicated as approximately following lot lines; or section, half-section or quarter-section lines; such lines shall be construed to be said boundaries.
 3. Where the district boundaries do not coincide with the location of boundaries as stated in Sections 3-101C1 or 2 above, the district boundaries shall be determined by the use of the scale shown on the zoning map, unless an exact distance is shown.
- D. Zoning of Rights of Way. All streets, alleys, public ways, waterways and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a street, alley, public way, waterway or railroad right of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

102 General Requirements for All Zoning Districts.

- A. Permitted Uses. No structure shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located or provided for otherwise in these regulations. (See Section 2-102 for definition of PERMITTED USES.)
- B. Special Uses. No use of a structure or land that is designated as a special use in any zoning district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district, unless a special use is approved in the same manner as for an amendment to a zoning district except that the Official Zoning Map is not amended. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the special use be made a part of the effectuating resolution. (See Section 2-102 for definition of SPECIAL USE.)
- C. Conditional Uses. No use of a structure of land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district, unless a conditional use as an exception is granted by the Board of Zoning Appeals as provided for in Section 10-108. (See Section 2-102 for definition of CONDITIONAL USE.)

D. Lot Sizes.

1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied, arranged or designed for use of occupancy on a zoning lot, unless otherwise provided for in these regulations, which in its district is:
 - a. Smaller area than the minimum area or minimum lot area per dwelling unit required;
 - b. Narrower than the minimum lot width required; or
 - c. Shallower than the minimum lot depth required.

E. Bulk Regulations. In these regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards.

1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy:
 - a. That would exceed the maximum lot coverage percentage or the maximum structure height specified for the zoning district in which the structure is located, unless exempted by the definition of maximum height, or
 - b. That would provide any minimum setback of a front, side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained, except as front yard setbacks may be applied in Sections 3-103B and C and front and side yard setbacks for nonconforming structures and uses in Article 8.
2. Where independent dwelling units are to be sold as condominiums, bulk regulations shall not apply to each individual ownership, but shall be applied to the entire zoning lot.

F. Use Limitations. No permitted, special or conditional use hereafter established, altered, extended, enlarged or moved shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is or will be located. No permitted, special or conditional use already established on the effective date of these regulations shall be altered, extended or enlarged so as to conflict, or further conflict with, the use limitations for the zoning district in which such use is located. (See Sections 8-102, 103 and 106.)

- G. Off-Street Parking and Loading. No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied or designed for use or occupancy, unless the minimum off-street parking and off-street loading space required by Article 5 are provided. No structure or use already established on the effective date of these regulations shall be enlarged, unless the minimum off-street parking and loading space which would be required by Article 5 are provided.
- H. Accessory Structures or Uses. No accessory structures or use, as defined in Article 6, shall hereafter be built, altered, extended, enlarged or moved, unless such accessory structure or use is permitted by Article 6.
- I. Temporary Structures or Uses. No temporary structure or use shall hereafter be built, altered, extended, enlarged or moved, unless such temporary structure or use is permitted by Article 6 of these regulations.
- J. Home Occupations. No home occupation, as defined by Article 6, shall hereafter be established, altered, extended, enlarged or moved in any residential district, unless such home occupation complies with the permitted uses, conditions and use limitations as provide for in Article 6.
- K. Signs. No signs shall hereafter be built, and no existing signs shall be altered, enlarged or moved, unless such sign complies, or will thereafter comply, with the restrictions imposed by Article 7.

103 Miscellaneous Requirements.

- A. Number of Structures and Uses on a Zoning Lot.
 1. Whenever a zoning lot is used for a single-family detached dwelling, or any type of manufactured or mobile home, only one principal structure and use may be located on the lot, but only when the structure and use conform to all requirements of the district in which the lot is located.
 2. Whenever a zoning lot is used for other than a residential unit as described in Section 3-103A1 above, more than one principal structure and use may be located on the lot in common ownership, but only when the structures and uses conform to all requirements of the district in which the lot is located.
- B. Platted Building Setback Lines. If a recorded subdivision plat imposes a building setback line or a front line or a front yard for a lot which is different from the minimum setback or yard required by the applicable section of these regulations, then, notwithstanding any other provision of these regulations, the minimum building

setback or front yard shall be the same as that shown on such subdivision plat; provided, that it has been recorded and not otherwise been officially vacated.

C. Yard Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum front, side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained, unless some other provision of these regulations requires or permits a different minimum front, side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.

D. Restrictions on Allocation and Disposition of Required Yards or Open Space.

1. No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area, or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.
2. All of the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these regulations shall be located on the same zoning lot as such structure or use.
3. No part of the lot area, or of the yard, other open space, or off-street parking or loading space provided in connection with any structure or use, including but not limited to any structure or use existing on the effective date of these regulations or of any amendment thereof, shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these regulations for the equivalent new construction.

E. Permitted Obstructions in Required Yards. The following shall **not** be considered to be obstructions when located in a required yard: (See Section 9-101A3 for principal or accessory buildings or structures or uses locating on or projecting over public easements.)

1. In all yards: Open terraces or patios not over four feet above the average level of the adjoining ground, but not including a permanent roof over a terrace or patio; awnings; canopies including underlying islands for petroleum pumps; steps four feet or less above grade which are necessary for access to a permanent structure or for access to conform to the standards of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes; fire escapes, one story bay windows and overhanging eaves and gutters projecting 30 inches or less into the yard; chimneys, entrance hoods, window wells, wing walls and daylight windows projecting 30

inches or less into the yard; arbors and trellises; flagpoles and basketball goals; ornamental light or gas fixtures; parking, when permitted by Article 5; accessory and temporary uses, when permitted by Article 6; signs, when permitted by Article 7; and when otherwise specifically permitted by the district regulations. Attached garages, carports, patio covers, porches and decks are not permitted obstructions.

2. In any yard except a front yard: Accessory uses meeting the bulk regulations of Section 6-100C; children's recreational and laundry drying equipment; and open and closed fences not exceeding six feet in height with additional height permitted for security design measures. (See Section 6-100B for required zoning permit.)
3. Fences in front yard: On lots with single family dwellings and all types of manufactured and mobile homes, fences not exceeding four feet in height are permitted which are constructed with at least 75% open space. In all other circumstances, including decorative walls as perimeter boundaries and entryways to subdivisions, open and closed fences are permitted which do not exceed six feet in height with additional height permitted for security design measures. (See Section 6-100B for required zoning permit.)
4. Construction standard for all fences: No fence shall be constructed which will constitute a hazard to traffic or a danger to persons or animals.
5. Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and/or less open space in all yards and in any district if the Board finds that the public welfare is preserved.

F. Lot Size Requirements and Bulk Regulations for Utility Facilities and Communication Facilities. Notwithstanding any other provision of these regulations, none of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located, except when they are accessory structures to principal structures or uses. (See Section 3-100E1 for Exemptions.)

1. Communication structures.
2. Electric and telephone substations.
3. Gas regulator stations.
4. Pumping stations.
5. Water towers or standpipes.

G. Access to Business and Industrial Districts. No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any business or industrial district.

H. Sewer and Water Facilities.

1. In all districts except agriculture, it is the intention of these regulations to encourage the installation of public water supplies and sewage disposal systems or to connect to such systems if available for use and provided within an economically feasible distance.
2. In areas where such public facilities are not yet available and on-site wells, cisterns and septic tank systems or wastewater lagoons are necessary, the suitability of the lot and the standards for installation of such on-site water supply and sewage disposal systems shall be governed by the County Sanitary Code.
3. No building or addition thereto shall be erected over or across any public water, sewer or other utility line, nor upon any platted or recorded easement, unless such easement is vacated or special permission is granted in writing by the County and the public utility whose lines are involved, if any. (See Section 9-101A3 for Zoning Permits.)

I. Dedication of Rights of Way and Easements. As a condition related to a rezoning amendment or a special use, the dedication of additional street rights of way; easements for utilities, drainage, access control, fire lanes, building setback lines and other purposes; and the construction, removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting the land according to the applicable Subdivision Regulations or, in lieu of platting, by a legal document effectuating such dedications and improvements. Such condition may be required whether the property is being divided or held in single ownership. A stated time limit not exceeding one year may be established to ensure compliance with the above conditions during which time the effectuation of the zoning amendment or special use having been approved with such conditions by the Governing Body shall be withheld from publication by the Clerk. Failure to comply with the conditions during the stated period shall result in making the zoning amendment or special use null and void. No extension of the time period may be granted without reapplication.

J. Floodplain Requirements. Within any floodplain area as delineated by the Federal Emergency Management Agency, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved under these regulations, unless it also complies with the floodplain regulations. (See Section 4-109 for County FP Floodplain District.)

K. Moving Structures. No structure shall be moved into the jurisdiction, nor from one location to another location within the jurisdiction unless such structure shall, when

relocated, be made to conform fully with these regulations. No zoning permit shall be issued, unless in the opinion of the Zoning Administrator the height, age, architectural style and texture of the materials pertaining to the outward appearance of such structure reasonably conform to other buildings in the block or surrounding area to which it is moved and in the block or area opposite, to such an extent that its relocation shall not be detrimental to the appearance or have no substantial adverse effect on property values to the adjacent properties. Modifications in the appearance of such a structure as proposed by the applicant may be considered in making such a decision and conditions may be attached to the issuance of the permit by the Administrator to achieve conformance. (See County resolution, if any, on moving structures.)

L. Replacement or Location of Manufactured or Mobile Homes or RV Campers.

Notwithstanding other provisions of these regulations, the Zoning Administrator is authorized to issue a zoning permit for various types of manufactured or mobile homes or RV campers under the following provisions:

1. Wherever a manufactured or mobile home is moved from a zoning lot within a district in which it is a permitted use or an approved special or conditional use, only a manufactured home meeting the requirements of the district as a replacement may be moved onto the lot at any time.
2. In the case of a lawful, nonconforming manufactured or mobile home use, such a move must take place within 90 days from the date that the previous manufactured or mobile home was moved off the lot, otherwise such use shall not thereafter be reestablished and, when so moved in, only a manufactured home which has been built within the last 10 years is permitted as a replacement and such home must be skirted or placed on a permanent-type, enclosed perimeter foundation. In reestablishing such a home use, any nonconformity bulk regulations shall not be increased in nonconformity and no newly acquired land can be added to the zoning lot for placement of such a home.
3. In the event of disasters, such as fires, tornados or floods, whereby expediency is an important factor, a manufactured or mobile home or RV camper may be located temporarily in any district at the discretion of the Zoning Administrator with appropriate conditions attached and for a stated period of time.
4. As an accessory use to a principal residential building under construction or reconstruction for not more than 18 months. Such manufactured or mobile home or RV camper must be removed from the premises at the end of the permitted period or at the end of the construction period, whichever occurs first, unless a renewal permit is approved for good cause.

5. The Board of Zoning Appeals may approve a conditional use for a manufactured or mobile home or RV camper in the following circumstances:
 - a. Where an unusual hardship is shown, such a home or camper may be located as an accessory use on a lot or tract with an existing dwelling for a stated period of time. The time period may be extended upon a request to the Board without further notice or fee.
 - b. As an accessory use to a principal farm dwelling on agricultural land as defined herein for outside the city for additional assistance on a farm or ranch. No zoning permit is required; however, an agricultural compliance certificate is necessary to determine the status of the land for the agricultural exemption. (See Section 2-102 for definition of AGRICULTURE)
6. As an accessory use for a watchman or custodian (including a family), a manufactured home or RV camper may be located in all business and industrial districts and on land used for nonagricultural and nonresidential purposes in agricultural districts.
7. No manufactured or mobile home, or portion thereof, shall be moved onto any lot or parcel or an existing manufactured or mobile home converted for storage or any other purpose than for a residence in any district and no such home shall be temporarily or permanently located in any district not otherwise permitting such homes. These provisions do not preclude the use of prefabricated mobile structures designed for offices in business or industrial districts, but not manufactured or mobile homes unless specifically permitted.

M. Vision Triangle. On all corner lots in all districts, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved after the effective date of these regulations unless it also conforms to the requirements of the vision triangle as defined by Section 2-102.

104 Site Plan Approval. The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, infrastructure, off-street parking and loading, lighting, signage, screening, buffering, landscaping, ingress and egress and drainage on and from the site, any or all of these in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties. Once a site plan has been reviewed and approved, no changes shall be made except for minor revisions due to unforeseen circumstances as may be determined and approved by the Zoning Administrator. If other than minor revisions are requested, the changes must be shown on a revised plan, transmitted to and approved by the ~~respective Site Plan Review Committee~~ Planning Board.

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~~To undertake the quasi-judicial site plan review and approval process, a Site Plan Review Committee shall be created for the County. The Committee membership shall be appointed annually or on a staggered term basis by the Governing Body which shall consist of one County Commissioner, two Planning Board members and two members from the public at large. Each Committee may select technical advisors to assist them in ex-officio capacities. Following the initial appointments and each subsequent appointment by the County, the Committee shall annually elect a chairperson, vice-chairperson and secretary for officers. All respective committee meetings shall be open to the public and an opportunity to be heard extended to the Applicant and other persons present. All Committees shall adopt Bylaws for the orderly transaction of business.~~

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A. Applicability. All principal land use developments shall submit site plans for approval by the ~~Site Plan Review Committee Zoning-Planning Board Administrator~~ except single-family dwellings, unless the latter are arranged in courtyard or grouped settings. Such plans are applicable to all new developments and major alterations to an existing site which intensify factors affecting the overall design relationships. Site plans ~~may~~ will be considered concurrently with applications for rezoning amendments and special uses.

B. Enforcement and Appeal. No zoning permit shall be issued by the Zoning Administrator until the related site plan is approved. ~~by the Site Plan Review Committee~~. Anyone aggrieved by a decision of the ~~Review Committee Zoning-Planning Board Administrator~~ may appeal to the Board of Zoning Appeals within 30 days for a determination based on the reasonableness of the site plan decision including any conditions attached thereto. The procedure, hearing and notification of the appeal shall be the same as required for an appeal case to the Board of Zoning Appeals in Section 10-106.

C. Fees. Processing fees are including in the adopted Fee Schedule.

~~D. Submittal Time and Review Comments. Site plans shall be submitted to the Zoning Administrator 20 days before a regular Review Committee meeting so that they can be distributed to interested parties for review and the resulting comments summarized by the Zoning Administrator for a report to the respective Review Committee. The Administrator shall compile the final approval report and maintain the files.~~

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~~E. Number of Plan Copies. A minimum of 8 copies are needed for proper review with additional ones required when necessary to display the scope of the project as may be determined by the Zoning Administrator. At the discretion of the Applicant, separate plans may be submitted to properly present the design details for such features as landscaping, lighting, etc.~~

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F. General Site Plan Requirements:

1. Oriented to north with north arrow and scale plus dimensions and boundary lines for the zoning lot with legends for graphic clarity.

2. Show the location and dimensions of all rights of way, access control, easements and setback lines either required by these regulations or by platting.
 3. Topography by contour lines required only if slopes exceed 5% or buffer berms are used.
 4. Show general directional flow of storm drainage by arrows. Provide pad elevations when sites are located in designated floodplain areas.
 5. Locate existing and proposed structures by bulk dimensions plus number of stories, gross floor area and entrances.
 6. Show existing and proposed access entrances or curb cuts, driveways, off-street parking, loading spaces and walkways, including type of surfacing and number and dimensions of parking spaces.
 7. Indicate location, height and materials for screening walls or fences and landscaped areas, including grass, trees and shrubs.
 8. Show location, direction and intensity of proposed lighting.
 9. Locate all major signs by type, height and approximate size.
 10. Indicate location of outdoor work areas: displays: storage of supplies, equipment and vehicles: and trash disposal areas.
- G. General Conditions of Approval. All site plans must meet the applicable standards contained in both the Zoning and relevant sections of the Subdivision Regulations including the following:
1. Proposed uses are permitted or have been approved as a special or conditional use in the district in which the property is located.
 2. Proposed arrangement of buildings, off-street parking, loading, access, lighting, signage, landscaping, buffering, screening, and drainage is compatible with adjacent land uses.
 3. Vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well.

4. Site plan provides for the safe movement of pedestrians within the site and connecting to adjacent land uses when determined to be beneficial to community connectivity.
 5. In addition to agricultural cover, there is sufficient mixture of grass, trees and shrubs within the interior and perimeter (including public right of way) of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for buildings, structures, parking, outdoor activities, loading or access ways shall be landscaped with a mixture of grass, trees and shrubs.
 6. All outdoor trash disposal areas are screened and outdoor work and storage areas screened where necessary.
- H. Assurances. Site plan performance is assured by issuance of a zoning permit and occupancy certificate. All plant materials shall be healthy and landscaping, screening and/or buffering in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation: provided, that written assurances or sufficient guarantees are submitted satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives.

Landscaping must be maintained in a healthy, disease-free and debris-free condition or it will be considered a violation of these regulations and become subject to the following maintenance procedures.

1. It shall be the responsibility of the property owner, to maintain in good condition, all of the required screening, buffering and landscaping improvements on their property. When it is determined by the Zoning Administrator that required improvements are not being maintained, it is his or her duty to give notice of violation in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than 30 days to comply with the notice: provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice may file an appeal under Section 10-106 within the 30-day period with the Board of Zoning Appeals.
2. If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the Board, then the Zoning Administrator shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the Administrator to the Clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made.

- I. Review Criteria. From time to time, the Planning Board with the approval of the Governing Body may adopt or amend design review in the form of policy statements to assist in reviewing site plans. All site plans must be prepared and reviewed in accordance with adopted Site Plan Review Criteria.