

## ORDINANCE NO.

### AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 102 OF THE "CODE OF THE BOROUGH OF SOMERVILLE", (THE LAND USE ORDINANCE OF THE BOROUGH OF SOMERVILLE)

BE IT ORDAINED by the Borough Council of the Borough of Somerville, in the County of Somerset and State of New Jersey, that Chapter 102, *Land Use and Development*, of the "Code of the Borough of Somerville" is hereby amended as follows:

**Section 1.** In all cases where the term "he" is used, the same shall be amended to read "he or she"; where the term "him" is used, the same shall be amended to read "him or her"; and where the term "his" is used, the same shall be amended to read "his or her".

**Section 2.** Subsection D of Section 102-4 is amended to revise the definition entitled "directional sign" to read as follows:

**DIRECTIONAL SIGN** - A sign bearing no advertising which directs persons to an entrance, exit, parking, loading or other special use area on the same site as such sign. Such signs shall include, but not be limited to, "enter" and "exit" signs, drive-up lane signs, signs restricting the use of parking spaces, etc.

**Section 3.** Subsection M of Section 102-4 is amended to revise the definition of "mansard roof" to read as follows:

**MANSARD ROOF** - A roof with two slopes, the upper slope being generally level, or alternatively, a roof with two slopes on any one side, the lower slope being steeper than the upper slope, and in both cases where the lower slope has pitch greater than one inch rise for every one inch run (i.e., a 1:1 slope). The term "mansard roof" shall include for purposes of this chapter, a roof commonly known as a gambrel roof and a parapet designed to have the appearance of a mansard roof.

**Section 4.** Subsection D of Section 102-4 is amended to revise the definition of "display surface area" to read as follows:

**DISPLAY SURFACE AREA** - The total area, expressed in square feet, of the display surface containing the lettering, characters or symbols of the sign, including any frame for the sign. If there is no display surface, or if a building wall serves as the sign display surface, the display surface area shall be construed to be the rectangle which is the product of the largest horizontal and vertical dimensions of the sign lettering, characters or symbols. If the sign contains cutouts within the perimeter of the sign or its letters or symbols, the display surface area shall be construed to include such cutouts. Excluded from this definition are the structural supports for free-standing signs and the second display surface of a double-faced sign as defined herein.

**Section 5.** Paragraph (6) in Subsection B of Section 102-22 is amended to read as follows:

- |   |  |
|---|--|
| (6) Sign permit fee (unless specifically exempted by § 102-28C(1) or (2)) | \$ 50.00 (including up to two signs per application) |
|---|--|

**Section 6.** The opening paragraph of Paragraph (3) of Subsection A of Section 102-25 is amended to read as follows:

- (3) *Form of guarantee.* At least ten percent (10%) of the performance guarantee shall be in the form of cash or a certified check made payable to the Borough of Somerville, except as provided otherwise in § 102-58B. The balance of the performance guarantee shall be in the form of any security issued by an institution authorized to issue such securities in the State of New Jersey and which may be accepted by the Borough and approved by the Borough Attorney, including but not limited to surety bonds, cash and letters of credit; provided that the Borough shall only accept an irrevocable letter of credit if all of the following are complied with:

**Section 7.** Subsection A of Section 102-28 is amended to read as follows:

- A. Building permits and certificates of occupancy. Building permits and certificates of occupancy shall be issued in accordance with the procedures set forth in the Uniform Construction Code, and in accordance with the following:
- (1) No building permit or certificate of occupancy shall be issued unless the development complies with the applicable provisions of this chapter and a zoning permit has previously been issued for such development.
  - (2) Prior to the issuance of any certificate of occupancy for any development that has been the subject of a site plan approval, an as-built plan conforming with the approved final site plan shall be submitted to and approved by the Borough Engineer.

**Section 8.** Subsection B of Section 102-28 is amended to read as follows:

B. Zoning permits. No land shall be occupied or used, in whole or in part, for any purpose whatsoever unless and until a zoning permit therefor shall have been issued by the Zoning Officer. The following provisions shall apply to the issuance of zoning permits required by this article:

- (1) No zoning permit shall be issued unless the proposed development conforms with the provisions of this chapter.
- (2) Any change in use of a building or site shall be treated as a new use, and a new zoning permit shall be required therefor. Before any zoning permit shall be issued for any such change in use, all provisions of this chapter shall be complied with in the same manner as if the new use were an initial use of land or a new structure or building.
- (3) When site plan, subdivision, conditional use and/or variance approval is required, no zoning permit shall be issued until final site plan, final subdivision, conditional use and/or variance approval has been obtained and until all conditions precedent to said approval have been satisfied. In order to demonstrate compliance with this requirement, the applicant for a zoning permit shall submit a copy of the approved final site plan, final subdivision plans and/or variance plans, as applicable, signed by the Chairman of the Board that approved by the plans.
- (4) The Zoning Officer shall issue or deny a zoning permit within ten (10) business days of receipt of a request therefor. Failure of the Zoning Officer to act within the prescribed period shall be deemed to be an approval of said application. In the event of a permit denial, the applicant may amend the application and resubmit same for a zoning permit, or may appeal the denial as provided in Article VII, Appeals.
- (5) A zoning permit shall specify the use of the land or buildings and the nature of improvements and any terms or conditions imposed thereunder.
- (6) The invalidation of any building permit for any reason whatsoever shall invalidate any zoning permit issued with the building permit.

**Section 9.** Paragraph (3) in Subsection C of Section 102-28 is amended to add and insert a new subparagraph (h), to read as follows:

- (h) When the sign(s) involved require or are part of a site plan, subdivision or variance approval, ~~the~~ applicant for a sign permit shall submit a copy of the approved final site plan, final subdivision plans and/or variance plans, as applicable, signed by the Chairman of the Board that approved by the plans, depicting the sign for which the permit is sought.

**Section 10.** Paragraph (1) in Subsection F of Section 102-37 is amended to read as follows:

- (1) The strict application of the specific zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of the subject property due to a) exceptional narrowness, shallowness or shape of the subject property, b) exceptional topographic conditions or physical features uniquely affecting the subject property, or c) an extraordinary and exceptional situation uniquely affecting the subject property or the structures lawfully existing thereon; or the purposes of the Municipal Land Use Law would be advanced by the requested variance, and the benefits of the variance would substantially outweigh any detriment; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this paragraph.

**Section 11.** Subparagraphs (b) and (c) in Paragraph (1) in Subsection F of Section 102-38 is amended to read as follows:

- (b) The variance, including a variance or other relief involving an inherently beneficial use, can be granted without substantial detriment to the public good.
- (c) The grant of the variance, including a variance or other relief involving an inherently beneficial use, will not substantially impair the intent of the zone plan and zoning regulations.

**Section 12.** The opening paragraph of Subsection A of Section 102-41 is amended to read as follows:

**§ 102-41. When Required; Exemptions.**

- A. Site plan approval, when required. Prior to the issuance of a building permit, demolition permit, sign permit, zoning permit or certificate of occupancy for any development, a final site plan application shall be submitted to and approved by resolution of the Board in accordance with the requirements of this article, and all conditions precedent to said approval, including but not limited to the completion of required infrastructure improvements as set forth in § 102-58A, and/or the posting of performance guarantees for same, shall be complied with, and following same, the site plan shall be signed by the Chairman and Secretary of the Board. Furthermore, the Board may require, as a condition of any approval, the withholding of permits and approvals pending the satisfactory completion of required improvements as set forth in § 102-58B. Notwithstanding the above, the following developments shall be exempt from the requirement of site plan review and approval:

**Section 13.** Subsection C of Section 102-43 is amended to read as follows:

- C. Any maps and documents for which approval is sought shall be determined complete within the following deadlines before the date of the public hearing at which the application will be heard, in order to give the Board and its advisors sufficient time to review the application.

Type of Application	Days Before Public Hearing
“C” Variances, No Site Plan or Subdivision	28
Appeals Other Than Variances	28
Minor Site Plans and Minor Subdivisions	28
Final Major Site Plans and Final Major Subdivisions	28
“D” Variances	35
Preliminary Major Site Plans and Preliminary Major Subdivisions	35
Combination of Application Types	The longest time period applicable to any of the application types

The hearing date for any application will be deferred for any application failing to meet this deadline; provided, that the Board, in exceptional circumstances and for due cause shown may vary from this procedure upon written request from the applicant. Under no circumstances, however, shall the ten (10) day deadline in § 102-15 be waived. The foregoing provisions shall not be construed as a guarantee that a complete application will be heard at the next meeting; the Board shall set its own agenda in accordance with its rules and in accordance with the time periods within which the Board is required to act.

**Section 14.** Subsections D and E of Section 102-48 are amended to read as follows:

- D. If the application is approved, the approved plan shall be signed by the Chairman and Secretary of the Board; provided that the signatures of the Chairman and Secretary shall not be affixed until: 1) the developer has posted any guarantees that may be required pursuant to § 102-25 and § 102-57, 2) all conditions precedent to approval have been complied with in accordance with § 102-53, and 3) the developer has submitted the number of plan copies required by § 102-48E below.

- E. Prior to the Chairman and Secretary signing the plans, the applicant shall submit six (6) copies of the approved plan to the Secretary. If the approved plan is larger than 11" x 17", the applicant shall also submit a translucent copy of the drawing suitable for making prints. Following signature of the plan copies, the Board shall return one copy of the signed plan to the applicant.

**Section 15.** Subsections E and F of Section 102-49 are amended to read as follows:

- E. If the application is approved, the deed or plat, as applicable, shall be signed by the Chairman and Secretary of the Board; provided that the signatures of the Chairman and Secretary shall not be affixed until: 1) the developer has posted any guarantees that may be required pursuant to § 102-25 and § 102-57, 2) all conditions precedent to approval have been complied with in accordance with § 102-53, and 3) the developer has submitted the number of plan copies required by § 102-49F below.
- F. Prior to the Chairman and Secretary signing the plans, the applicant shall submit six (6) copies of the approved plat or deed to the Secretary. If the approved plat is a drawing larger than 11" x 17", the applicant shall also submit a translucent copy of the drawing suitable for making prints. Following signature of the plan copies, the Board shall return one copy of the signed plan to the applicant.

**Section 16.** Subsections A and B of Section 102-50 are amended to read as follows:

- A. If the application is approved, the site plan or plat, as applicable, shall be signed by the Chairman and Secretary of the Board; provided that the signatures of the Chairman and Secretary shall not be affixed until: 1) all conditions precedent to approval have been complied with in accordance with § 102-53, and 2) the developer has submitted the number of plan copies required by § 102-50B below.
- B. Prior to the Chairman and Secretary signing the plans, the applicant shall submit six (6) copies of the approved site plan or plat to the Secretary. If the approved plan is larger than 11" x 17", the applicant shall also submit a translucent copy of the drawing suitable for making prints. Following signature of the plan copies, the Board shall return one copy of the signed plan to the applicant.

**Section 17.** Subsections C and G of Section 102-51 are amended to read as follows:

- C. If the application is approved, the site plan or plat, as applicable, shall be signed by the Chairman and Secretary of the Board; provided that the signatures of the Chairman and Secretary shall not be affixed until: 1) the developer has posted any guarantees that may be required pursuant to § 102-25 and § 102-57 and 2) all conditions precedent to approval have been complied with in accordance with § 102-53. Prior to the signing and return of a final major subdivision plat or final major site plan, the applicant shall submit six (6) copies of the approved plat to the

Secretary. If the approved plat is a drawing larger than 11" x 17", the applicant shall also submit a translucent copy of the drawing suitable for making prints.

- G. No subdivision plat shall be accepted for filing by the county recording officer until it has been approved by the Planning Board as indicated on the instrument by the signature of the Chairman and Secretary of the Planning Board or a certificate has been issued pursuant to § 102-54 and § 102-62. The signatures of the Chairman and Secretary of the Planning Board shall not be affixed until the developer has posted the guarantees required pursuant to § 102-25 and § 102-57 and the developer has submitted the number of plan copies required by § 102-51C above.

**Section 18.** The first paragraph in Subsection C of Section 102-53 is amended to read as follows:

- C. Effect of failure to comply. Only upon fulfillment of all conditions precedent of preliminary approval shall any infrastructure improvements required by § 102-58C and any off-tract improvements required by § 102-59, be permitted. Only upon fulfillment of all conditions precedent of final approval shall any subdivision map or site plan be signed and any required building permit, demolition permit, certificate of occupancy, zoning permit, sign permit or other required approval be issued, and any site clearing, grading, and construction of required on-tract improvements be permitted. Failure to comply with any and all specified conditions of approval shall have the following effects:

**Section 19.** Subsection B of Section 102-58 is amended to read as follows:

- B. Completion of improvements required prior to issuance of permits. The Board, in granting final subdivision, site plan or variance approval, may, in appropriate circumstances, condition the issuance of building permits, demolition permits, certificates of occupancy or zoning approvals, as applicable, upon: 1) the timely installation of required infrastructure improvements set forth in Subsection C below, notwithstanding any performance guarantee which may have been provided, and 2) upon the timely installation of required site improvements set forth in Subsection D below. In no case, however, shall a certificate of occupancy be issued for any development prior to the satisfactory completion of all required improvements set forth in Subsections C and D below; provided, however, that the Board may, in appropriate circumstances, authorize the issuance of a certificate of occupancy prior to the completion of the top course of street pavement, street trees and on-site landscaping if a performance guarantee for same is provided in accordance with § 102-25, provided, however, that any performance guarantee issued under such conditions shall be in the form of cash or a letter of credit. Letters of credit shall only be accepted under the terms set forth in § 102-25A(3).

**Section 20.** Section 102-60 is amended to read as follows:

**§ 102-60. Inspection of Improvements and Construction.**

All improvements required by the Board, except electric, telephone, cable television, street lighting, gas, water, and streets not under the jurisdiction of the Borough of Somerville shall be installed under the supervision and inspection of the Borough Engineer. Other improvements shall be installed under the supervision and inspection of the authority having jurisdiction over such improvements. No construction work covering the required improvements shall be commenced without the developer first notifying the Borough Engineer that said construction work is about to take place. Such notice shall be given, in writing, to the Borough Engineer at least one week before the commencement of such work. No underground improvements shall be covered until inspected and approved by the Borough Engineer. Prior to approving any improvements, the Borough Engineer may require appropriate certifications from the developer's engineer or other acceptable professional that the improvements in question comply in all details with the approved site plan, subdivision or variance, as applicable.

**Section 21.** Section 102-69 is amended to add and insert a new Subsection N, to read as follows:

- N. Proof of submission of the application to the Somerset County Planning Board (e.g., copy of stamped and dated County application form).

**Section 22.** Section 102-70 is amended to add and insert a new Subsection F, to read as follows:

- F. Proof that notice of the application has been submitted to the Regional Center municipalities, when such notice is required by § 102-12B(3), the same as if the concept application were a formal application.

**Section 23.** Subsection J of Section 102-71 is amended to read as follows:

- J. Location of existing and proposed wells and septic systems and location of existing and proposed connections to public water and sanitary sewer systems, as well as connections to other utilities. If any septic systems or subsurface stormwater storage systems are proposed, the results of percolation tests shall be submitted with the application, along with test hole locations and soil log information.

**Section 24.** Subsection I of Section 102-72 is amended to read as follows:

- I. Plans and profiles of existing and proposed storm drainage design and improvements, including a map showing the entire drainage area; the drainage area contributing to each pertinent drainage structure; drainage tabulation sheets showing calculations for each drainage area; length, size and material of drain pipes; direction of flow; location of inverts, manholes, dry wells, groundwater recharge basins, swales, drainage basins and other structures; and elevations of grates, inverts, etc. If any subsurface stormwater storage systems are proposed, the results of percolation tests shall be submitted with the application, along with test hole locations and soil log information.

**Section 25.** Section 102-74 is amended to add and insert a new Subsection F, to read as follows:

- F. If any septic systems or subsurface stormwater storage systems are proposed, the results of percolation tests shall be submitted with the application, along with test hole locations and soil log information.

**Section 26.** Subsection G of Section 102-75 is amended to read as follows:

- G. Existing and proposed storm drainage design and improvements, including a map showing the entire drainage area, the drainage area contributing to each pertinent drainage structure and drainage tabulation sheets showing calculations for each drainage area. Provisions for rooftop drainage shall also be shown. If any subsurface stormwater storage systems are proposed, the results of percolation tests shall be submitted with the application, along with test hole locations and soil log information.

**Section 27.** Subsection H of Section 102-75 is amended to read as follows:

- H. Existing and proposed site illumination, including height and location of fixture, type of fixture and bulb, pole material, and manufacturer's isocandela diagram or

illumination grid superimposed upon the site plan. Original manufacturer's details of the light fixtures, or photocopies of the same, shall be submitted.

**Section 28.** Section 102-81 is amended to add and insert a new Subsection G, to read as follows:

- G. Numbering of lots. Whenever a lot or lots shall be subdivided or merged, none of the lots shall retain the lot numbers that existed before such subdivision or merger. By way of example and not limitation, the lots resulting from a subdivision of a lot 6 into two lots may be numbered 6.01 and 6.02, but not 6 and 6.01. Similarly, the lot resulting from a merger of lots 5 and 6 into one lot may be numbered lot 5.01 or 6.01, but not 5 or 6.

**Section 29.** Subsection F of Section 102-82 is amended to read as follows:

- F. Street pavement. All streets shall be paved to provide a surface course of F.A.B.C. at least two (2) inches thick; a bituminous stabilized base course, Mix 12, at least four (4) inches thick; a dense graded aggregate base course at least six (6) inches thick; all upon a compacted subgrade. On high volume streets or streets expected to experience higher volumes of truck traffic, the base course shall be at least six (6) inches thick. When poor subsurface conditions exist, the Board may require different pavement specifications, as determined by the Borough Engineer.

**Section 30.** Paragraph (5) in Subsection G of Section 102-82 is amended to read as follows:

- (5) Curbs shall designed and constructed in accordance with the standards and specifications set forth in the most recent edition of the Somerset County Traffic, Road and Bridge Handbook.

**Section 31.** Paragraph (4) in Subsection H of Section 102-82 is amended to read as follows:

- (4) Sidewalks shall conform to the construction specifications set forth in the N.J. Residential Site Improvement Standards; provided, however, that in the Special Improvement District, sidewalks shall conform to the specifications of the District Management Corporation.

**Section 32.** Paragraph (9) in Subsection A of Section 102-83 is amended to read as follows:

- (9) Provide for appropriate access by vehicles, including emergency and service vehicles, and pedestrians, including disabled persons when required by State or Federal regulation.

**Section 33.** Subsection B of Section 102-85 is amended to read as follows:

- B. Dimensions of parking and loading spaces. Parking and loading spaces shall be designed to provide an off-street rectangular area with the following minimum dimensions, which shall exclude any street, driveway, access aisle or other right-of-way area adjacent to the parking or loading space; provided that an additional foot of width shall be required when such spaces abut a wall or other barrier on the side of the space:

<u>Type of Space</u>	<u>Space Width</u>	<u>Space Depth</u>	<u>Vertical Clearance</u>
Automobile Parking			
(standard-high turnover)	9'	18' <sup>1</sup>	7'
(standard-parking garage)	8.5'	18' <sup>1</sup>	7'
(compact)	8'	16' <sup>1</sup>	7'
(reserved for disabled persons) <sup>2</sup>	8'	18' <sup>1</sup>	8.5'
(drive-up lane)	9'	20'	8.5'
Light delivery truck	11'	25'	8.5'
Single-unit truck	12'	35'	14'
Tractor trailer	12'	55'	14'

<sup>1</sup> When spaces are designed to be parallel to the access aisle, and additional 3 feet of depth shall be required at each end of the space, with a total of 6 feet additional depth between two such spaces, in order to provide for maneuvering area in and out of the space. This additional depth shall be striped on the pavement to prohibit parking within such area.

<sup>2</sup> Dimensions do not include adjacent passenger loading zone, which shall be at least 5 feet wide (8 feet for van-accessible spaces). Barrier-free parking spaces shall comply with the Americans with Disabilities Act and the New Jersey Barrier-free Subcode (N.J.A.C. 5:23-7).

**Section 34.** Subsection F of Section 102-85 is amended to read as follows:

- F. Pavement. All off-street parking areas and driveways, except for single-family detached and two-family dwellings, shall be surfaced with bituminous concrete to meet one of the following specifications; provided, however, that the Board may

accept equivalent pavement designs, subject to the recommendation of the Borough Engineer:

- (1) Light duty (low traffic volume, primarily automobiles). One and one-half (1½) inches wearing surface, FABC Mix No. I-5; three (3) inches bituminous stabilized base course (Mix No. I-2); four (4) inches dense graded aggregate base course, upon a compacted subgrade.
- (2) Heavy duty (high traffic volume or regular use by heavy trucks. Two (2) inches wearing surface, FABC Mix No. I-5; four (4) inches bituminous stabilized base course, Mix. No. I-2; six (6) inches dense graded aggregate base course, upon a compacted subgrade.

**Section 35.** Paragraph (9) in Subsection A of Section 102-83 is amended to read as follows:

- (2) Landscaping shall be protected from impact or other damage by motor vehicles and from damage by plowed snow through the installation of curbs, bollards, guard rails or fences, and/or through locating plants a sufficient distance from the pavement edge in order to allow for vehicle overhangs, snowplows and storage of plowed snow.

**Section 36.** Subsection B of Section 93 is amended to add a new Paragraph (4), to read as follows:

- (4) Refuse dumpsters shall not be permitted in the B-1, B-2, B-3, B-4 or PO-R zone districts unless the applicant demonstrates to the Board that no other method of refuse storage and pickup is feasible or that a dumpster is preferable to other feasible methods, on the basis of esthetics, odors, fire safety and other factors.

**Section 37.** Paragraph (5) in Subsection B of Section 102-118 is amended to read as follows:

- (5) *Parking for disabled persons.* In any parking lot designed to accommodate the public, a minimum number of designated parking spaces accessible to disabled persons shall be required as follows:

<u>Total Parking Spaces in Lot</u>	<u>Required Number of Accessible Spaces*</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	20, plus 1 for each 100 over 1,000

\* The required number of accessible spaces shall be greater or lesser than in the above table, as required by the Americans with Disabilities Act and the New Jersey Barrier-free Subcode (N.J.A.C. 5:23-7).

**Section 38.** Subparagraph (d) in Paragraph (1) in Subsection E of Section 102-118 is amended to read as follows:

- (d) All loading areas shall be located on the same lot with the building they are serving. Loading spaces shall not be located within vehicular travel lanes. Loading spaces for large trucks shall be separated from parking spaces by barriers or distance so as to avoid conflicts between trucks and loading or unloading operations and parked vehicles.

**Section 39.** Paragraph (2) in Subsection E of Section 102-118 is amended to add and insert a new Subparagraph (i), to read as follows:

- (i) Loading areas shall not be located in the front yard. In the case of a through lot, no loading area shall be located between the principal building and Main Street. In the case of a building having frontage on two streets not including Main Street, no loading area shall be located between the building and the street carrying the greater volume of pedestrian traffic, as determined by the Planning Board.

**Section 40.** The opening paragraph in Paragraph (3) in Subsection E of Section 102-118 is amended to read as follows:

- (3) *Required setbacks for parking and loading areas.* Except as may be otherwise required by this chapter, and subject to the yard location requirements above, parking and loading areas shall be required to comply with the following setback requirements. Notwithstanding the foregoing, no minimum setback from lot lines for parking areas shall be required where shared parking areas abut or are adjacent to one another at the property line. For purposes of administering the following requirements, the setback shall be measured to the nearest edge of pavement for the parking or loading area, including spaces, access aisles, driveways, turning areas, etc., except that driveway areas generally perpendicular to the street and providing immediate access to or from the street and located between the street and any parking or loading area shall not be subject to the following requirements.

**Section 41.** Subsection F in Section 102-118 is amended by adding and inserting a new Paragraph (4), to read as follows:

- (4) No driveway used or intended to be used for a single family detached or two family dwelling shall have a width exceeding one-fifth (1/5) of the width of the lot for which the driveway provides access, provided, however, that where otherwise lawful, no driveway shall be required to be less than ten (10) feet wide and no driveway shall exceed a width of twenty-five (25) feet. On corner lots or through lots, the lot width used for making the above calculation shall be that side of the lot through which the driveway provides access to the street.

**Section 42.** Paragraphs (4), (5), (7), (9), (10), (11), (12) and (17) in Subsection B of Section 102-119 are amended to read as follows:

- (4) *Directional, identification and information signs.* Directional, identification and information signs shall be permitted as accessory structures for non-residential uses in all zone districts; subject to the following provisions:
  - (a) Such signs shall be limited to wall signs and freestanding signs.
  - (b) Such signs shall not have a display surface area that exceeds four (4) square feet.
  - (c) One directional sign shall be permitted at each entrance or exit on a lot or parcel to identify said entrance or exit.
  - (d) The limitations on the number of freestanding or wall signs in each of the zone districts shall not apply to such signs.
  - (e) Notwithstanding the foregoing, standardized traffic signs such as “stop”, “yield”, “do not enter”, “one-way”, etc. shall comply with the size, height, location and other criteria of the most recent edition of the Manual on Uniform Traffic Control Devices.
- (5) *Area identification signs.* Area identification signs shall be permitted as accessory structures to any development with multiple user spaces, such as an apartment building or shopping center, or used to identify an area containing multiple buildings which are used or developed in a unified manner such as a residential subdivision, apartment complex, industrial park, mobile home park, or office park or shopping center, subject to the following regulations:
  - (a) The size and location of the fence, wall or other structure which will contain the area identification sign, must be approved by the building inspector, who will approve such structure upon the criterion of traffic safety sight lines.
  - (b) The maximum display surface area of area identification signs shall not exceed thirty-two (32) square feet.

- (7) *Portable swinger "A" frame signs.* Portable swinger "A" frame, sandwich, attraction sign board signs described in this section shall be permitted as an accessory structure to retail sales businesses in the B-zone districts, subject to the following:
- (a) The total display surface area shall not exceed six (6) square feet per side.
  - (b) The sign shall be used temporarily or daily, but shall not be used as a permanent sign.
  - (c) The sign shall not contain any elements which are prohibited by this chapter.
  - (d) Only one such sign shall be permitted per business.
- (9) *Wall signs.* In addition to the regulations applicable to wall signs in each of the zone districts, the following shall apply:
- (a) Wall signs may not obscure, or require the removal of building elements such as cornices, lintels, columns, etc., that define and separate parts of the building or decorative elements.
  - (b) Wall signs may not extend above the eaves or bottom of the building roof or above the top of any parapet wall of the building.
  - (c) Wall signs may not project more than eight (8) inches from the wall upon which they are mounted.
- (10) *Projecting signs.* Projecting signs are permitted in all zone districts except the R-1, R-2, R-3, G and SC zone districts, as an accessory structure to nonresidential uses, subject to the following requirements:
- (a) Projecting signs with more than two display surfaces are prohibited.
  - (b) Double faced signs having an included angle greater than sixty (60) degrees are prohibited.
  - (c) Projecting signs shall not project from the surface of the building upon which they are mounted a distance of more than two-thirds of the width of the sidewalk within or adjacent to the street right-of-way in those instances where there is a sidewalk next to a building, nor within two (2) feet of the street right-of-way in those instances where there is no sidewalk next to the building; provided, however, that no projecting sign shall project more than four (4) feet from the surface of the building upon which they are mounted.
  - (d) Projecting signs shall be located on the vertical surface of a building and shall not be higher than the eaves or rafter line, whichever is higher, in the case of

a sloped roof, or above the top of any parapet wall of the building, in the case of a flat roof.

- (e) Projecting signs located above a sidewalk or driveway shall clear grade level below the sign by a minimum of ten (10) feet, provided, however, that when single-unit or larger trucks are expected to use the driveway, the minimum clearance shall be fourteen (14) feet.
  - (f) The display surface area shall not exceed eight (8) square feet on each side, or the maximum permitted display surface area for wall signs in the district, whichever is less.
  - (g) Projecting signs shall be considered a wall sign for purposes of determining the maximum number of projecting signs permitted in the zone district.
  - (h) If both wall signs and freestanding signs are permitted in the zone district, only one projecting sign per business shall be permitted on property which has a freestanding sign.
- (11) *Signs on awnings and canopies.* Signs on an awning or canopy are permitted in the non-residential zone districts as an accessory structure to nonresidential uses. If the sign on any such awning or canopy is located on the vertical fringe and is no more than three (3) inches in height, such sign shall be permitted in addition to any other wall signs permitted in the zone district; otherwise, the sign shall be regulated the same as wall signs in the zone district.
- (12) *Window signs.* Window signs are permitted in the B-1, B-2, B-3, B-4, B-5 and B-6 zone districts as an accessory structure to nonresidential uses, subject to the following requirements. The intent of these requirements is to regulate signs located inside a building that could reasonably be construed as serving the same or equivalent function to signs located outside the building.
- (a) Window signs, both permanent and temporary in the aggregate, shall not cover more than thirty percent (30%) of the total area of the various display windows and entry doors on the same facade of the building within which such signs are displayed, nor more than thirty-five percent (35%) of the area of any single display window or door.
  - (b) If a permanent window sign is no more than three inches in height, such sign shall be permitted in addition to any other wall signs permitted in the zone district; otherwise, the sign shall be regulated the same as wall signs in the zone district.
  - (c) Temporary window signs shall have the date that the sign is installed in the lower left corner, written legibly, and shall be removed promptly upon

termination of the sale or event. In no case shall such signs be displayed for any period of time exceeding sixty (60) days.

- (17) *Freestanding bulletin boards.* Freestanding bulletin boards are permitted as an accessory structure to charitable uses, State-certified schools providing formal education for grades K-12, and religious or public uses. Such signs shall be erected upon the same property as said institutions, and shall be subject to the following regulations:
- (a) Freestanding bulletin boards having a display surface area less than or equal to ten (10) square feet shall be set back a minimum of fifteen (15) feet from street right-of-way.
  - (b) Freestanding bulletin boards having a display surface area in excess of ten (10) square feet shall be set back fifteen (15) feet from street right-of-way, plus an additional one foot for each two (2) square feet of display surface area in excess of ten (10) square feet.
  - (c) The display surface area of freestanding bulletin boards shall not exceed thirty-two (32) square feet.

**Section 43.** Paragraph (1) in Subsection A of Section 102-121 is amended to read as follows:

- (1) Such lots may be used for any use permitted in the district in which it is located, subject to the following requirements:
- (a) At the time of and since the adoption of the zoning regulation making such lot nonconforming, the owner of the lot shall not have owned any adjoining property; or the lot must be part of a recorded subdivision approved by the Planning Board or the Zoning Board of Adjustment; and
  - (b) All other applicable zoning regulations besides lot area, lot width, lot depth or lot frontage must be complied with.
  - (c) In the event that different standards of minimum lot area, lot width, lot depth or lot frontage apply to different uses in the district, then the lot may only be used for the use or use(s) having lot requirements that the property in question complies with. In the event that the property in question is unable to comply with the lot requirements for any of the uses permitted in the district, then the property may only be used for the use or uses having the least restrictive lot requirements. None of the foregoing shall be construed to permit the lot to be used for a conditional use unless all of the conditional use requirements are complied with.

**Section 44.** Subparagraph (d) in Paragraph (3) in Subsection B of Section 102-121 is amended to read as follows:

- (d) A nonconforming use or structure shall not be changed or altered to diminish the nature, degree or extent of the nonconforming condition in one location while simultaneously increasing the nature, degree or extent of the nonconforming condition in another or the same location on the property.

**Section 45.** The opening paragraph of Schedule A, entitled “Permitted Uses and Structures”, is amended to read as follows:

This schedule sets forth the permitted principal, accessory and conditional uses in each zone district, except as may be otherwise modified, supplemented or prohibited by this chapter. The classification and definition of uses shown in the schedule, except uses noted as “NA” in the schedule or as may be otherwise indicated by this chapter, are based upon the Standard Industrial Classification Manual, 1987 edition. For uses with a “NA” designation, the S.I.C. classification is not applicable; the definitions in the text of the ordinance apply. Additional regulations in the text of the ordinance also apply to the application of this schedule. Footnotes to this schedule, indicated in lower case letters are provided at the end of the schedule.

**Section 46.** Schedule A, entitled “Permitted Uses and Structures”, is amended to revise the permitted uses in the B-2 district so as to prohibit mid-rise apartments.

**Section 47.** Schedule C, entitled “Minimum Number of Parking Spaces”, is amended to revise the requirement for fast food restaurants to read as follows:

1/30 sf customer service and seating area, or 1/3 seats plus 1 per employee on the maximum shift, whichever is greater

**Section 48.** Schedule C, entitled “Minimum Number of Parking Spaces”, is amended to revise the requirement for fast food (drive-in) restaurants to read as follows:

1/30 sf customer service and seating area, or 1/2 seats plus 1 per employee on the maximum shift, whichever is greater (includes drive-up stacking spaces)

**Section 49.** All ordinances of the Borough of Somerville, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**Section 50.** If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

**Section 51.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

Introduced:

First Publication:

Final Passage:

Presented to Mayor:

Approved by Mayor:

Final Publication:

---

David E. Hollod, Mayor

ATTEST:

---

R. D. Sternadori, Clerk/Administrator

## STATEMENT OF PURPOSE

The purpose of this ordinance is as follows:

- to amend various definitions concerning the regulations for signs
- to amend and clarify the procedures for submission and processing of development applications
- to clarify the requirements for numbering of lots for subdivisions
- to amend and clarify the construction specifications for various improvements
- to make the ordinance more consistent with State and Federal requirements for barrier-free access by disabled persons
- to amend the standards for refuse storage
- to amend and clarify the locational requirements for parking and loading areas
- to limit the width of residential driveways
- to amend and clarify the regulations for various types of signs
- to amend the list of permitted uses in the B-2 zone
- to amend the parking requirements for fast food restaurants
- to make the ordinance gender inclusive
- to correct typographical errors and omissions in the current ordinance
- to amend and clarify the requirements applicable to nonconforming lots and structures