

ARTICLE V
Business C District

§ 164-31. Legislative intent. [Amended 11-12-1983 by L.L. No. 12-1983]

The Board of Trustees of the Village of Ocean Beach finds that commercial development in the village should provide necessary conveniences and services to the residents of the village. Consistent with the General Management Plan for the Fire Island National Seashore and the Village Comprehensive Plan and mindful of protecting the viability of existing business, preserving and protecting the residential character of the village and enhancing the character and appearance of the Business District, the Board of Trustees hereby enacts regulations designed to control the proliferation of business inconsistent with the objectives of the village and the National Seashore, to allow the proper development and redevelopment of businesses which provide necessary public services and are consistent with a predominantly residential community. The Board of Trustees believes that a comprehensive review by the Planning Board of the conversion of residential property in the Business District to commercial use is proper and necessary for the commercial development of the village. Accordingly, until such amendment has been voted upon by the Board of Trustees, or one year from the date hereof, whichever first occurs, the Board of Trustees shall not entertain any applications for conversion of residential property in the Business District to commercial use.

§ 164-32. Uses permitted by special permit.

The following uses shall be permitted by special permit from the Board of Trustees after a public hearing and following approval by the Fire Island National Seashore.

- A. Uses permitted in the Residence District under §§ 164-17 and 164-18.
- B. Stores in which goods, services and commodities are sold at retail in support of community living.
- C. Professional offices.
- D. Accessory uses.
 - (1) The following accessory uses shall be permitted when located on the same lot with the authorized use:
 - (a) A building for storing products or merchandise incidental to the authorized use.
 - (b) Signs as regulated in § 164-38.
 - (c) Other customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business.
 - (2) No accessory building shall be constructed on a lot until the construction of the main building has actually been commenced, and no accessory building

shall be used unless the main building on the lot is completed and used.

- (3) Whenever a use has been authorized by special permit pursuant to § 164-18 or 164-32, no accessory use shall be permitted unless the same shall have been specifically authorized by the Board of Trustees.
 - (4) Nothing herein contained shall be construed to permit the creation, alteration, addition, maintenance or use of any premises which shall provide open air, outside service, outside display, outside counter or window service, unless specifically authorized by the Board of Trustees.
- E. Solar energy systems and equipment. **[Added 6-13-1981 by L.L. No. 4-1981]**
- F. Receiving or transmission tower. **[Added 6-25-1983 by L.L. No. 7-1983]**
- G. Existing residential rental room or rooms. **[Added 1-25-1997 by L.L. No. 1-1997]**
- (1) Findings. Notwithstanding anything heretofore or hereinafter contained, the Board of Trustees deems it necessary and desirable for the protection of the safety, health, comfort and general welfare of the inhabitants of the Village of Ocean Beach to permit the use of any existing residential rental room or rooms in the Business C District and establish a procedure for the issuance of a special permit for their use.
 - (2) Premises. The term "existing residential rental room" is defined as any premises or portion thereof used for residential purposes for hire or rental or otherwise regardless of the term or conditions of the rental or use located within the Business C District used as of June 1, 1997, as and for residential purposes;
 - (3) Determination of use. That the Board of Trustees shall have exclusive authority over the determination of the issuance of a special permit as and for existing residential room or rooms, however, the Board of Trustees hereby delegates its authority as aforesaid as follows:
 - (a) The Village Administrator and Building Inspector and Fire Inspector or Marshal shall have the initial authority to permit and/or approve the use of the existing residential room or rooms upon such terms and conditions as the Village Administrator and Building Inspector and Fire Inspector or Marshal shall deem proper and reasonable, including but not limited to additional construction and/or improvements, determination of existing use and the terms and conditions of future usage;
 - (b) All applications for a special use permit for an existing residential room or rooms shall be in writing and filed with the Village Clerk on or before June 1, 1997, on forms to be supplied by the Village Clerk and shall be kept on file by the Village Clerk;
 - (c) In the event that the use is approved the application form shall be signed by the Village Administrator and Building Inspector and Fire Marshal

and the terms and conditions of usage shall be attached or endorsed thereon and a copy provided to the applicant;

- (d) Any member of the Board of Trustees shall have the right to place the issuance of approval on the agenda at the next Board of Trustees meeting at which time the approval of use shall be subject to confirmation, rejection or modifications;
- (e) Any applicant shall have the right in the event that the applicant's request is rejected or the conditions imposed are sought to be modified to request, in writing, filed with the Village Clerk at least 10 days prior to the Board of Trustees meeting at which review is sought, to make a request that the permit application be placed upon the agenda of the Board of Trustees at the next meeting thereof and that the Board of Trustees approve the application or modify the permit. The Board of Trustees shall have the right by majority vote of a quorum present and voting to entertain the application or approve the application or modify the permit or reject the application in whole or in part.

(4) Permits.

- (a) A permit shall be issued by the Village Administrator and Building Inspector and Fire Inspector and Marshal only based upon the foregoing procedure for the special use of existing residential room or rooms based upon the foregoing provisions which permit shall be in writing and shall constitute the signatures of the Village Administrator and Building Inspector and Fire Inspector and Marshal indicating approval upon the application together with the terms and conditions of approval annexed to the initial application.
- (b) Any rejection of an application shall be indicated upon the initial application by the signatures of the Village Administrator and Building Inspector and Fire Marshal and Inspector.
- (c) All such special use permits shall additionally be subject to the approval of the Fire Island National Seashore.

§ 164-33. Prohibited uses.

Consistent with the General Management Plan of the Fire Island National Seashore and the objectives of the Village of Ocean Beach, buildings or land hereafter may not be altered, changed, expanded, converted, constructed or used for any of the following purposes:

- A. Apartments, multiple dwellings and apartment hotels. **[Amended 11-1-1980 by L.L. No. 12-1980]**
- B. Showers, lockers and changing rooms.
- C. Guesthouses, boardinghouses, lodging houses, boatels and hotels.

- D. Swimming, diving and wading pools or other similar type water-intensive uses.
- E. Restaurants and eating and/or drinking establishments, whether counter service, carry-out or fast-food, or other businesses designed to serve food and/or drink inside of the structure, outside or both inside and outside the structure and whether or not serving alcoholic beverages for on-premises consumption.
- F. Discotheques, dance halls and cabarets.
- G. Uses which are designed for manufacturing or industry, or which are dangerous, unsafe or harmful to person, health or property.
- H. Stores in which goods, services and commodities are sold at retail above the ground floor.
- I. Those uses not expressly permitted uses.

§ 164-34. Height requirements.

- A. In the Business C District, no building or structure shall be erected to a height in excess of 28 feet as measured from the elevation at the center of the established walkway. In no case shall a building or structure exceed two stories in height. **[Amended 11-22-1999 by L.L. No. 6-1999; 11-13-2004 by L.L. No. 2-2004]**
- B. Accessory buildings shall not exceed 10 feet in height.
- C. Exceptions subject to approval by the Board of Trustees after public hearing shall include:
 - (1) Place of worship.
 - (2) Flagpole.
 - (3) Stack, chimney or standpipe.
 - (4) Water tank.
 - (5) Receiving or transmission tower. **[Added 6-25-1983 by L.L. No. 7-1983]**

§ 164-34.1. Setbacks. [Added 1-28-2006 by L.L. No. 2-2006]

All main buildings hereafter erected, modified or altered shall have minimum front, side and rear yard setbacks of four feet.

§ 164-35. Living area requirements.

- A. For a single-family dwelling hereafter erected, the minimum required ground-floor area, exclusive of accessory uses such as open porches, breezeways, sheds, decks, ramps and other such uses, shall be 600 square feet.
- B. No building shall be constructed, enlarged, extended, reconstructed, altered or partitioned so as to provide more than one kitchen, two bathrooms or water closets

and four rooms for sleeping purposes, nor shall more than four rooms in any one building be used for sleeping purposes.

§ 164-36. Site plan review.

- A. All new structures and alterations submitted to the Board of Trustees for special permit in accordance with this Article shall be reviewed by the Village Planning Board in accordance with applicable provisions of § 7-725¹ of the Village Law of the State of New York.
- B. The Planning Board shall review the site plan and/or building plan for architectural features; consistency and harmony with the front, side and rear yard setbacks; and means of ingress and egress. A buffer strip shall be required wherever the Business District abuts the Residence District. **[Amended 6-10-2000 by L.L. No. 3-2000]**
- C. The Planning Board shall forward its comments, together with the reviewed site plan, to the Board of Trustees not later than the date of public hearing for the special permit application.

§ 164-37. Encroachments.

No encroachments shall be permitted.

§ 164-38. Signs. [Amended 3-2-1996 by L.L. No. 1-1996]

- A. No self-illuminated signs shall be permitted in the Business C District, nor signs of an obscene nature appealing in purient interest or offensive to community standards.
- B. Size shall be limited to four square feet and shall be limited in number to two per premises, to be located on the premises, directly in front of the area where the specific use occurs.
- C. Sign content must be either the name of the specific business establishment or related to the business on the premises.
- D. Nonconforming signs may continue such nonconformity until they are destroyed, structurally altered, reconstructed, changed or moved, but the period of such nonconformity may not exceed two years from the date of the enactment of this chapter.

§ 164-39. Apartments and apartment hotels. [Added 11-1-1980 by L.L. No. 12-1980]

The provisions of §§ 164-6 and 164-7 shall apply to all apartments and apartment hotels if the same are established pursuant to § 164-10A.

1. Editor's Note: Said section was repealed by the laws of 1992, c. 694, § 3, effective 7-1-1993.