

ZONING  
Chapter 115  
From the  
CODE  
of the  
BOROUGH OF DUNELLEN  
COUNTY OF MIDDLESEX  
STATE OF NEW JERSEY

[Introduced on February 7, 2005, as Dunellen Ordinance #05-03. Public Hearing and Final Adoption, May 2, 2005.]

Amended as of May 13, 2005, for weight of Commercial Vehicles

Amended as of August 8, 2005, for Certificates of Occupancy

Amended as of January 9, 2006, for Conditional Uses

Amended as of April 2006, for Front Yard Setbacks (Ordinance #06-04)

Amended as of May 15, 2006, for Prohibited Diagonal Entrances (Ordinance #06-05)

Amended as of June 6, 2006, (Ordinance #06-06) for:

Building Height, Chapter 115-7  
Corner Lot Setbacks, Chapter 115-18  
Abandonment of Use, Chapter 115-32B

Amended as of October 10, 2006, (Ordinance 06-20) for:

Weight for outdoor storage of recreational vehicles (115-23)  
Parking of trucks and school buses in residential zones (115-24)

Amended as of April 9, 2007, (Ordinance 07-04) for:

Occupancy Requirements (115-33 E/115-34 E)

**Amended as of October 22, 2007, (Ordinance 07-08) for:  
Gasoline Service Stations (115-37 (J))**

# ZONING

## CHAPTER 115

### ARTICLE I

#### Title; Authority and Purpose

- 115-1 Short Title.
- 115-2 Authority and Purpose.

### ARTICLE II

#### Zoning Districts; Zoning Map

- 115-3. Enumeration of Districts.
- 115-4. Zoning Map.
- 115-5. Determination of Boundaries.
- 115-6. Schedule of District Regulations.

### ARTICLE III

#### Definitions and Word Usage

- 115-7. Definitions.
- 115-8. Word Usage.

### ARTICLE IV

#### General Provisions

- 115-9. Effect of more restrictive provisions.
- 115-10. Compliance Required.
- 115-11. Applicability to pending applications.
- 115-12. Site plan approval.
- 115-13. Determination of change of use.
- 115-14. Principle buildings.
- 115-15. Accessory structures.
- 115-16. Permitted obstructions in required yards.
- 115-17. Lot Frontage.
- 115-18. Corner Lots.

- 115-19. Measurement of setbacks and lot dimensions for irregular lots.
- 115-20. Obstruction of vision on corner lots.
- 115-21. Compliance with prevailing front yard setbacks.
- 115-22. Outdoor storage restricted.
- 115-23. Outdoor storage of recreational vehicles and boats.
- 115-24. Parking of trucks and school buses in residential zones.
- 115-25. Community residences for mentally or physically handicapped.
- 115-26. Obscene materials.
- 115-27. Exceptions to height limitations.
- 115-28. Emergency housing.
- 115-29. Use of trailers for storage or office.
- 115-30. Expiration of variance approvals.
- 115-31. Sexually oriented businesses prohibited in certain areas.

## ARTICLE V

### Nonconforming Uses and Structures

- 115-32. Nonconforming Uses and Structures.

## ARTICLE VI

### District Regulations

- 115-33. RA Single-Family Residential District.
- 115-34. RB Two-Family Residential District.
- 115-35. B Business District.
- 115-36. M Municipal District.

## ARTICLE VII

### Conditional Uses

- 115-37. Conditional Uses.

## ARTICLE VIII

### Performance Standards

- 115-38. Performance Standards.

## ARTICLE IX

### Fences, Buffers, and Landscaping

- 115-39 Fences.
- 115-40. Buffers and landscaping.

## ARTICLE X

### Administration and Enforcement

- 115-41. Approvals and permits required.
- 115-42. Enforcement.
- 115-43. Violations and penalties.

## ARTICLE XI

### Miscellaneous Provisions

- 115-44. Severability; effective dates; effect on prior permits.  
Schedule of Area, Yard and Building Requirements

## ARTICLE I

### Title; Authority and Purpose

#### 115-1. Short Title.

This chapter may be cited and referred to as the “Dunellen Borough Zoning Ordinance.”

#### 115-2. Authority and Purpose

This chapter is adopted pursuant to the authority of the Municipal Land Use Law, Chapter 291, Laws of New Jersey (N.J.S.A. 40:55D-1 et seq.), in order to promote the public health, safety, morals, convenience and general welfare and in furtherance of the following related and more specific objectives:

- A. To guide and regulate orderly growth, development and redevelopment in accordance with the Borough’s Master Plan.
- B. To establish zoning districts and to set forth development regulations governing these districts in order to encourage the most appropriate use of land throughout the Borough.
- C. To protect the established character of existing neighborhoods and to provide for appropriate transitions between conflicting uses.
- D. To prevent overcrowding of land and buildings and to avoid undue concentration of population.
- E. To provide adequate light, air, convenience and safety of access.
- F. To conserve and enhance the value of property throughout the Borough of Dunellen.
- G. To ensure that the development of Borough of Dunellen does not conflict with the development and general welfare of neighboring municipalities, the county, and the state as a whole.
- H. To secure safety from fire, flood, panic, and other natural and other man-made disasters.
- I. To establish the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion.

## ARTICLE II

## Zoning Districts; Zoning Map

### 115-3. Enumeration of Districts.

The Borough of Dunellen is hereby divided into various zoning districts as follows:

RA	Single-Family Residential
RB	Single-Family and Two-Family Residential
B	Business
M	Municipal

### 115-4. Zoning Map

The boundaries of all zoning districts set forth in this chapter shall be shown on a map entitled "Zoning Map, Borough of Dunellen, Middlesex County, New Jersey."

### 115-5. Determination of Boundaries

- A. District boundary lines are intended to follow the center line of streets, railroad rights-of-way, watercourses, existing property lines or municipal boundary lines, all as shown on the Zoning Map. Where a district boundary line does not follow such lines, its position is shown on the Zoning Map by a specific dimension expressing to be fixed on the two (2) outermost property lines which require dimensioning. Where such boundaries are fixed by dimensions which result in a district boundary line falling within twenty (20) feet of a lot line which existed at the time of passage of this chapter, then said lot line shall be construed to be the district boundary.
- B. Where there is uncertainty, contradiction, or conflict as to the intended location of any district boundary line due to scale, lack of detail, or illegibility of the Zoning Map, the determination thereof shall lie with the Planning Board, after public hearing.

### 115-6. Schedule of District Regulations.

- A. The schedule of regulations applying to each zoning district, entitled "Schedule of Area, Yard and Building Requirements" (hereafter called the "schedule"), is hereby declared to be a part of this chapter and is attached thereto.
- B. The schedule is intended to summarize the major regulations by zoning district, including those applying to lot size, yards, building heights, and other regulations that may be easily summarized in tabular form. It is not meant to provide comprehensive coverage of all requirements and provisions of this chapter.

## ARTICLE III

### Definitions and Word Usage

#### 115-7. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY USE OF BUILDING** – A subordinate use or building, the purpose of which is incidental to that of a main use or building of the same lot.

**ADMINISTRATIVE OFFICER** – The Zoning Officer of the Borough of Dunellen.

**BASEMENT or CELLAR** – A story, wholly or partly underground, and having more than one-half (1/2) of its clear height below the average level of the adjoining ground.

**BOARD** – The Borough Planning Board or Board of Adjustment, whichever has jurisdiction pursuant to the Municipal Land Use Law.

**BUFFER** – An area consisting of trees, shrubs, solid fencing, or a combination of all these, so installed as to provide both a visual and an acoustical barrier between properties. No building, structure, parking area, street sign (except traffic directional signs), or storage of materials shall be permitted in said area.

**BUILDING** – A combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

**BUILDING HEIGHT** – The vertical distance measured from the top of the curb to the highest point of the structure. The building height in all residential districts shall not be greater than thirty-five feet (35ft.). The building height in all Commercial Zones shall not be greater than forty feet (40ft.). All exceptions as set forth in Chapter 115-27 remain in full force and effect.

**COMMON OPEN SPACE** – An open space area within or related to a site designated as a development and designed and intended for the use or enjoyment of residents and owners of the development.

**COMMUNITY RESIDENCES** – A residence for the developmentally disabled and includes a community shelter for victims of domestic violence, a community residence for the terminally ill and a residence for person with head injuries, which communities have been approved for a purchase of services, contracts, or affiliation agreement pursuant to such procedure as shall be established by regulations of the State of New Jersey, Department of Human Services, and as defined in N.J.S.A. 40:55D-66.1 et seq.

**CONDITIONAL USE** – A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the locations or operation of such use as contained in 115-37 of this chapter.

**CORNER LOT** – A parcel of land fronting on two or more intersecting streets.

**DWELLING UNIT** – A building or portion thereof providing sleeping room(s), bathroom(s), and kitchen facilities for the use of one household. “Dwelling units” shall be differentiated one from the other as follow:

- A. **DWELLING UNIT, SINGLE-FAMILY** – A detached building designed for or occupied exclusively by one household.
- B. **DWELLING, TWO-FAMILY** – A building designed for or occupied exclusively by two households living independently of each other, where the individual household units are entirely separated by vertical walls or horizontal floors.
- C. **DWELLING, MULTIFAMILY** – A building used or designed as a residence for three or more families living independently of each other, not including a motel, boardinghouse, or rooming board.
- D. **CONDOMINIUM** – A one-family dwelling located in a structure consisting of two (2) to twenty four (24) such units, in which units occupy air space over another unit, and each unit is separated from any other unit by one (1) or more common walls, floors, and ceilings.
- E. **TOWNHOUSE** – A one-family dwelling designed to be attached in a row between two (2) and six (6) such units, in which each unit has its own front and rear access to the outside, without occupying air space over another unit, and each unit is separated from any other unit by one (1) or more common walls.

**FAMILY** – One (1) or more persons living together as a single-family unit, whose relationship is of a permanent and distinct domestic character, as distinguished from individuals or groups occupying a hotel, boardinghouse, or club. The term “family” shall be deemed to include necessary servants when servants share the common housekeeping facilities and services.

**FENCE** – An artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials used as a boundary or means of protection, confinement, or concealment.

**FLOOR AREA** – The total floor area of a structure used for residential purposes or for business or commercial activities. In the case of the latter, this shall include customer facilities, showcase facilities, work areas, storage and sales facilities. However, the “floor area” of a structure shall

not include:

- A. Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths. Also, cellar space constructed and finished as to be suitable for Human habitation shall be counted in computing total "floor area."
- B. Elevator and stair bulkheads, accessory water tanks and cooling towers.
- C. Floor space used for mechanical equipment.
- D. Attic space, whether or not a floor has actually been laid, providing structural headroom that does not exceed more than seven (7) feet.
- E. Uncovered steps.
- F. Terraces, breezeways, and open porches.
- G. Off-street, parking spaces located within the structure.

## **GARAGE**

- A. **PRIVATE GARAGE** – A building which is accessory to the main building and which provides for the storage of motor vehicles owned by the occupants.
- B. **PUBLIC GARAGE** – A building or accessory structure used or designed to be used for storing, repairing, servicing, selling, or equipping motor vehicles, for which a consideration is paid.

**HOME OCCUPATION** – Any gainful employment or occupation of one (1) or more members of the resident family, which shall constitute either entirely or partly the livelihood of such member or members and which shall be clearly secondary or accessory to the primary residential use of the principal structure.

Such occupation may be pursued in the principal dwelling structure or in a secondary building which is accessory to such principal structure. "Home occupations" shall include such activities as dressmaking, watchmaking, electrical and radio repair, carpentry, private tutoring, individual teaching of music, portrait painting or sculpture, and computer programming.

**HOME PROFESSIONAL OFFICE** – An office of a member of a recognized profession providing professional services on an appointment-only basis in his place of residence. Recognized professions shall include only medical care for human beings, the clergy, architecture, engineering, law, accounting, and planning.

**LOT** – A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

**LOT DEPTH** – The shortest horizontal distance between the front lot line and the rear lot line, as calculated in accordance with the provisions of 115-19.

**LOT FRONTAGE** – The portion of a lot extending along a street line.

**LOT WIDTH** – The measured horizontal width of the lot at the front setback line.

**NON CONFORMING LOT** – A lot which, in its area, dimensions or location, was lawful prior to the adoption, revision or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

**NONCONFORMING STRUCTURE** – A structure which in its size, dimension or location on a lot, was lawful prior to the adoption, revision or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

**NONCONFORMING USE** – A use or activity which was lawful prior to the adoption, revision or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

**PRINCIPAL BUILDING** – A building in which is conducted the main or principal use of the lot.

**PRINCIPAL USE** – The primary or main purpose for which a lot or building is being utilized.

**PRIVATE SWIMMING POOL** – A swimming pool which is accessory to the principal residential use on the lot which is utilized by the owner and nonpaying guests.

**QUASI-PUBLIC** – Private organizations and groups of a fraternal, church or charitable nature.

**RESIDENTIAL DENSITY** – The number of dwelling units per gross acre of residential land area, including streets, easements and open space portions of a development.

**RESTAURANT** – An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking, and serving of food to its customers.

- A. **LIMITED SERVICE RESTAURANT** – A business or establishment characterized by the following: the placing of orders

at a counter, a lack of a table or tables and the serving of prepared food in or on disposable wrapping or containers in a form ready for consumption.

- B. **FULL SERVICE RESTAURANT** – A restaurant with waiter or waitress table service, primarily serving food cooked to order, which is paid for after consumption. A full service restaurant may also have a limited take-out service accessory to and incidental to its main operation as a full service restaurant.

**SETBACK LINE** – A line within a lot, which is parallel to a street or property line beyond which a building shall not extend, except as otherwise provided for in this chapter.

**SHOPPING CENTER** – A group of commercial establishments planned, developed, and managed as a unit in a building or buildings and utilizing such common facilities as customer parking areas, pedestrian walks, truck loading and unloading space and utilities and sanitary facilities.

**SIGN** – Any structure, device, object, or portion thereof, on which there is an announcement, declaration, identification, description, display, illustration, or insignia used to advertise or promote the interest of any person or product when the same is placed in view of the general public. Specifically, excluded from this definition is any flag, badge or insignia of any public, quasi-public, civic, charitable, or religious group.

**STREET LINE** – The property line of a lot, which separates the public street right-of-way from the property.

**STRUCTURAL ALTERATION** – Any change in, or rearrangement of, the supporting members of a building or structure, such as walls, columns, beams, girders and foundations, including an enlargement or addition to the structure, or any change in the utility system or mechanical equipment of a structure which significantly alters its usability, capacity, or function.

**STRUCTURE** – A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above, or below the surface of a parcel of land.

**YARD** – An open space on a lot, lying between the principal building and the nearest lot line, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

- A. **FRONT YARD** – An open, unoccupied space within and extending the full width of the lot between the front lot line and the main front wall of a building, not including ground-story open porches.
- B. **REAR YARD** – An open, unoccupied space within and extending

the full width of the lot between the rear wall of the building and the rear lot line.

- C. **SIDE YARD** – An open, unoccupied space within the lot between a side lot line and side wall of the building or of any attached accessory building extending from the front lot line to the rear lot line.

#### **115-8. Word Usage.**

Unless the context clearly indicates the contrary, the present tense shall include the future; the singular shall include the plural; the word “lot” shall include the word “plot”; the word “structure” shall include the word “building”; the word “occupied” shall include the words “used”, “designed”, or “intended to be occupied”; the term “such as” shall be considered as introducing a typical or illustrative example rather than as an entire inclusive designation of permitted or prohibited uses, activities or structures; the word “shall” is always mandatory and directory; the word “may” is permissive.

### ARTICLE IV

#### General provisions

#### **115-9. Effect of More Restrictive Provisions.**

Any restrictions or requirements governing the use of buildings or land which are established by statute or other ordinance of the Borough of Dunellen and which are more restrictive than regulations contained herein shall take precedence over the provisions of this chapter.

#### **115-10. Compliance Required.**

- A. The regulations of this chapter shall govern the use and development of all buildings and land in the Borough of Dunellen.
- B. No land or building shall be utilized, occupied, or improved for development unless in accordance with the use restrictions of this chapter.
- C. No building or structure shall be constructed, erected, installed, structurally altered, relocated, enlarged, or rebuilt unless in conformity with the bulk regulations of this chapter.
- D. No required yard or open space shall be encroached upon in any manner, except in conformity with the regulations of this chapter.

- E. **Certificates of Occupancy.** It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged wholly or partly until a certificate of occupancy has been issued by the Borough of Dunellen for the premises certifying that the structure complies with the provisions of this chapter. A new certificate of occupancy shall be required for any and all changes of ownership, tenancy or use.

**115-11. Applicability to Pending Applications.**

Nothing contained in this chapter shall require any change in the design, construction, size, or designated use of any structure, or part thereof, for which a building permit is on file with the Construction Official as of the effective date of this chapter.

**115-12. Site Plan Approval.**

- A. Except as herein exempted, no building permit shall be issued for the construction, structural alteration or relocation of any building or structure unless a site plan is first submitted and approved in accordance with the Land Development Ordinance of the Borough of Dunellen and no Certificate of occupancy shall be issued unless all construction confirms to the approved plan.
- B. No site plan approval shall be required prior to issuance of a building permit or other required permit for any of the following:
  - (1) Single-family and two-family dwellings
  - (2) Accessory structures, such as private garages, swimming pools, storage sheds, etc., which are incidental to single-family and two-family dwellings.
  - (3) Fences, provided that said fence does not violate a condition of prior variance approval, and further provided that if the proposed fence is to be located on a site developed for nonresidential use, said fence shall not alter the means of ingress and egress as approved by the Board.
  - (4) Paving of an unpaved driveway on property developed for single-family or two-family dwellings, provided that said paving shall not violate a condition of a prior variance approval.
  - (5) Interior alterations or work on exterior building facades, windows or roofing. However, issuance of a building permit for said work in no way limits the Borough's authority to require future site plan approval based upon the proposed use of the building.

**(6) Building additions.**

**A. Building additions which are less than fifteen percent (15%) of the building's existing floor area or one thousand five hundred (1,500) square feet, whichever is less, provided that said addition meets the following criteria:**

- 1. It will not require any additional parking spaces.**
- 2. It will not violate zoning regulations nor increase the extent of nonconformance with existing zoning regulations.**
- 3. There will be no loading bay proposed as part of the addition.**
- 4. There will be no chemical or hazardous substances stored in the addition.**

**(7) Any change of occupancy which does not meet the criteria established in 115-13 for classification as a change of use.**

**115-13. Determination of Change of Use.**

**A. A change in the occupancy of a building or the utilization of a building or land which meets any of the following criteria shall be determined to be a change of use under this chapter:**

- 1. The proposed use requires more off-street parking spaces than the previous use, based upon parking requirements in the Borough's Land Development Ordinance;**
- 2. The proposed use has significantly difference hours of operation than the previous use;**
- 3. The proposed use has special pickup and discharge or loading and unloading requirements which affect either on-site or off-site circulation; or**
- 4. The proposed use involved the storage or handling of chemicals or hazardous substances.**

**B. All such changes of use shall require site plan approval prior to the issuance of any required municipal permits.**

- C. A signed affidavit stating that the proposed use does not meet any of the above criteria must be submitted to the Borough Zoning Officer prior to issuance of Certificate of Occupancy.

**115-14. Principal Buildings.**

- A. Second dwelling prohibited. Except for multifamily housing developments, in no case shall there be permitted more than one (1) residential building on each subdivision lot of record.
- B. Location of improved street. All principal buildings shall be built upon a lot with frontage upon a public street or private road improved in accordance with Borough requirements or for which such improvements have been insured by the posting of a performance guaranty.

**115-15. Accessory Structures.**

**A. Location**

- (1) In any residential zone, no private detached garage or other accessory building or parking area shall be located within a required front yard nor within a required side yard, except that nothing shall prohibit an owner of a home from counting a driveway as an off-street parking space. A residential driveway shall be set back a minimum of two (2) feet from the side property line.
- B. Accessory structure as part a principal building. A private garage constructed as a structural part of a main dwelling shall be considered part of the principal building and shall comply in all respects with yard requirements of this chapter for the principal building.
- C. Area restrictions. Accessory structures may occupy, in aggregate, not more than forty (40%) of the required rear yard area in all zoning districts.
- D. Distance from principal buildings. The minimum distance of any detached accessory structure from the principal building shall be five feet.
- E. Height restrictions. In any residential district, no accessory shall exceed fifteen (15) feet in height.
- F. Distance from street line. On through lots (any lot running from one street to another), no accessory building erected in the rear yard shall be nearer the street line than the minimum distance specified for a front yard setback on the street which said yard abuts.

- G. Accessory building not to be resided in. No accessory building shall be used for residential dwelling purposed in any zoning district.
- H. Private swimming pools. Private swimming pools in excess of twenty-four (24) inches deep shall be permitted in rear yards only and shall be a minimum of ten (10) feet from the principal building and six (6) feet from all property lines.
- I. Membrane structures shall be permitted only in rear yards. Membrane structures do not include tents.

**115-16. Permitted Obstructions in Required Yards.**

Except as hereinafter specified in this section, every part of a required yard shall be unobstructed and open except for the following man-made structures:

- A. Accessory buildings in a required rear or side in accordance with 115-15.
- B. The ordinary projection of sills, parapets, cornices, eaves, leaders, bay/bow windows, and other ornamental features, provided that said features shall not project into a required yard area more than twenty-four (24) inches.
- C. Air-conditioning equipment placed on the ground, which may not project more than three (3) feet into a required side or rear yard setback.
- D. An unroofed porch or terrace projecting into a required front yard or rear yard, at the level of the first floor, provided that the area of said porch or terrace which projects into a required front or rear yard shall not exceed thirty (30) square feet.
- E. Fences, in accordance with 115-39.
- F. Flagpoles.

**115-17. Lot Frontage.**

- A. In the case of lots fronting on the turnaround of a cul-de-sac street or fronting upon any curved street, lot frontage (as distinguished from lot width) shall be no less than two (2/3) of the required lot width as set forth in the schedule 115-6.

**115-18. Corner Lots.**

On a corner lot, two (2) frontages shall be designated as the front yard, and the front entrance shall be oriented to the street address. The setback on the secondary street shall

be equal to a **minimum** of the average front setbacks of structures on the same side of the street, for 200 feet. At no time shall the setback be less than 25 feet. An applicant must certify that said calculations have been established and provide proof of the measurements taken.

The rear yard shall have a setback of 20 feet minimum. Side yard setbacks shall be a minimum of 6 feet.

On a corner lot, accessory buildings are required to meet the principal building side yard setback requirements.

**115-19. Measurement of setbacks and lot dimensions for irregular lots.**

**A. Lots fronting on a cul-de-sac or curved street.**

- (1) The front setback line shall be concentric to the street line.
- (2) Front setback shall be measured as the shortest horizontal distance between the street line arc and the setback line arc.
- (3) Lot width shall be the measured horizontal distance between the two (2) points where the setback arc intercepts the side property lines.
- (4) Lot frontage shall be the measured horizontal distance between the two (2) points where the side property lines intersect the street line arc. Lot frontage (as distinguished from lot width) shall be no less than two thirds (2/3) of the required lot width as set forth in the schedule 115-6.
- (5) The front wall of a permitted structure may be tangent to any point on the setback arc, provided that the side yard setbacks are observed as shown in the schedule 115-6.

**B. Triangular lots having no rear lot line. For a triangular lot having no rear lot line, lot depth shall be measured as the shortest horizontal distance from the front lot line to the midpoint of a line parallel to the front lot line, which parallel line shall not be less than ten (10) feet in length, measured between its intersections with side lot lines.**

**C. Other irregular lots.**

- (1) For an irregular lot with two (2) rear lot lines, lot depth shall be measured as the shortest horizontal distance from the front property line to the midpoint of a line drawn through the midpoints of the two (2) rear property lines.

- (2) For an irregular lot with one (1) sloping rear lot line, lot depth shall be measured as the shortest horizontal distance from the front property line to a line drawn parallel to the front property line through the midpoint of the rear property line.

**115-20. Obstruction of vision on corner lots.**

- A. On any corner lot within the triangular area determined as provided in this section, the following is prohibited.
  - (1) Walls, fences, signs, or other structures which obstruct vision or are erected to a height in excess of two (2) feet above curb level.
  - (2) Parked vehicles, objects, or any other obstruction of a height in excess of two (2) feet above curb level.
  - (3) Hedges, shrubs, or other vegetation growth which are not maintained at a height of less than two (2) feet, except that Permitted signs or trees whose obstructions are at least eight (8) feet above the curb level shall be permitted.
- B. Such triangular area shall be formed by the two (2) intersecting street lines adjoining said lot and by a diagonal line connecting twenty-five (25) feet from the intersection of these street lines.

**115-21. Compliance with prevailing front yard setbacks.**

In a residential zone with existing structures, the average front setback line for new, expanded or rebuilt structures must be a **minimum** of the average front setbacks of structures on the same side of the street, for 200 feet in both directions. At no time shall the setback be less than 25 feet. An applicant must certify that said calculations have been established and provide proof of the measurements taken.

**115-22. Outdoor storage restricted.**

- A. **Outdoor storage.** Outdoor storage of any kind or nature except storage of those items customarily used in conjunction with residential occupancy, is strictly prohibited in all residential zones.
- B. In all nonresidential zones, no article, equipment, vehicle, supplies, or material shall be kept, stored, or displayed outside the confines of any building unless the same is screened by planting or fencing, as approved by the Planning Board.
- C. Display for retail sales of new and used motor vehicles equipment by a licensed dealer not be required to be screened by plantings or fence.

**115-23. Outdoor storage of recreational vehicles and boats.**

- A. Motorized recreational vehicles exceeding a manufacturer's gross vehicle weight of Eight thousand (8,000) pounds shall be parked in the required space reserved for off-street parking in all zones. Said vehicles must be registered in the name of a legal occupant of the premises where it is stored.
- B. Trailer recreational vehicles and boats shall be stored in a private garage or in the rear yard.

**115-24. Parking of trucks and school buses in residential zones.**

No truck, tractor, trailer, school bus, or licensed commercial vehicle of more than eight thousand (8,000) pounds manufacturer's rated capacity shall be stored or parked on any lot situated in a residential zone, nor shall any such vehicle be parked on any street in any residential zone except while delivering merchandise or providing services to the residents of the building.

**115-25. Community residences for mentally or physically handicapped.**

Community residences for up to six (6) mentally or physically handicapped persons and their resident staff shall be permitted in any residential zone in the Borough. Such community residences shall meet the minimum area, yard, and building requirements set forth for single-family units in the zone in which located. Community residences for the placement of more than six (6) but fewer than sixteen (16) mentally or physically handicapped persons, exclusive of resident staff, may be permitted in residential zones as a conditional use, provided that all of the terms and conditions specified for this particular use in 115-37 of this chapter are complied with.

**115-26. Obscene materials.**

The sale or the public communications of obscene materials in any zoning districts of the Borough of Dunellen, as obscene materials are defined in N.J.S.A. 2C:34-2 et. seq., is hereby prohibited.

**115-27. Exceptions to height limitations.**

The height limitations of this chapter shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads, and necessary mechanical appurtenances usually carried above the roof level; nor to noncommercial radio and television antennas or transmission apparatus; except that such features, if erected on a roof, shall not exceed twenty percent (20%) of the total roof area. Penthouses or roof structures for housing

mechanical equipment shall also be exempt, provided that said structure does not exceed one-third (1/3) of the building height or twelve (12) feet, whichever is less.

**115-28. Emergency housing.**

In the event that damage resulting from fire, and explosion, or an act of God renders any existing single-family or two-family dwelling uninhabitable, mobile housing units shall be permitted to be located on the lot on a temporary basis, not to exceed four (4) months. The location of said temporary housing unit shall not be governed by existing setback requirements of the zone, but shall be set back a minimum of five (5) feet from adjacent properties and shall not be located within a required sight triangle.

**115-29. Use of trailers for storage or office.**

The storage or warehousing of materials, supplies, and/or products in trailers or containers and the use of trailers as a temporary office is hereby prohibited in all zones, except for the following:

- A. Construction trailers may be placed on a construction site provided that no such trailer may be placed on a site prior to the granting of site plan approval, and further provided that all such trailer shall be removed from the site if construction is not pursued diligently for any consecutive six-month period. The location of the construction trailer on the construction site must meet the approval of the Construction Code of Official.

**115-30. Expiration of variance approvals.**

A building permit must be obtained and construction started within one (1) year of the date of approval of a variance or such variance approval shall be automatically revoked. However, the applicant may apply for and the Board may grant extensions of such variance approval for additional period of at least one (1) year, but not to exceed a total extension of two (2) years.

**115-31. Sexually oriented businesses prohibited in certain areas.**

No sexually oriented business shall be operated or maintained within 1,000 feet of a residentially zoned district, public place of worship, a state-licensed day-care facility, public library and public educational facilities which serve persons age 17 or younger, school bus stops, and/or playgrounds.

## ARTICLE V

### Nonconforming Uses and Structures

#### 115-32. Nonconforming Uses and Structures.

- A. **Limitations on continuance of nonconforming uses.** Any nonconforming use which lawfully existed at the time of passage of this chapter may be continued upon the lot or in the building so occupied. However, except as required by current adopted state and local building code, no structural alterations shall be made to a building which is nonconforming because of use. No nonconforming use of building or land shall be enlarged or relocated to any other building or land or to any other portion of the lot occupied by such nonconforming use, nor shall there be any increase in the square footage of signs advertising said nonconforming use.
- B. **Abandonment of Use.** An abandonment of a non-conforming use shall terminate the right to its further use. In determining whether an abandonment of such use shall have occurred, there shall be the concurrence of two factors: (1) an intention to continue the use and (2) some overt act or failure to act which carries a sufficient implication that the owner neither claims nor retains any interest in the subject matter of the use. The mere passage of time during a cessation of such use shall not constitute an abandonment, but shall be a factor to be considered. The owner bears the burden of proof by a preponderance of the evidence.
- C. **Restoration of buildings which are nonconforming because of use.** If a building or structure which is nonconforming because of use is more than fifty percent (50%) destroyed by fire, explosion, windstorm, or other acts of God, said structure shall not be rebuilt unless in accordance with the use restrictions of the district in which it is located.
- D. **Continuance of nonconforming buildings and structures.** A nonconforming structure, provided that the use of the same is permitted in the district, may be reconstructed, enlarged, relocated, or structurally altered provided that said enlargement, reconstruction, alteration, or relocation complies with all bulk requirements of this chapter.

## ARTICLE VI

### District Regulations

#### 115-33. RA Single-Family Residential District

- A. Permitted principal uses. No building, structure, or premises shall be used and no building or structure shall be erected or structurally altered, except of the following uses:
1. Detached single-family dwellings.
  2. Community residences.
  3. Funeral Homes.
  4. Churches and other places of worship.
- B. Permitted accessory uses and buildings. Uses and buildings incidental to the above uses, including but not limited to those specified below, shall be permitted:
1. Private garages.
  2. Private swimming pools.
  3. Storage Sheds.
- C. Conditional uses. The following conditional uses may be permitted, provided that all of the terms and conditions specified for the particular use in 115-37 are complied with:
1. Nursery schools.
  2. Home professional offices.
  3. Community residences for the placement of more than six (6) but fewer than sixteen (16) mentally or physically handicapped persons, excluding resident staff.
- D. Height, area, and yard requirements: as specified in the schedule of regulations, 115-6 except as hereinafter provided:
1. Churches and other places of worship shall comply with the following bulk regulations:
    - a. Minimum lot area: half an acre.
    - b. Minimum lot width: 100 feet.
    - c. Minimum side yard: 20 feet
- E. Occupancy Requirements

#### (1) Occupancy of Dwelling Units:

Every dwelling unit shall contain a minimum floor area of one hundred fifty (150) square feet for the initial occupant, plus one hundred (100) square feet for each occupant thereafter. At least fifty (50%) percent of the minimum floor area shall have a minimum ceiling height of seven (7) feet.

**(2) Occupancy of Sleeping Rooms**

(a) Every room utilized for sleeping purposes shall have a minimum area of seventy (70) square feet for the initial occupant and fifty (50) square feet of additional floor area for each additional occupant. At least fifty (50) percent of this floor area must have a minimum ceiling height of seven (7) feet.

(b) The floor area of that part of any room where the ceiling is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area in the room for determining the maximum permissible occupancy thereof.

(c) Independent rooming units shall be rented for occupancy or occupied by adults and emancipated minors only, limited to total occupancy by two (2) persons.

**(3) Lighting:**

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window or skylight area measured between the stops for every habitable room shall be eight (8) percent of the floor area of such room.

**(4) Ventilation:**

Means of ventilation shall be provided for every habitable room. Such ventilation may be provided by either an easily opening window or skylight having an operable area of at least fifty (50) percent of the minimum window or skylight area or by mechanical means that provide at least two (2) air changes per hour.

**(5) Cellars and Basements for sleeping purposes:**

Cellars and basement may only be used for sleeping purposes if the following conditions have been met.

(a) A minimum finished ceiling height of seven (7) feet is required.

(b) The walls and floors in contact with the earth must be damp-proofed in accordance with a method approved by the Administrative Authority.

(c) The provisions cited under **Lighting and Ventilation** must be observed.

**(6) Egress:**

- (a) Every dwelling unit, or lodging unit shall have safe and unobstructed means of egress. Such means shall not be through another dwelling unit or part thereof and shall lead to a safe and open space at ground level accessible to the street.
- (b) A room for sleeping purposes shall have safe and unobstructed means of egress leading to an outside area accessible to the street.
- (c) A rented room for sleeping purposes shall comply with all of the above. Such a room shall not have a keyed lock on the access door. Privacy locks which only lock mechanically from the inside are permitted.

**115-34. RB Single-Family and Two-Family Residential District.**

- A. Permitted principal uses. No building, structure, or premises shall be used and no building or structure shall be erected or structurally altered, except of the following uses:
  - 1. Detached single-family dwellings.
  - 2. Two family dwellings.
  - 3. Community residences.
  - 4. Funeral Homes.
  - 5. Churches and other places of worship.
  
- B. Permitted accessory uses and buildings. Uses and buildings incidental to the above uses, including but not limited to those specified below, shall be permitted:
  - 1. Private garages.
  - 2. Private swimming pools.
  - 3. Storage sheds.
  
- C. Conditional Uses. The following conditional uses may be permitted, provided that all of the terms and conditions specified for the particular use in 115-37 are complied with:
  - 1. Nursery schools.
  - 2. Home professional offices.
  - 3. Community residences for the placement of more than six (6) but fewer than sixteen (16) mentally or physically handicapped persons, excluding resident staff.
  - 4. Multifamily dwellings.
  
- D. Height, area, and yard requirements: as specified in the schedule of regulations, 115-6 except as hereinafter provided:

1. Churches and other places of worship shall comply with the following bulk regulations:
  - a. Minimum lot area: half an acre.
  - b. Minimum lot width: 100 feet.
  - c. Minimum side yard: 20 feet.
  
2. The construction of two family dwellings shall comply with the following bulk regulations:
  - (a) Minimum lot area: 7,500 square feet
  - (b) Minimum lot width: 75 feet
  - (c) Minimum side yards: 10 feet

#### E. Occupancy Requirements

**(1) Occupancy of Dwelling Units:**

Every dwelling unit shall contain a minimum floor area of one hundred fifty (150) square feet for the initial occupant, plus one hundred (100) square feet for each occupant thereafter. At least fifty (50%) percent of the minimum floor area shall have a minimum ceiling height of seven (7) feet.

**(2) Occupancy of Sleeping Rooms**

(a) Every room utilized for sleeping purposes shall have a minimum area of seventy (70) square feet for the initial occupant and fifty (50) square feet of additional floor area for each additional occupant. At least fifty (50) percent of this floor area must have a minimum ceiling height of seven (7) feet.

(b) The floor area of that part of any room where the ceiling is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area in the room for determining the maximum permissible occupancy thereof.

(c) Independent rooming units shall be rented for occupancy or occupied by adults and emancipated minors only, limited to total occupancy by two (2) persons.

**(3) Lighting:**

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window or skylight area measured between the stops for every habitable room shall be eight (8) percent of the floor area of such room.

**(4) Ventilation:**

Means of ventilation shall be provided for every habitable room. Such ventilation may be provided by either an easily opening window or skylight having an operable area of at least fifty (50) percent of the minimum

window or skylight area or by mechanical means that provide at least two (2) air changes per hour.

**(5) Cellars and Basements for sleeping purposes:**

Cellars and basement may only be used for sleeping purposes if the following conditions have been met.

- (d) A minimum finished ceiling height of seven (7) feet is required.
- (e) The walls and floors in contact with the earth must be damp-proofed in accordance with a method approved by the Administrative Authority.
- (f) The provisions cited under **Lighting and Ventilation** must be observed.

**(6) Egress:**

- (d) Every dwelling unit, or lodging unit shall have safe and unobstructed means of egress. Such means shall not be through another dwelling unit or part thereof and shall lead to a safe and open space at ground level accessible to the street.
- (e) A room for sleeping purposes shall have safe and unobstructed means of egress leading to an outside area accessible to the street.
- (f) A rented room for sleeping purposes shall comply with all of the above. Such a room shall not have a keyed lock on the access door. Privacy locks which only lock mechanically from the inside are permitted.

**115-35. B Business District.**

- A. Permitted principal uses. No building, structure, or premises shall be used and no building or structure shall be erected or structurally altered, except for the following:
  - 1. Retail shopping facilities and service establishments where commodities are sold or service provided primarily for a local market, such as:
    - a. Bakeries.
    - b. Delicatessens.
    - c. Drug stores.
    - d. Beauty parlors.
    - e. Dry-cleaning establishments.
    - f. Garden and flower shops.
    - g. Studios for instruction in art, music, dancing. Etc.
    - h. Clothing stores.

2. Professional and general business offices.
  3. Banks.
  4. Recreational and amusement facilities operated for profit including:
    - a. Indoor theaters.
    - b. Bowling alleys.
    - c. Skating rinks.
  5. Limited Service Restaurants.
  6. Funeral homes
- B. Permitted accessory uses and buildings. Uses and buildings incidental to the conduct and operation of the principal use shall be permitted.
- C. Conditional uses. The following conditional uses may be permitted, provided that all the terms and conditions specified for the particular use in 115-37 are complied with:
1. Full-service restaurants.
  2. Quasi-public clubs and organizations.
  3. Gasoline service stations and public garages  
[see 115-37 (J)]
  4. Licensed nursing homes and convalescent homes.
- D. Height, area, and yard requirements: as specified in the schedule of regulations, 115-6, except as hereinafter provided:
1. No front yard setback shall be required on any structure in existence as of the time of adoption of this chapter.
  2. Where a proposed nonresidential use abuts said residential use or a lot which was developed for a residential use prior to the initiation of the nonresidential use on the subject property, an eight-foot-wide buffer strip, designed in accordance with the requirements of 115-42, shall be provided in all rear or side yards which abut said residential use. A street right-of-way shall not be considered in place of a required buffer strip.

- E. Off-street parking requirements: as specified in the Borough of Dunellen Land Development Ordinance and any amendments thereto.
- F. Landscaping requirements: as specified in 115-41.
- G. Prohibited Diagonal Entrances

Diagonal, corner, entrances are prohibited.

All ingress and egress passageway from the exterior to the interior of a structure in a Business District shall be located so that they shall not create, or be part of, a corner of the building. Said entrances shall not be part of a combined front and side wall, but must be isolated to the front wall so that its presence does not encompass in whole, or in part, two adjoining walls.

This section shall not apply to corner lots.

#### **115-36. M Municipal District**

- A. Permitted principal uses. No building, structure, or premises shall be erected, structurally altered, or used except for the following uses:
  - 1. Governmental uses conducted by the Borough of Dunellen or the Borough of Dunellen Board of Education.
- B. Accessory uses. Uses and buildings incidental to the conduct and operation of the principal use.
- C. Height, area, and yard requirements. Off-street parking requirements, landscaping requirements and signs shall be presented for approval by the Planning Board.

## ARTICLE VII

### Conditional Uses

#### 115-37. Conditional Uses.

##### A. Intent.

1. The Planning Board may grant conditional uses as permitted and regulated in this section, recognizing the necessity for certain specific, while at the same time appreciating the fact that they may be or may become adverse to the public health, safety, and general welfare of the community if improperly designed or located without due consideration to the existing conditions and surroundings; the standards and procedures in this section are hereby established.
2. These standards are intended to provide the Planning Board with a guide for the purpose of reviewing applications for conditional use as provided for by this chapter. In reviewing an application, the Planning Board may act on site plans submitted to it or may suggest modifications and changes. In approving an application, the Planning Board may require in addition to features specified, such other features or design, in keeping with the intent thereof, that will further the purposes of these standards and regulations. Such features shall be provided and maintained as a condition of the establishment and maintenance of any use to which they are a condition of approval.
3. Notwithstanding compliance with specific conditional use standards hereinafter set forth no conditional use shall be permitted if the use at the proposed location would be detrimental to the health, safety, and general welfare of the community.

##### B. Licensed nursing homes and convalescent homes. Licensed nursing homes and convalescent homes may be permitted in the B Zone, provided that:

1. Such use fronts upon a street classified in the Borough's Master Plan as other than a local street.
2. The application shall comply with all state requirements for such use.

3. Such building shall be set back at least forty (40) feet from the street and rear lot lines and at least twenty (20) feet from side lot lines.
  4. Off-street parking shall be provided for at least one (1) space for each three (3) beds, plus one (1) space for each staff member and employee, based upon the maximum number estimated to be on duty at any one (1) time. Such off-street parking area shall be suitably screened from adjoining residential lots by appropriate landscaping and/or fencing.
  5. Areas for outdoor recreation of a size and location sufficient to properly serve the needs of the occupants shall be provided.
- C. Nursery schools. Nursery schools may be permitted in the RA and RB Zones, provided that:
1. Ingress to and egress from the facility is such that the safety of the children is protected.
  2. Adequate provision is made to accommodate the loading and unloading of children.
  3. The building is appropriately designed and provides adequate fenced yard space developed for recreational purposes.
  4. There are no other nonresidential uses carried on in the building.
  5. The nursery school shall comply with all state requirements for such use.
- D. Home professional offices. Home professional offices may be permitted in RA and RB Zones, provided that:
1. The lot meets the minimum requirements of this chapter with respect to lot area and lot width.
  2. The dwelling unit proposed to house such use is a single-family unit.
  3. The office is, in fact, the office of the resident of the dwelling.
  4. No structural alterations to accommodate the use of the dwelling for office use are required.
  5. Such use shall occupy an area equivalent to not over fifty percent (50%) of the floor area of one (1) story.

6. Such use shall not involve the sale of any goods, products, or merchandise.
  7. Sufficient off-street parking space, as determined by the Planning Board on a case-by case basis, is provided in the rear or side yards. Such parking area is to be suitably shielded from adjacent properties by means of appropriate landscaping and/or fencing.
- E. Home occupations. Home occupations may be permitted in the RA and RB Zones, provided that:
1. The dwelling unit proposed to house such use is a single-family unit.
  2. Such occupation shall be conducted solely by members of the residential family.
  3. No structural alterations to accommodate the use of the dwelling are required.
  4. Such use shall occupy an area equivalent to not over fifty percent (50%) of the floor area of one (1) story.
  5. There shall be no conspicuous display of goods or advertising to be seen from outside the premises.
  6. Such use will not generate traffic or parking requirements which cannot be accommodated in the neighborhood.
  7. Such use does not involve the use of any machinery or equipment which will cause electrical or other interference with radio and television reception in adjacent residences or which will cause offensive noise or vibration.
  8. No permitted home occupation may be conducted with members of the public later than 10:00 p.m.
- F. Quasi-public clubs and organizations. Quasi-public, nonprofit clubs and organizations, as well as philanthropic and charitable uses, may be permitted in the RA, RB, and B Zones, provided that:
1. Such as, when taken in conjunction with other existing land uses, will not generate traffic that would result in an undue burden upon available access streets.

2. Such as, if located in a residential zone, shall only be located in a single-family dwelling.
  3. A statement setting forth full particulars of the operation of the use and total number of proposed charter members (for membership clubs) shall be filed with the Planning Board.
  4. It is ascertained by the Planning Board that the proposed use is a bona fide nonprofit organization operated solely for the recreation and enjoyment of the members of said organization or for civic, humanitarian or charitable purposes.
  5. It is ascertained by the Planning Board that the proposed use in the proposed location shall in no way adversely affect the safe and comfortable enjoyment of property rights in the area in which it is to be located.
  6. The design of any structure erected in connection with such use is in keeping with the general character of the area and that sufficient landscaping, including trees, shrubs, and lawns are provided to serve as a buffer between said use and adjoining residential properties.
  7. The maximum membership limit of said organization shall be fixed at the time of application and shall be commensurate to the size of the building and the amount of land available for off-street parking. No further expansion of said membership shall be made unless supplemental approval is granted by the Planning Board.
  8. Off-street parking shall be provided for at least one (1) space for each two hundred (200) square feet of floor area, plus additional spaces determined by the Board, based upon anticipated usage. Such off-street parking area shall be suitably screened from adjoining residentially zoned lots by appropriate landscaping and/or fencing.
- G. Community residences for the mentally ill and physically handicapped. Community residences for the placement of more than six (6) but fewer than sixteen (16) mentally or physically handicapped persons, exclusive of resident staff, may be permitted in the RA, RB, and B Zones provided that:
1. Sufficient off-street parking space, as determined by the Planning Board on a case by case basis, is provided in the rear or side yards. Such parking is to be suitably shielded from adjacent residential properties by means of appropriate landscaping and/or fencing.
  2. The maximum number of occupants shall be fixed at the time of application and shall be commensurate with the amount of land to be used and the square footage of the house. No further expansion of said

occupancy limit shall be made unless supplemental approval is granted by the Planning Board.

3. In order that the health and safety of the occupants not be endangered by heavy traffic volumes, such use shall not be located on any street other than those classified as local streets in the Master Plan of the Borough of Dunellen.
4. Ingress to and egress from the building is such that the safety of the occupants is protected to the satisfaction of the Planning Board.
5. Sufficient off-street parking area is provided for the pickup and discharge of occupants by vans or other vehicles servicing the handicapped.
6. Such use shall not have an entrance or exit on the same side of the street within two hundred (200) feet of an entrance or exit to a public or private school, garage or service station, theater, rescue squad, or fire station, except where and when the property is in another block or on another street which the lot in question does not abut.
7. No such use shall be located within one thousand five hundred (1,500) feet of an existing community residence for the mentally or physically handicapped.

#### H. Multifamily dwellings in the RB Zone.

1. Minimum lot size shall be 75ft. frontage with 10 ft. side-yard requirements and a minimum lot sq. footage of 12,000 sq. ft.
2. There shall be a maximum density of 12 units per acre.
3. Parking shall be in accordance with RSI Standards.
4. There shall be a minimum of 75% two-bedroom units. No units of more than two bedrooms will be permitted.

#### I. Mixed use development in the B Zone.

- A. Exclusive residential development shall be prohibited.
- B. Mixed use. (Combined residential/commercial/professional use)
  - I. The structure shall not exceed three (3) stories.
  - II. The first story of any structure shall be exclusively commercial/retail and professional. The second floor shall be exclusively commercial/professional uses and/or residential use.
  - III. If a third floor, same must be for residential use only.
  - IV. The maximum height shall be such so as to create a consistent architectural appearance with neighboring and adjacent buildings so that the façade lines are fairly consistent.

IV. That there shall be a minimum of 75% two-bedroom units. No units of more than two bedrooms will be permitted.

J. Gasoline Service Stations. Gasoline Service Stations may be permitted in the B Zone, provided that:

1. It shall not be located within 1,000 feet of a residential unit.
2. It shall not be located within 1,000 feet of a railroad line so as to reduce its potentiality as a target for disruption of rail service.
3. Lot size shall be sufficient to accommodate supply tank refills without disruption/reduction of filling service to customers, and to allow access and egress of supply tank vehicles without the need to reverse the vehicle's direction.
4. Vehicles refilling supply tanks shall not cross lot lines while off loading.
5. No convenience store or selling of consumable products exists on the lot.
6. No automobile repair and/or bodywork is performed on site.
7. Pump islands shall maintain a front and side yard setback of at least 20 feet and a rear yard setback of at least 25 feet.
8. Lot is not located adjacent to an intersection so as to reduce its potentiality as a generator of traffic congestion or blockage in the event of a catastrophic incident.

## ARTICLE VIII

### Performance Standards

#### 115-38. Performance Standards.

- A. **General intent.** As a condition of approval for any building or use, and as a condition of continued occupancy of any building or installation utilized for nonresidential purposes, the applicant shall supply evidence satisfactory to the Board or the Construction Official, whichever is applicable, that the proposed building or installation shall conform fully with all of the applicable performance standards established herein. As evidence of compliance, the Board may require certification of tests by appropriate government agencies or by recognized testing laboratories, all costs to be borne by the applicant. The Board may require that specific types of equipment, machinery, or devices be installed or that specific operating procedures or methods be followed of government agencies or testing laboratories examining the proposed operation shall determine that the use of such specific types of machinery, equipment, devices, procedures, or methods is required by other government agencies shall be submitted to the Planning Board's proof of compliance with applicable codes.
- B. **Industrial sewage waste.** No industrial waste shall be discharged into the public sewage collection and disposal system unless the appropriate official of the Borough of Dunellen shall have first investigated the character and volume of such waste and shall have certified that it will accept the discharge of the waste material into the system. The applicant shall comply with any requirements of the Borough, including the pretreatment of such waste, control of pH and other methods of improving such waste treatment and disposal shall be approved by the Borough, the New Jersey Department of Environmental Protection and the New Jersey State Health Department.
- C. **Solid waste.** All nonresidential uses in the Borough shall assume full responsibility for adequate collection, recycling and disposal of refuse. No junk or solid waste shall be permitted to accumulate on the property.
- D. **Noise and vibration.** All uses and activities shall comply with noise and vibration standards promulgated by the New Jersey Department of Environmental Protection.
- E. **Heat.** No use shall be permitted that produces heat to the extent that such temperature has an adverse effect of any kind upon adjoining properties and uses.
- F. **Glare.** Any process producing intense glare or flashing of lights shall be performed within a completely enclosed building in such manner that no discomforting glare shall be disseminated beyond the building. No sky-reflected or indirect glare shall be permitted if any operation is to be conducted in any area

outside of a building, except where required for safety purposes. Lighting of any parking area or of any loading or unloading area shall conform to the strictest standards prescribed in Recommend Practice for Outdoor Parking Area Lighting, published by the Illumination Engineering Society, with spacing and type of luminaries such that spill light shall be kept at a minimum and glare controlled with lenses, louvers, or shields so as to minimize object able glare to any point beyond the lot line. Parking loading and unloading areas that are in use after darks shall be so situated as to provide maximum shielding and concealment of lighting from adjoining properties. Luminaries lighting any sign, building, exterior, fountain, or decorative fixture shall be placed in such manner that the lighting is directed only toward the object to be lighted and does not disseminate glare. This subsection shall not be construed to prohibit lighting required by police or other enforcement agencies for the safety and protection of employees and of the general public.

- G. Fire and explosion hazard. No use shall be permitted which results in a fire or explosion hazard beyond the limits of the property occupied by said use.
- H. Hazardous and toxic substances and chemicals.
  - 1. No use of process shall be permitted which stores or utilizes any substance classified by the Department of Environmental Protection as toxic or hazardous unless in compliance with all applicable state and federal requirements, and further provided that proposed spill containment and storage and diking plans shall be certified by independent experts hired by the Board, all costs to be borne by the applicant.
  - 2. In addition, all new underground tanks used to store hazardous chemicals shall include an outer, or secondary container.
- I. Additional standards and references. In order to satisfy itself that the applicant will comply fully with all of the applicable performance standards, the Board or its designated representative may examine and refer to any or all of the available standards, codes, regulations, and requirements of federal, state county of local government, and recognized professional organizations, associations and societies.
- J. Testing procedures and technical assistance. In all cases where the Planning Board shall deem that it is advisable to determine whether or not the facility will be in conformance with applicable performance standards, the Planning Board or its designated representative shall require adequate testing procedure and utilize expert assistance at the expense of the applicant.
- K. Odors. There shall be no emission of odorous gases or other odorous matter as to be offensive beyond the property line of the lot occupied by the use.

## ARTICLE IX

### Fences; Buffers and Landscaping

#### 115-39. Fences.

The following provisions govern the erection and maintenance of fences in all districts.

- A. Fences shall not be governed by set back requirements for accessory structures.
- B. No solid fences shall be erected in a required front yard area in any zone district in the Borough of Dunellen. However, on a corner lot or a through lot only the street frontage to which the front entrance is oriented shall be considered a front yard area. The remaining yard area abutting a street may be fenced with a solid fence not exceeding six (6) feet in height, but no fence may be erected in any portion of the Borough's right-of-way, and all fences must be located on or within the boundary line. This subsection shall not preclude a property owner from replacing an existing side yard fence although the existing side yard fence may be constructed in the Borough's right-of-way. For purposes of this section, a "solid fence" shall be defined as a fence in which less than fifty percent (50%) of the area is open.
- C. Open fences not exceeding four (4) feet in height may be erected in a required front yard area in a residential district. Open or solid fences not exceeding six (6) feet in height may be erected in a required side or rear yard area in a residential district. However, where a residential use abuts a nonresidential use, said fence may extend eight (8) feet in height. Open or solid fences erected in a required side yard may not be erected beyond the front yard setback line.
- D. Open fences not exceeding eight (8) feet in height may be erected in the required front yard area of a nonresidential use. Open and solid fences not exceeding eight (8) feet in height may be erected in a required side or rear yard area in a nonresidential use. Solid fences erected in a required side yard may not extend beyond the front yard setback line.
- E. The finished side of all fences shall face the exterior property boundary of the lot on which located.
- F. All fences shall be maintained in a safe, sound, and upright condition.
- G. No fence or wall over two (2) feet in height shall be permitted on a corner lot within a designated sight triangle. No solid fence or wall shall be permitted within a designated sight triangle.

- H. Electrically charged fences and barbed wire fences are specifically prohibited in all districts.

**115-40. Buffers and landscaping.**

- A. All yards not occupied by parking areas shall be graded and planted with grass seed or sod and such shrubbery and trees as determined by the Board. The entire area shall be attractively maintained and kept free of all debris and rubbish.
- B. The minimum required width of a required buffer area varies based upon the nonresidential district in which the proposed use is located. Automobile overhands shall not be considered required buffer area. Within all required buffer areas, a solid and continuous landscape screen shall be planted and maintained. Said landscaping shall consist of lawn, massed evergreen and deciduous trees and shrubs of such species and density as will provide, within two (2) growing seasons, a solid and continuous screen throughout the full course of the year.
- C. In determining if the height of a required buffer meets the requirements of this chapter, the buffer height shall be measured in relation to the elevation of the adjacent land or structure to be buffered. In such cases where the ground elevation at the point where the buffer is to be installed is less than the elevation of the adjacent property or structure to be buffered, the required height of the screen shall be increased in an amount equal to the difference in elevation. In the event that the ground elevation at the point where the buffer is to be installed is greater than that at the adjacent property to be buffered, the required height may be reduced in an amount equal to said difference in elevation, provided that in no case shall the required height be reduced to less than four (4) feet.
- D. Where an outside off-street parking area for four (4) or more vehicles, or a loading and unloading area, abuts a residential zone or a lot which was developed for residential use prior to initiation of the nonresidential use on the subject property, a buffer strip, in accordance with applicable buffer requirements of this chapter, shall be provided between the parking area and the adjoining property. Said buffer shall be a minimum of six (6) feet in height at the time of planting. This required buffer shall also be required for outside parking areas for four (4) or more cars which serve single-family dwellings.
- E. All buffers and landscaped areas shall be protected from adjacent parking areas by either curbs or concrete, metal or wood bumpers at least six (6) inches in height and securely anchored into the ground.

## **ARTICLE X**

### **Administration and Enforcement**

#### **115-41. Approvals and permits required.**

It shall be unlawful for any person, corporation or agent to construct, relocate or alter the use of any building or the use of any land without first applying for required approvals and permits in the office of the Construction Official.

#### **115-42. Enforcement.**

- A. The provisions of this chapter shall be administered and enforced by the Borough Zoning Officer.
- B. In no case shall a building permit be granted for new construction or relocation of or addition to any building until the Borough Zoning Officer first reviews the proposed development plan to determine both compliance with this chapter and the necessity of applying for site plan approval.
- C. After approval, has been granted by the Zoning Officer or the appropriate Board, whichever is applicable, it shall be the duty of the Construction Official or his duly authorized assistant to inspect or examine all building plans in order to assure that no building permit is issued for development which is not in compliance with this chapter and any approvals granted by the Board.

#### **115-43. Violations and penalties.**

For each and every violation of the provisions of this chapter, the owner, contractor or other person or person interested as lessee, tenant or otherwise in any building or premises where such violation has been committed or shall exist and who refuses to abate said violation within five (5) days after written notice has been served upon the person, either by registered mail or by personal service, shall, for each and every violation, be subject to a fine of no more than five hundred dollars (\$500.00) or imprisonment for a period not exceeding thirty (30) days, or both, at the discretion of the court or judicial officer before whom the conviction was prosecuted. Each and every day that such violation continues after such notices shall be considered a separate and specific violation of this chapter.

## **ARTICLE XI**

### **Miscellaneous Provisions**

#### **115-44. Severability; effective date; effect on prior permits.**

- A. Severability. If any section, subsection, subdivision, clause, or provision of this chapter shall be adjudged invalid, such adjudication shall apply only to the section, subsection, subdivision, clause, or provision so adjudged, and the remainder of this chapter shall be deemed valid and effective.**
  
- B. Effective date; effect on prior permits. This chapter shall take effect upon its final passage and publication as provided by law, but any building or structure, the erection of which has been authorized by a permit issued by the Construction Official prior to the passage of this chapter, may be completed in accordance with the permit and the requirements of law and ordinances in force at the time when such permit was granted and may be used for the purpose designated in the plan and in the permit.**