

**AMENDMENTS TO  
CITY CODE OF ORDINANCES  
CHAPTER 102, ZONING  
ARTICLE V, DISTRICT REGULATIONS  
DIVISION 27. ROUTE 137 COMMERCIAL ZONING DISTRICT**

**Editor's Note:** The City has used the following format to identify the proposed amendments to Chapter 102. All text shown in **Bold and Red Font** is language that is proposed to be added to the Chapter/Ordinance. All text shown in ~~**Bold and Blue and Strike-Through Font**~~ is language that is proposed to be deleted from the Chapter/Ordinance. All text shown in **Black Font** is existing language in the Chapter/Ordinance that is not proposed to be either added or deleted. All text shown in **Bold and Green Font and Underlined** is an informational note to the public that is intended to help provide an understanding of the proposed Ordinance provision. Said text is not part of the adopted Ordinance. (See attached text of adopted amendments).

**First Reading:** July 6, 2021

**Second Reading:** August 3, 2021

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Signature

Date

## CHAPTER 102, ZONING

### ARTICLE V. DISTRICT REGULATIONS

#### DIVISION 27. Route 137 Commercial District

##### **Sec. 102-786. Permitted uses requiring ~~CEO~~ Code Enforcement Officer review.**

The City ~~e~~Code ~~e~~Enforcement ~~o~~Officer shall review and make decisions regarding applications for a use permit for the following types of uses in the Route 137 Commercial District:

- (1) Residential, single-family dwelling. Manufactured housing units are prohibited in that portion of the district that is located southeasterly of Merriam Drive.
- (2) Residential, two-family dwelling. Manufactured housing units are prohibited in that portion of the district that is located southeasterly of Merriam Drive.
- (3) Residential, one or two bedroom accessory dwelling unit in a detached structure. Manufactured housing units are prohibited in the portion of the district that is located southeasterly of Merriam Drive, **and are allowed in the portion of the district that is located northwesterly of Merriam Drive. Also reference the Article IX, Division 6, Supplemental Performance Standards in this Chapter.**
- (4) Home occupations (expanded definition).
- (5) Bed and breakfast, including class 1, class 2 and class 3.
- (6) Craft fairs on no more than 10 days in any calendar year.
- (7) Essential services.
- (8) Municipal uses deemed necessary by the City Council, subject to the ~~e~~Council conducting a duly noticed public hearing (minimum 10 days) prior to taking action to permit the use.
- (9) Public parks.
- (10) Agriculture and farm animals, excluding a commercial piggery, raising poultry for commercial uses, and slaughterhouses.
- (11) Accessory uses for principal uses for which the CEO can issue a permit.
- (12) Yard sales are permitted as an accessory use to a residential use on no more than 10 days in any calendar year.
- (13) Accessory structures to uses and structures for which the CEO can issue a permit.
- (14) Solar Energy Systems, Small-Scale and Medium-Scale, ground-mounted and roof-mounted.
- (15) Solar Energy Systems, Large-Scale, roof-mounted.
- (16) **Fill activities that involve the removal or addition of fill that exceeds 100 cubic yards of material.**

##### **Sec. 102-~~787~~786.25. Permitted uses requiring Planning Board review.**

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Route 137 Commercial District:

- (1) Retail stores, provided that no single retail store (use) and no structure in which a retail store (use) or stores (uses) are located is greater than 20,000 square feet **in size**.
- (2) Service businesses.
- (3) Movie theaters and performing arts centers.
- (4) Shopping centers, including mixed use development (service, retail, restaurant, and/or office in same complex), provided that no single shopping center structure is greater than 20,000 square feet **in size**.
- (5) Hotels and motels.
- (6) Restaurants, excluding fast food restaurants and restaurants with drive-through windows.
- (7) Ice cream stands.
- (8) Professional offices and **health care** offices.
- (9) Office complexes.
- (10) Funeral homes.
- (11) Health care facilities.
- (12) Veterinarians and veterinary clinics **and hospitals**.
- (13) Kennels for boarding and/or training of pets.
- (14) Warehouses and storage facilities.
- (15) Motor vehicle, recreational vehicle, mobile home and equipment sales, repairs and services.
- (16) Motor vehicle fuel and service establishments.
- (17) Light industrial uses.
- (18) **Residential P**lanned unit development (~~residential and nonresidential~~) **and cluster housing development**.
- (19) Non-municipal public and quasi-public uses.
- (20) School, day nursery, institution of an educational, religious, philanthropic, fraternal, political or social nature; including as an accessory use to a permitted activity.
- (21) Multifamily housing, ~~if on public sewer~~. **Also reference the Article IX, Division 7, Supplemental Performance Standards for Multi-family Dwelling Units and Structures**.
- (22) Congregate retirement residential housing.
- (23) Indoor recreational activities and facilities.
- (24) Laundromats.
- (25) Nurseries, green houses, landscaping businesses, tree farms and similar operations involved with the growing and selling of plant material. This use shall include the sale of machinery, materials, plants or similar items commonly associated with landscaping activities.
- (26) Accessory structures and accessory uses for uses for which the Planning Board can issue a permit for the principal use or principal structure.
- (27) Stealth telecommunications facilities.
- (28) Medical Marijuana caregiver retail stores, provided that the property is located southerly of Merriam Drive on the westerly side of Route 137 (Waldo Avenue) and a line parallel to Merriam Drive on the easterly side of Route 137.
- (29) Medical Marijuana manufacturing facilities.
- (30) Medical Marijuana testing facilities.
- (31) Solar Energy Systems, Large-Scale, ground-mounted.

**Sec. 102-788786.5. Prohibited uses.**

[Ord. No. 77-2001, 6-5-2001]

Only those uses specifically listed as permitted uses requiring ~~CEO~~ **Code Enforcement Officer** review, **Sec 102-786**, or permitted uses requiring Planning Board review, **Sec 102-786.25**, are allowed within the Route 137 Commercial District. All other uses are prohibited.

**Sec. 102-789. Applicability of shoreland zoning and floodplain regulations. Section 102.789 repealed by Council vote on August 3, 2021.**

[Ord. No. 77-2001, 6-5-2001]

~~Provisions of chapter 82, pertaining to shoreland zoning, and chapter 78, article II, pertaining to floodplains, may apply in the Route 137 Commercial District. See the shoreland maps and FIRM flood maps.~~

**Sec. 102-790. Dimensional and density standards. Section 102.790 repealed by Council vote on August 3, 2021.**

[Ord. No. 77-2001, 6-5-2001]

~~(a) — Minimum lot size and minimum frontage requirements—Residential uses.~~

- ~~(1) Any lot created on or after August 19, 2001, that is connected to City sewer and that is used for a single-family or two-family residential use, shall be a minimum of 15,000 square feet in size, and shall have a minimum of 150 feet of road frontage.~~
- ~~(2) Any lot created on or after August 19, 2001, that is not connected to City sewer and that is used for a single-family residential use, shall be a minimum of 20,000 square feet in size and shall have a minimum of 150 feet of road frontage.~~
- ~~(3) Any lot created on or after August 19, 2001, that is not connected to City sewer and that is used for a two-family residential use, shall be a minimum of 40,000 square feet in size, and shall have a minimum of 150 feet of road frontage.~~
- ~~(4) Any lot that was created before August 19, 2001, that does not comply with either or both the minimum lot size and minimum frontage requirements established in subsections (1)-(3), shall be considered a nonconforming lot of record, and may be used for a single-family or two-family residential use, subject to the provisions of the state plumbing code for subsurface wastewater disposal.~~
- ~~(5) A lot, regardless of when it was created, that is used for a multifamily residential use established on or after August 19, 2001, shall be connected to public sewer, shall be a minimum of 1/2 acre (21,780 square feet) in size, and shall have a minimum of 150 feet of road frontage.~~

~~(6) A lot that does not comply with any one or all standards identified in subsection (5), and that was used for a multifamily residential use before August 19, 2001, shall be considered a nonconforming use. This nonconforming use may continue, and may expand, subject to the requirements of article III of this chapter.~~

~~(b) — Minimum lot size and minimum frontage requirements-Nonresidential uses.~~

~~(1) Any lot created on or after August 19, 2001, that is used for a nonresidential use shall be a minimum of one acre (43,560 square feet) in size, and the lot shall have a minimum of 150 feet of road frontage. The minimum size of such a lot, however, shall be greater than one acre, and the minimum amount of frontage, however, shall be greater than 150 feet, if warranted, to comply with the requirements of the article IX, division 4 performance standards, section 102-1242(a), (b) and (c).~~

~~(2) A lot that was created before August 19, 2001, that does not comply with the minimum lot size and minimum lot frontage requirements identified in subsection (1), shall be considered a nonconforming lot of record, and shall be considered a buildable lot for a nonresidential use, provided that the lot complies, if warranted, with the requirements of the article IX, division 4 performance standards, section 102-1242(a), (b), (c), (d) and (e).~~

~~(c) — Minimum setback requirements.~~

~~(1) The minimum setback requirements for a single-family or two-family dwelling use or structure and any accessory structure or use to these uses are as follows:~~

~~Front: 30 feet;~~

~~Side: 15 feet; and~~

~~Rear: 15 feet.~~

~~(2) The minimum setback requirements for a multifamily dwelling use or structure and any accessory structure or use to this use are as follows:~~

~~Front: 30 feet;~~

~~Side: 25 feet; and~~

~~Rear: 25 feet.~~

~~(3) The minimum front, side and rear setback requirements for a nonresidential use or nonresidential structure are identified in the article IX, division 4 performance standards (reference section 102-1243, minimum front setback requirements for nonresidential structures; section 102-1244, minimum side setback requirements for nonresidential structures; and section 102-1245, minimum rear setback requirements for nonresidential structures).~~

~~(4) All setbacks shall be measured from the property line, and the applicant shall be responsible for verifying that all setback requirements are met. The applicant,~~

~~code enforcement officer or Planning Board may use a MDOT or City road layout or right-of-way, a property deed or similar information to determine the minimum amount of setback required. The code enforcement officer or Planning Board, however, may require the applicant to provide a survey to identify property lines and setback requirements if either deems that a survey is necessary to verify the applicant's representations.~~

~~(d) Structure height. The maximum height of any structure located within 200 feet of Route 137 shall be 38 feet. The maximum height of any structure located more than 200 feet from Route 137 shall be 50 feet.~~

~~(e) Density standard. The following density standards shall apply to all residential uses in the Route 137 Commercial District. These density standards are subject to modification in accordance with the planned unit development requirements identified in subsection (f).~~

<del>Type of Use</del>	<del>Sewer</del>
<del>Single-family</del>	<del>One unit in one structure per 15,000 square feet</del>
<del>Two-family</del>	<del>Two units in one structure per 15,000 square feet</del>
<del>Multifamily</del>	<del>Three units in one structure per 21,780 square feet and an additional 7,260 square feet for each additional unit</del>

<del>Type of Use</del>	<del>Subsurface Wastewater Disposal</del>
<del>Single-family</del>	<del>One unit in one structure per 20,000 square feet</del>
<del>Two-family</del>	<del>Two units in one structure per 40,000 square feet</del>
<del>Multifamily</del>	<del>Prohibited as a new use established on or after August 19, 2001</del>

~~(f) Residential and nonresidential planned unit development. In the case of a residential or nonresidential planned unit development the above standards may be modified in accordance with the special provisions of article VI of this chapter. In addition, planned unit developments shall be reviewed under the subdivision ordinance.~~

~~The following maximum density standards shall apply to a residential planned unit development:~~

<del>Type of Use</del>	<del>Sewer</del>
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Type of Use	Sewer
Single-family	One unit in one structure per 10,000 square feet
Two-family	Two units in one structure per 15,000 square feet
Multifamily	Four units in one structure per 21,780 square feet and an additional 5,445 square feet for each additional unit

Type of Use	Subsurface Wastewater Disposal
Single-family	One unit in one structure per 20,000 square feet
Two-family	Two units in one structure per 30,000 square feet
Multifamily	Prohibited as a new use established on or after August 19, 2001

**Sec. 102-787.25. Dimensional and density standards for residential uses and structures in the Route 137 Commercial zoning district.**

- (a) The Route 137 Commercial zoning district was established on August 19, 2001. Any property or structure established on or after August 19, 2001 must comply with all applicable dimensional and density standards in this Section. Lots that may be nonconforming because such were created prior to August 19, 2001 and do not satisfy applicable dimensional requirements, shall be considered nonconforming lots of record, and must satisfy all standards that apply to a nonconforming lot of record. All structures that may be nonconforming because such were constructed prior to August 19, 2001 and do not satisfy all dimensional requirements, may continue to exist, and may expand in accordance with the Article III, Nonconformance provisions in this Chapter.
- (b) The minimum lot size and minimum lot frontage requirements for residential uses shall comply with the following standards.
  - (1) Minimum lot size and lot frontage requirements for a property connected to public sewer.

<u>Type of Use on Sewer</u>	<u>Lot Size</u>	<u>Lot Frontage</u>
Single Family Residential	15,000 sq ft.	150 lineal feet
Two-Family Residential	15,000 sq ft.	150 lineal feet
Single Family with Detached Accessory Dwelling Unit	15,000 sq ft.	150 lineal feet

<b>Multi-Family Residential</b>	<b>21,780 net sq. ft.</b>	<b>150 lineal feet</b>
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- (2) **Minimum lot size and lot frontage requirements for a property that uses a subsurface wastewater disposal system for managing wastewater.**

<b><u>Type of Use - Subsurface System</u></b>	<b><u>Lot Size</u></b>	<b><u>Lot Frontage</u></b>
<b>Single Family Residential</b>	<b>20,000 sq ft.</b>	<b>150 lineal feet</b>
<b>Two-Family Residential</b>	<b>30,000 sq ft.</b>	<b>150 lineal feet</b>
<b>Single Family with Detached Accessory Dwelling Unit</b>	<b>30,000 sq ft.</b>	<b>150 lineal feet</b>
<b>Multi-Family Residential</b>	<b>43,560 net sq. ft.</b>	<b>150 lineal feet</b>

- (3) **If there are one or more types of residential uses on the lot (property), the total size (area) of the lot must be no less than the amount of square feet needed to satisfy the minimum lot size requirement for each of the respective uses on the lot, reference standards (1) and (2) above, and the amount of use (density) on the lot must comply with the residential density standards identified in (e) or (f) of this Section. The total amount of lot frontage, however, only needs to satisfy the minimum amount of lot frontage required for the most intensive use on the property.**

- (c) **Structure setback requirements for residential structures.**

- (1) **The minimum setback requirements for following types of residential structures and accessory structures to said residential structures shall comply with the standards in the following table.**

<b><u>Type of Use</u></b>	<b><u>Front Setback</u></b>	<b><u>Side Setback</u></b>	<b><u>Rear Setback</u></b>
<b>Single Family</b>	<b>30 ft</b>	<b>15 ft</b>	<b>15 ft</b>
<b>Two Family</b>	<b>30 ft</b>	<b>15 ft</b>	<b>15 ft</b>
<b>Single Family with Detached Accessory Dwelling Unit</b>	<b>30 ft</b>	<b>15 ft</b>	<b>15 ft</b>
<b>Multi-Family</b>	<b>30 ft</b>	<b>25 ft</b>	<b>25 ft</b>

- (2) **A residential structure that was constructed on or before August 19, 2001 that does not comply with the above structure setback requirements shall be considered a nonconforming structure of record with respect to setback**



requirements. Said residential structure may continue and may expand, subject to requirements of Article III, Nonconformance, of this Chapter, and in the case of an accessory dwelling unit in a detached structure, compliance with the Article IX, Division 6, Supplemental Performance Standards.

- (3) All structure setbacks shall be measured from the property lines, and the applicant shall be responsible for verifying that all setback requirements are met. The applicant, Code Enforcement Officer or Planning Board may use a MDOT or City road layout or right-of-way, a property deed or similar information to assist in determining the location of the property lines and minimum amount of setback required. The Code Enforcement Officer or Planning Board, however, may require the applicant to provide a survey to identify property lines and setback requirements if either deems that a survey is necessary to verify the applicant's representations.

(d) Structure height for residential structures.

The maximum structure height for the following types of residential structures and accessory structures to said residential structures shall comply with the standards in the following table.

<u>Type of Structure</u>	<u>Maximum Height</u>
Single Family	38 ft
Two Family	38 ft
Single Family with Detached Accessory Dwelling Unit	38 ft
Multi-Family	45 ft

(e) Density standard.

- (1) The following density standards shall apply to all residential uses in the Route 137 Commercial District that are connected to public sewer. These density standards are subject to modification in accordance with the planned unit development and cluster housing development requirements identified in Subsection (f) below.

<u>Type of Use</u>	<u>Connected to Sewer</u>
Single Family	One unit in one structure per 15,000 sq. ft

<b>Two Family</b>	<b>Two units in one structure per 15,000 sq. ft.</b>
<b>Single Family with Detached Accessory Dwelling Unit</b>	<b>Primary and detached unit structures per 15,000 sq. ft.</b>
<b>Multi-Family</b>	<b>Six units per 21,780 net square feet and an additional 1,500 net square feet for each additional unit</b>

- (2) The following density standards shall apply to all residential uses in the Route 137 Commercial district that use a subsurface wastewater disposal system for managing wastewater. These density standards are subject to modification in accordance with the planned unit development and cluster housing development requirements identified in Subsection (f) below.

<u><b>Type of Use</b></u>	<u><b>Subsurface System for Wastewater</b></u>
<b>Single Family</b>	<b>One unit in one structure per 20,000 sq. ft</b>
<b>Two Family</b>	<b>Two units in one structure per 30,000 sq. ft.</b>
<b>Single Family with Detached Accessory Dwelling Unit</b>	<b>Primary and detached unit structures per 30,000 sq. ft.</b>
<b>Multi-Family</b>	<b>Four units per 43,560 net square feet and an additional 10,890 net square feet for each additional unit</b>

- (f) **Residential planned unit development and cluster housing development.**

In the case of a residential planned unit development or cluster housing development, the density standards identified in (e) above may be modified in accordance with the special provisions of Article VI of this Chapter, and the following density requirements. A residential planned unit development or cluster housing development shall be subject to review pursuant to requirements of the Subdivision Ordinance, Chapter 94, and Chapter 90, Site Plan.

- (1) A residential planned unit development or cluster housing development that is connected to public sewer in the Route 137 Commercial district shall comply with the following density standards.

<u>Type of Use</u>	<u>Connected to Sewer</u>
Single Family	One unit in one structure per 10,000 sq. ft.
Two Family	Two units in one structure per 10,000 sq. ft.
Single Family with Detached Accessory Dwelling Unit	Primary and detached unit structures per 10,000 sq. ft.
Multi-Family	Six units per 21,780 net square feet and an additional 1,500 net square feet for each additional unit

- (2) A residential planned unit development or cluster housing development that uses a subsurface wastewater disposal system for managing wastewater in the Route 137 Commercial district shall comply with the following density standards.

<u>Type of Use</u>	<u>Subsurface System for Wastewater</u>
Single Family	One unit in one structure per 20,000 sq. ft.
Two Family	Two units in one structure per 20,000 sq. ft.
Single Family with Detached Accessory Dwelling Unit	Primary and detached unit structures per 20,000 sq. ft.
Multi-Family	Four units per 43,560 net square feet and an additional 7,500 net square feet for each additional unit

**Sec. 102-788.25. Dimensional standards for nonresidential uses and structures in the Route 137 Commercial district.**

- (a) **Minimum lot size and minimum frontage requirements for nonresidential uses.**

- (1) Any lot created on or after August 19, 2001, that is used for a nonresidential use shall be a minimum of 43,560 square feet (one acre) in size, and the lot shall have a minimum of 150 feet of road frontage, if the lot has frontage on a road. The minimum size of such a lot, however, shall be greater than one acre, and the minimum amount of frontage, however, shall be greater than 150 feet, if warranted, to comply with the requirements of the Article IX, Division 4,

**Nonresidential Performance Standards, reference Section 102-1242(a), (b), and (c).**

- (2) A lot that was created before August 19, 2001, that does not comply with the minimum lot size and minimum lot frontage (if the lot has road frontage) requirements identified in clause (1) above, shall be considered a nonconforming lot of record, and shall be considered a buildable lot for a nonresidential use, provided that the lot complies, if warranted, with the requirements of the Article IX, Division 4, Nonresidential Performance Standards, Section 102-1242(a), (b), (c), (d), and (e).**
- (3) If a lot (property) is occupied by a nonresidential use and one or more types of residential use, the size (area) of the lot, in total, must satisfy the minimum lot size (area) requirement identified for the nonresidential use identified in (1) or (2) above, the respective residential lot size standards identified in Section 102-787.25(b), and the respective residential density standards identified in Section 102-787.25(e) or (f), for each type of residential use that is located on the property.**

**(b) Minimum structure setback requirements for nonresidential structures.**

**The minimum front, side and rear setback requirements for a nonresidential structure are identified in the following Article IX, Division 4, Nonresidential Performance Standards: Section 102-1243, Minimum Front Setback Requirements for Nonresidential Structures; Section 102-1244, Minimum Side Setback Requirements for Nonresidential Structures; and Section 102-1245, Minimum Rear Setback Requirements for Nonresidential Structures.**

**The minimum amount of setback for a nonresidential structure shall be determined by the method for residential structures identified in Section 102-787.25(c)(3).**

**(c) Maximum structure height for a nonresidential structure.**

**The maximum height of a nonresidential structure shall be 45 feet, and an accessory structure to a nonresidential structure shall be 38 feet. This height requirement does not apply to the following specific uses: a telecommunication facility (subject to Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 5, Telecommunication Facilities), a water standpipe storage tank, a utility pole, and a storage silo for an agricultural use. This height requirement similarly does not apply to structures that may be exempt from the measurement of height pursuant to the City definition for height of a structure.**

**Sec. 102-~~785~~-789.25. Performance standards.  
[Ord. No. 76-2001, 6-5-2001]**

**(a) Performance standards for residential uses.**

**All residential uses proposed in the Route 137 Commercial district shall comply with applicable performance standards identified in Article VIII and Article IX of this Chapter, and applicable requirements of the Chapter 98, Technical Standards.**

**(b) Performance standards for nonresidential uses.**

All nonresidential uses proposed in the Route 137 Commercial ~~D~~district shall comply with the ~~a~~Article IX, ~~d~~Division 4 ~~n~~Nonresidential ~~d~~Development ~~p~~Performance ~~s~~Standards, **applicable requirements of the Chapter 98. Technical Standards, and if the project qualifies as a Site Plan, the requirements of Chapter 90.** ~~All residential uses proposed in the Route 141 and Mill Lane Commercial District shall comply with the article VIII, divisions 2 and 3, and article IX, division 2 performance standards.~~

**(c) Shoreland zoning and floodplain regulations.**

**Provisions of Chapter 82, Shoreland Zoning, and Chapter 78, Floods, may apply to a property in the Route 137 Commercial District. See the adopted Shoreland map and the adopted FIRM Flood maps.**

**Sec 102-789 - 790. Reserved.**