

# Article 6. Uses

<b>6.1 Principal Uses .....</b>	<b>6-2</b>
6.1.1 General	6-2
6.1.2 Residential	6-6
6.1.3 Civic Uses	6-7
6.1.4 Lodging	6-8
6.1.5 Retail and Service	6-8
6.1.6 Employment	6-15
6.1.7 Agriculture	6-17
6.1.8 Transportation	6-18
6.1.9 Infrastructure	6-19
<b>6.2 Accessory Uses .....</b>	<b>6-23</b>
6.2.1 General	6-23
6.2.2 Accessory Structures and Uses	6-23
<b>6.3 Temporary Uses .....</b>	<b>6-32</b>
6.3.1 General	6-32
6.3.2 Temporary Uses, Permit Required	6-32
6.3.3 Temporary Uses, Permit Not Required	6-33

## 6.1 PRINCIPAL USES

### 6.1.1 General

- A.** All principal uses must comply with the standards of this section.
- B.** Table 6A: Principal Uses identifies the uses allowed by zone, with cross-references for use definitions and use-specific standards that may apply. The key for the use table is as follows:
1. Permitted (●) indicates that the use is permitted by right in the zone.
  2. Special Use (◐) indicates that the use requires a special use permit.
  3. If a cell is blank, this indicates that the use is not permitted in the zone.
- C. Overlay Zones.** Overlay zones (i.e., N-DER, Downtown Entertainment Review Overlay; C-M, Metro Rail; and C-W, Waterfront) are not listed in Table 6A. Whether a use is allowed, allowed with a special use permit, or not allowed is addressed by the underlying zone. For any use standards or restrictions that may apply to an overlay zone, refer to the applicable overlay zone section of this Ordinance.
- D. Unlisted Uses**
1. If a use is not listed but is similar in nature and impact to a use that is listed in Table 6A, the Zoning Administrator may interpret the use as permitted in accordance with Section 11.3.11.
  2. If a use is not listed and cannot be interpreted as similar in nature and impact to a use that is listed in Table 6A, the use is deemed prohibited.
- E. Multiple Principal Uses.** A site may contain more than one principal use, so long as each principal use is allowed in the zone.
- F. Neighborhood Shops.** An applicant is eligible to apply for a special use permit to establish or expand a commercial use in the N-2R or N-3R zone where the below criteria are met, irrespective

of the limitations of Table 6A: Principal Uses. These criteria are intended to allow existing commercial buildings in residential zones to be utilized to incubate small businesses and artisans in order to serve as catalysts for neighborhood revitalization, as a tool for economic development, and as an important component of the walkability of a neighborhood.

1. The use is limited to any of the following:
  - a. Restaurant.
  - b. Retail and service, general.
  - c. Tavern.
  - d. Industrial, artisan.
  - e. Professional offices.
2. The use does not include the sale, transfer, or lease of firearms and/or firearm accessories, including ammunition.
3. The use will not exceed 2,500 square feet in gross floor area.
4. The use will occupy a principal building built prior to the year 1953; which was built or modified to include a ground-floor commercial space that faces, and is directly accessible from, the adjacent public right-of-way; and where it can be shown that a lawful commercial use occupies, or previously occupied, the ground-floor commercial space.
5. The use will be conducted wholly within a fully-enclosed building.
6. The use will occupy a principal structure that will conform to the transparency and pedestrian access standards of the commercial block, shopfront, or shopfront house building type, whichever is most applicable.
7. Any nonconforming sign, outdoor lighting, fence, or parking lot will be brought into conformance with this Ordinance prior to the issuance of a certificate of occupancy.

**G. Delaware Avenue and North Street Exceptions.**

The use of a property as a residential care facility, lodge/private club, funeral services facility, medical clinic, or professional office is allowed by right on any parcel which abuts North Street, between Main Street and Symphony Circle, and Delaware Avenue, between North Street and Gates Circle, irrespective of the limitations of Table 6A: Principal Uses.

**H. Industrial/Non-Industrial Land Use Compatibility**

- 1.** This section is intended to ensure a wide range of industrial land uses, encourage employment opportunities, limit the encroachment of incompatible uses into areas adjacent to lands zoned for heavy industrial use, and protect other uses from the impacts and hazards which could result if such uses were established near areas zoned for heavy industrial use.
- 2.** Any use that occupies any portion of a parcel that is located within 500 feet of a D-IH zone and that is not listed below, but is otherwise allowed by right or with a special use permit per Table 6A, requires a special use permit subject to the additional approval criteria of this section.
  - a.** Dwelling, caretaker.
  - b.** Public safety facility.
  - c.** Vehicle repair, major.
  - d.** Industrial, artisan, light, and heavy.
  - e.** Recycling facility.
  - f.** Research/laboratory facility.
  - g.** Storage yard.
  - h.** Warehouse/distribution.
  - i.** Freight terminal.
  - j.** Railway facilities.
  - k.** Truck stop.

**l.** District energy system.

**m.** Solar farm.

**n.** Utilities and services, major and minor.

**o.** Wind farm.

**p.** Wireless communications.

- 3.** A special use permit for a project which includes a use other than those uses listed above, may be granted only where the use is found to be consistent with the general criteria of Section 11.3.3 and the following additional criteria:
  - a.** The proposed use will avoid, minimize, or offset any potential adverse impact upon, or conflict with the operations of, adjacent industrial uses.
  - b.** The proposed use will not reasonably be expected to increase the risk or danger to life or property due to the proximity to adjacent industrial uses.
  - c.** The proposed use will be screened and buffered, where necessary, to mitigate against any potential impact upon site users due to the proximity of adjacent industrial uses, including, but not limited to, noise, heat, glare, dust, smoke, fumes, odors, and vibration.
  - d.** The proposed use will be served by, or provide, safe and adequate access to and within the site for pedestrians, cyclists, transit riders, the mobility impaired, and motorists.
  - e.** The proposed use will be established, maintained, and operated so as to avoid, minimize, or offset any potential conflicts with adjacent industrial uses due to traffic congestion, dangerous traffic movements, or interference with the safe and efficient movement of freight.
  - l.** All uses must meet any applicable federal, state, and local requirements, including, but not limited

TABLE 6A: PRINCIPAL USES

	N-1D	N-1C	N-1S	N-2C	N-2E	N-2R	N-3C	N-3E	N-3R	N-4-30	N-4-50	D-R	D-M	D-E	D-S	D-C	D-IL	D-IH	D-OS	D-OG	D-ON	C-R	DEFINITIONS/ STANDARDS
<b>RESIDENTIAL</b>																							
Dormitory	●	●	●	●			●					●	●	●	●	●							
Dwelling, Ancillary	●	●	●	●	●	●	●	●	●			●	●	●	●	●							
Dwelling, Caretaker	●	●	●										●	●			●	●					
Dwelling, Double Unit	●	●	●	●	●	●	●	●	●			●	●	●	●	●							
Dwelling, Multiple Unit	●	●	●	●	●	●	●	●	●			●	●	●	●	●							
Dwelling, Single Unit	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●							
Emergency Shelter	●	●	◐	◐	◐		◐	◐				●											
Fraternity/Sorority House	●	●	●	●	◐		●	◐				●	●										
Group Home	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●							
Halfway House	◐	◐	◐									◐					◐						
Residential Care Facility	●	●	●	●	●		●	●				●	●	●	●	●							
<b>CIVIC</b>																							
Assembly	●	●	●	◐	◐	◐	◐	◐	◐	◐	◐	●	●	●	●	●	●				◐		
Cemetery																					◐		
College/University	●	●	●	●	●		●	●					●	●									
Cultural Facility	●	●	●	●	●	◐	●	●	◐			●	●	●	●	●	●		◐	◐	◐		
Government Offices	●	●	●	●	●		●	●				●	●	●	●	●	●				●	●	●
Hospital													●	●									
Lodge or Private Club	●	●	●	◐	◐		◐	◐				●	●	●	●	●	●						
Open Space	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	◐	●	●	●	●
Primary/Secondary School	●	●	●	◐	◐	◐	◐	◐	◐	◐	◐	●	●	●	●	●					◐		
Public Safety Facility	●	●	●	●	●	◐	●	●	◐	◐	◐	●	●	●	●	●	●	●	●	●	●	●	●
Zoo																					◐		
<b>LODGING</b>																							
Bed & Breakfast	●	●	●	●	●	◐	●	●	◐			◐	●	●	●	●							
Hotel/Hostel	●	●	●	●	●		●	●					●	●	●	●	●						
Rooming House/S.R.O.	●	●	●	◐	◐		◐	◐				◐	◐	◐	◐								
<b>RETAIL &amp; SERVICE</b>																							
Adult Establishment																		◐	◐				
Alcohol Sales	●	●	●	◐	◐		◐	◐						●	●	●	●						
Amusement Facility, Indoor	●	●	●	◐	◐		◐	◐				●	●	●	●	●					◐		
Amusement Facility, Outdoor			●											●	●	●	●				◐		
Animal Care Establishment	●	●	●	●	●		●	●				●	●	●	●	●							
Car Wash			◐												●	●	●						
Commercial School	●	●	●	●	●		●	●				●	●	●	●	●	●				◐		
Day Care Center	●	●	●	●	●		●	●				◐	●	●	●	●	●						
Drive-Through Facility			◐												●	●	●						
Food Center/ Supply Pantry	●	●	●	●	●		●	●				●	●	●	●	●	●						
Funeral Services	●	●	●	●	●		●	●				●		●	●	●	●						
Garden Center			●	●	●	●	●	●					●	●	●	●	●						
Gas Station		◐	◐	◐			◐					◐		●	●	●	●	●					
Human Service Facility	●	●	●	◐	◐		◐	◐				●	●	●	●	●							
Kennel			●														●						
Live Entertainment	●	●	●	◐	◐		◐	◐				◐	●	●	●	●	●				◐	◐	
Medical Clinic	●	●	●	●	●		●	●				◐	●	●	●	●	●						
Open-Air Market	●	●	●	◐	◐		◐	◐				●	●	●	●	●					◐	◐	
Restaurant	●	●	●	●	●		●	●				◐	●	●	●	●	●				◐	◐	

TABLE 6A: PRINCIPAL USES

	N-1D	N-1C	N-1S	N-2C	N-2E	N-2R	N-3C	N-3E	N-3R	N-4-30	N-4-50	D-R	D-M	D-E	D-S	D-C	D-IL	D-IH	D-OS	D-OG	D-ON	C-R	DEFINITIONS/ STANDARDS
Retail & Service, General	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●			Sec. 6.1.5.T
Retail & Service, Heavy			●													●	●	●					Sec. 6.1.5.U
Self-Storage Facility		●	●	●	●		●	●								●	●	●					Sec. 6.1.5.V
Stables/Riding Center			●														●	●			●	●	Sec. 6.1.5.W
Tavern	●	●	●	●	●		●	●					●	●	●	●	●	●		●	●		Sec. 6.1.5.X
Tobacco/Hookah/Vaping Est.	●	●	●	●	●		●	●								●	●	●					Sec. 6.1.5.Y
Vehicle Rental or Sales	●	●	●	●	●		●	●								●	●	●					Sec. 6.1.5.Z
Vehicle Repair, Major		●	●	●	●		●	●								●	●	●	●				Sec. 6.1.5.AA
Vehicle Repair, Minor		●	●	●	●		●	●								●	●	●					Sec. 6.1.5.AB
<b>EMPLOYMENT</b>																							
Industrial, Artisan	●	●	●	●	●		●	●					●	●	●	●	●	●					Sec. 6.1.6.A
Industrial, Heavy																			●				Sec. 6.1.6.B
Industrial, Light		●	●										●	●		●	●	●					Sec. 6.1.6.C
Junk/Salvage Yard																		●					Sec. 6.1.6.D
Professional Offices	●	●	●	●	●		●	●					●	●	●	●	●	●			●		Sec. 6.1.6.E
Recycling Facility																	●	●					Sec. 6.1.6.F
Research/Laboratory Facility	●	●	●	●	●		●	●					●	●		●	●	●					Sec. 6.1.6.G
Storage Yard			●													●	●	●					Sec. 6.1.6.H
Warehouse/Distribution		●	●										●			●	●	●					Sec. 6.1.6.I
Waste Transfer Station																		●					Sec. 6.1.6.J
<b>AGRICULTURE</b>																							
Community Garden	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Sec. 6.1.7.A
Market Garden	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●					Sec. 6.1.7.B
<b>TRANSPORTATION</b>																							
Bicycle Parking Station	●	●	●	●	●		●	●				●	●	●	●	●	●	●	●	●	●	●	Sec. 6.1.8.A
Dispatch Facility		●	●										●		●	●	●	●					Sec. 6.1.8.B
Freight Terminal			●														●	●				●	Sec. 6.1.8.C
Heliport			●										●	●			●	●					Sec. 6.1.8.D
Helistop	●	●	●										●	●			●	●					Sec. 6.1.8.E
Marina, Dry Storage		●	●	●	●		●	●								●	●						Sec. 6.1.8.F
Marina, Recreational	●	●	●	●	●		●	●				●				●	●			●			Sec. 6.1.8.G
Metro Rail Station	●	●	●	●	●		●	●					●	●								●	Sec. 6.1.8.H
Parking Lot, Commercial		●	●										●	●									Sec. 6.1.8.I
Parking Lot, Neighborhood		●	●	●	●		●	●				●	●	●	●	●	●	●			●		Sec. 6.1.8.J
Parking Structure	●	●	●	●	●		●	●					●	●	●	●	●	●					Sec. 6.1.8.K
Passenger Terminal	●	●	●	●	●		●	●								●	●			●		●	Sec. 6.1.8.L
Pedestrian or Bicycle Path	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Sec. 6.1.8.M
Railway Facilities			●													●	●	●				●	Sec. 6.1.8.N
Truck Stop																	●	●					Sec. 6.1.8.O
<b>INFRASTRUCTURE</b>																							
District Energy System	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Sec. 6.1.9.A
Solar Farm			●										●	●	●	●	●	●					Sec. 6.1.9.B
Utilities & Services, Major			●										●	●			●	●		●	●		Sec. 6.1.9.C
Utilities & Services, Minor	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Sec. 6.1.9.D
Wind Farm																	●	●					Sec. 6.1.9.E
Wireless Communications	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●				●	Sec. 6.1.9.F

● Permitted, ● Special Use Permit required

to, licensing, health, safety, and building and fire code requirements.

**6.1.2 Residential**

- A. Dormitory.** A building with sleeping accommodations, without in-room cooking facilities, for residents affiliated with an educational, religious, or other institution.
  - 1.** A dormitory is permitted only within 1,320 feet of the institution with which it is affiliated. This restriction does not apply if the dormitory is located in an N-1D, N-1C, N-1S, D-M, or D-E zone.
- B. Dwelling, Ancillary.** A dwelling unit associated with and incidental to a principal dwelling on the same lot.
  - 1.** A detached ancillary dwelling must have a lower height in feet and smaller footprint than the principal building on the lot. No ancillary dwelling may exceed 1,000 square feet in gross floor area.
  - 2.** A detached ancillary dwelling, if located in any neighborhood zone, must comply with the standards for a carriage house in accordance with Section 3.2.3.
- C. Dwelling, Caretaker.** A dwelling unit for employees who are responsible for maintenance and security in association with a principal on-site use.
- D. Dwelling, Double Unit.** A structure that contains two dwelling units.
  - 1.** In a D-S or D-C zone, a double unit dwelling is allowed only in the upper stories of a building. A lobby or other entrance is allowed on the ground floor.
- E. Dwelling, Multiple Unit.** A structure that contains three or more dwelling units.
  - 1.** In an N-2R or N-3R zone, a multiple unit dwelling of 25 or more units may contain ancillary retail and service uses without separate approval, so long as such uses are primarily intended to serve the residents of

the site, are accessible only from a lobby, and are not visible or apparent from the adjacent public right-of-way.

- 2.** In a D-S or D-C zone, a multiple unit dwelling is allowed only in the upper stories of a building. A lobby or other entrance is allowed on the ground floor.
- F. Dwelling, Single Unit.** A structure that contains only one dwelling unit.
  - 1.** In a D-S or D-C zone, a single unit dwelling is allowed only in the upper stories of a building. A lobby or other entrance is allowed on the ground floor.
- G. Emergency Shelter.** A facility that provides temporary short-term housing for individuals displaced by reasons of abuse, domestic violence, weather, homelessness, or other factors.
  - 1.** No more than 300 beds are allowed for any emergency shelter in the N-1D, N-1C, and D-M zones, and no more than 15 beds are allowed for any emergency shelter in the N-1S, N-2C, N-2E, N-3C, and N-3E zones.
- H. Fraternity/Sorority House.** A building used as group living quarters for students of a college, university, or religious school, who are members of a fraternity or sorority that has been officially recognized by the college, university, or religious school.
  - 1.** A fraternity/sorority house is permitted only within 1,320 feet of the institution with which it is affiliated. This restriction does not apply if the fraternity/sorority house is located in an N-1D, N-1C, N-1S, D-M, or D-E zone.
- I. Group Home.** A dwelling licensed, certified, or accredited by the appropriate local, state, or federal agencies, in which unrelated persons with disabilities, including those who have undergone treatment for alcohol or drug addiction, function as a single housekeeping unit and share responsibilities, meals, recreation, social activities, and other aspects of residential living. A group home does not include a residence that services

persons as an alternative to incarceration, or that services persons transitioning from incarceration.

- J. Halfway House.** A dwelling licensed, certified, or accredited by the appropriate local, state, or federal agencies, in which unrelated persons who are on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses, are provided housing, food, treatment, and supportive services.
1. No more than 15 occupants are allowed for any halfway house.
- K. Residential Care Facility.** A licensed care facility that provides 24-hour medical or non-medical care to persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. Residential care facilities include nursing homes, independent living, assisted living, continuum of care, and hospice facilities.

### 6.1.3 Civic Uses

- A. Assembly.** A facility that has organized services, meetings, events, or programs to benefit, educate, entertain, or promote discourse in a public or private setting. Examples include community centers, places of worship, meeting or lecture halls, exhibition rooms, or auditoria. If an assembly use is ancillary to another principal use, and has a gross floor area of less than 5,000 square feet, it is considered part of that use and is not considered a separate principal use.
- B. Cemetery.** Land or structures dedicated for the internment of human or animal remains.
- C. College/University.** A post-secondary institution for higher learning that grants associate, bachelor, masters, or doctoral degrees, and theological schools. College/university includes related ancillary facilities, such as cafeterias, restaurants, retail sales, indoor or outdoor recreational facilities, research facilities, and similar uses.
- D. Cultural Facility.** A facility open to the public for cultural services and exhibitions including, but not limited to, museums, cultural centers, historical societies, and libraries operated by a government or non-profit establishment. A cultural facility may include ancillary assembly, retail, or restaurant uses.
- E. Government Offices.** Offices owned, operated, or occupied by a government agency, including government officials and departments, social service facilities, public works facilities, and courthouses.
1. Government offices should be located within 1,320 feet of a transit stop or station, measured by closest walking distance along public rights-of-way from the main entrance of the government offices to the transit stop or station. This does not apply in the C-W zone or for public works facilities.
- F. Hospital.** A facility that provides health, medical, or surgical care to the sick or injured. Hospitals include related ancillary facilities, such as laboratories, outpatient clinics, cafeterias, gift shops, training facilities, classrooms, central service facilities, and offices integral to function of the facility.
- G. Lodge or Private Club.** A facility for the use of a membership organization or association with elected officers and directors, pursuant to a charter or bylaws, that excludes the general public from its premises and holds property for the common benefit of its members.
1. A lodge or private club may not charge a temporary membership fee in order to allow non-members to enter or use the premises.
  2. A lodge or private club may serve meals and alcohol on the premises for members and their guests only.
- H. Open Space.** A site reserved for active or passive recreation or natural resources protection.
- I. Primary/Secondary School.** A public, private, or parochial institution offering instruction at the elementary through high school levels with a full range of curricular programs.
- J. Public Safety Facility.** A facility operated by a public safety agency, including fire stations and



firefighting facilities, police and sheriff substations and headquarters, emergency medical services substations, border protection facilities, and military facilities, which may include interim incarceration facilities.

- K. Zoo.** A facility for the exhibition and viewing of animals. A zoo may include ancillary retail or restaurant uses.

### 6.1.4 Lodging

**A. Bed and Breakfast.** A dwelling that provides temporary lodging for compensation in guest rooms with no in-room cooking facilities. A bed and breakfast may include dining facilities and meeting rooms.

1. The owner or manager must be a resident of the dwelling.
2. No more than five guest rooms, and no more than ten guests at any one time, are permitted. Only habitable rooms originally designed as bedrooms may be used for lodging.
3. Hourly rate lodging is not permitted.
4. Guest stays are limited to a maximum of 30 consecutive days.

**B. Hotel/Hostel.** A facility that provides temporary lodging for compensation and may include dining facilities, meeting rooms, and other incidental services.

1. Rooms accessed individually from the outside of the structure are permitted only in D-S, D-C, and D-IL zone.
2. Hourly rate lodging is not permitted.
3. Guest stays are limited to 30 consecutive days.

**C. Rooming House/S.R.O.** A structure with two or more rooming units occupied, designed, or intended to be occupied by individuals who may share common areas and facilities, but do not form a single housekeeping unit, and do not provide compensation under a single lease for

occupancy. A rooming unit provides sleeping accommodations, but no in-room cooking facilities.

1. One on-site supervisor is required at all times for any rooming house with ten or more rooming units.
2. Hourly rate lodging is not permitted. Lodging must be arranged on a week-to-week or longer basis.

### 6.1.5 Retail and Service

**A. Adult Establishment.** A business that sells or disseminates explicit sexual material, and at which access to the public display of explicit sexual material is restricted by law to persons 18 years of age or older.

1. For the purposes of this section, the following terms have the following meanings:

**a. Adult Bookstore.** A business having five percent or more of its floor area devoted to sale or rent of, or five percent or more of its stock-in-trade in, publications, books, magazines, periodicals, photographs, films, motion pictures, video cassettes or video reproductions, or other visual representations that depict or describe specified sexual activities or specified anatomical areas, or instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

**b. Adult Booth.** A small enclosed or partitioned area inside an adult establishment which is designed or used for the viewing of material that is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**c. Adult Cabaret.** A business that features dancers, go-go dancers, exotic dancers or similar entertainers, or live entertainment, in which persons regularly appear in a state of nudity, or where live



- performances are characterized by the exposure of specified anatomical areas or by specified sexual activities. Adult cabaret establishments specifically exclude minors, or minors are specifically prohibited by statute or ordinance, regardless of whether any such business is licensed to sell alcoholic beverages.
- d. Adult Massage Parlor.** A business having a source of income or compensation derived from the practice of any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulation of, external parts of the human body with the hands or with the aid of any mechanical, electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment, or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity. The term "adult massage parlor" does not include any establishment operated by a medical practitioner, professional physical therapist, or massage therapist licensed by the state.
  - e. Adult Motion Picture Theater.** A business used for presenting motion pictures that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.
  - f. Sexually Oriented Devices.** Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed in whole or part for specified sexual activities.
  - g. Specified Anatomical Area.** Less than completely and opaquely covered genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state, even if completely and opaquely covered.
  - h. Specified Sexual Activities.** Any activity that includes human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; or fondling or erotic touching of human genitals, pubic regions, buttocks, or female breasts, even if completely and opaquely covered.
- 2.** An adult establishment must not be located:
    - a.** Within 750 feet of any other adult establishment.
    - b.** Within 750 feet of an N-2R, N-3R, N-4-30, N-4-50, or D-R zone.
    - c.** In a C-W zone.
    - d.** Within 750 feet of any assembly use established as a community center or place of worship.
    - e.** Within 750 feet of any primary/secondary school.
    - f.** Within 750 feet of any day care center which serves children under the age of 18.
    - g.** Within 750 feet of any public park.
  - 3.** An adult establishment may be only one type of adult establishment: adult bookstore, adult cabaret, adult massage parlor, or adult motion picture theater. An adult establishment may not combine these uses.
  - 4.** An adult establishment must not display obscene or indecent lights, posters, photographs, sketches, painted signs, laminated signs, or similar materials that are visible from the exterior of the building or

visible through windows adjacent to a public right-of-way.

5. Adult establishments which offer private viewing of movies, tapes, slides, pictures, computer-generated images of any kind, or live performance of any kind must comply with the following:
  - a. Each adult booth must be totally accessible to and from aisles and public areas of the establishment. Access to a booth must be unrestricted by doors, locks, or other control-type devices.
  - b. Each adult booth must be separated from adjacent booths and any nonpublic areas by a solid wall, without openings, that extends from the floor to a height of not less than six feet.
  - c. Each adult booth must be well-lit and have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth.
  - d. Only one individual may occupy an adult booth at any time.

- B. **Alcohol Sales.** An establishment which sells alcoholic beverages for consumption off-premises.
- C. **Amusement Facility, Indoor.** A facility for spectator and participatory uses conducted within an enclosed building, such as movie theaters, sports arenas, bowling alleys, tumbling centers, skating centers, roller rinks, and pool halls.
- D. **Amusement Facility, Outdoor.** A facility for spectator and participatory uses conducted outdoors or within partially enclosed structures, such as fairgrounds, campgrounds, batting cages, drive-in movie theater, recreational vehicle parks, petting zoos, golf courses, miniature golf courses, and amusement parks.
- E. **Animal Care Establishment.** A business which provides care for domestic animals, including veterinary offices for the immunization, diagnosis,

or treatment of animals, where animals may be boarded during their convalescence; pet grooming facilities; and pet boarding facilities, where animals are boarded during the day or for overnight stays.

1. Animal boarding facilities must be located indoors.
  2. Exterior exercise areas must be located to the rear or interior side of the principal building on the lot.
  3. Any exterior exercise areas must be designed to provide shelter against weather.
  4. Fencing of exterior exercise areas is required. Fencing must be between six and seven feet in height to prevent escape, and must be buried a minimum of one foot to prevent escape by digging beneath the fence.
- F. **Car Wash.** An establishment for the washing of motor vehicles, which may employ production-line methods, mechanical devices, staffed hand wash facilities, or unstaffed self-wash facilities.
1. For unstaffed self-wash facilities, a security system must be installed and maintained, including a security camera to monitor all areas of the car wash. The security camera must have a minimum recording capacity of 24 hours and must archive footage for a minimum of 30 days.
  2. A type C buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
  3. A car wash may be located in a C-W zone only with a special use permit and where the City Planning Board finds that the use will not adversely affect the water quality of any adjacent water body.
  4. A car wash must be located at least 150 feet from a Historic Olmsted Park or Parkway. This requirement does not apply to any car wash in the D-S, D-C, D-IL, or D-IH zone.

- G. Commercial School.** A school that teaches industrial, clerical, managerial, commercial, artistic, or other select skills; conducts a commercial enterprise, such as a driving school; or a privately operated school that does not offer a complete educational curriculum.
- H. Day Care Center.** A business that provides licensed care in a protective setting for seven or more children or elderly or functionally-impaired adults for less than 24 hours per day.
- I. Drive-Through Facility.** A facility that dispenses goods through an attendant window or automated machine to persons remaining in vehicles in a designated drive aisle.
1. Stacking spaces and drive aisles must be provided in accordance with Section 8.3.6.
  2. A Type C buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
  3. Menu boards, loudspeakers, stacking spaces, and drive-through windows may be located only in interior side or rear yards. No service may be rendered, deliveries made, or sales conducted in a front or corner side yard.
  4. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments must not be located within 50 feet of any lot used for dwelling purposes, where practicable. On sites that do not allow for such separation, specific design considerations must be employed to effectively buffer adjacent residential properties from the noise generated from such devices.
  5. A drive-through menu board must comply with the standards of Section 9.4.1.L.
  6. A drive-through for a pharmacy, defined as a business engaged in the retail sales and dispensing of prescription and non-prescription drugs, may be allowed with a special use permit in the N-2C, N-2E, N-3C, and N-3E zones, irrespective of the limitations of Table 6A, so long as any loudspeakers, stacking spaces, drive-through windows, and related signage are located only in the rear yard.
- J. Food Center/Supply Pantry.** A not-for-profit use that distributes or facilitates the giving of food, clothing, and/or other essential items at no charge or for less than fair market value to persons in need of assistance. Examples include soup kitchens and regularly staffed drop-off centers for clothing, household goods, and food.
1. A food center or supply pantry is allowed as an accessory use to a place of worship or an emergency shelter, regardless of zone. A special use permit for such an accessory use is not required.
  2. A food center or supply pantry must provide indoor, fully enclosed waiting areas on the premises, which are adequate to accommodate the maximum number of persons to be served at any one time. The owner/operator must ensure that persons receiving assistance do not block public access to sidewalks, rights-of-way, or private property, and that emergency access points are clearly identified and maintained.
- K. Funeral Services.** A facility where the deceased are prepared for burial display and for rituals before burial or cremation. Such facilities may include chapels, crematoriums, and showrooms for the display and sale of caskets, vaults, urns,

and other items related to burial services.

1. A crematorium is considered a light industrial use and must comply with Table 6A and Section 6.1.6.C.

**L. Garden Center.** An establishment that includes indoor and/or outdoor retail sales of plants not grown on the site, lawn furniture, and garden supplies.

1. An outdoor retail sales area for a garden center in the N-1C, N-2C, N-2E, N-3C, and N-3E zones may not exceed 10,000 square feet.

**M. Gas Station.** A business engaged in the sale of vehicle fuel.

1. Gas stations in an N-1C, N-1S, N-2C, or N-3C zone are limited to a maximum of eight individual filling pumps.
2. A Type C buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
3. A gas station may be located in a C-W zone only with a special use permit and where the City Planning Board finds that the gas station use will not adversely affect the water quality of an adjacent water body.
4. A gas station must be located at least 150 feet from a Historic Olmsted Park or Parkway. This requirement does not apply to any gas station in the D-S, D-C, D-IL, or D-IH zone, or to any gas station that engages in the sale of fuel principally for watercraft.

**N. Human Service Facility.** An establishment that provides services to persons in need of assistance due to age, physical or mental disability, addiction, illness, or injury. Services include supervision of self-administered medication; rehabilitative or recovery assistance; counseling, self-help, education or referrals, or other treatment or assistance; aid in personal hygiene, dressing, and eating and drinking; day

shelter; or any combination of same.

1. A human service facility is allowed as an accessory use to a hospital or an emergency shelter. A special use permit for such an accessory use is not required.
2. A special use permit application for a human service facility must document the community's need for the proposed facility and provide a detailed description of the proposed use, including an estimation of the number of individuals to be served at the facility over a stated time period, activities and programs anticipated at the facility, hours of operation, degree of supervision at the facility, and any other information as may reasonably be necessary to ascertain the impact of the proposed facility on public safety, health, and welfare.
3. A special use permit for a human service facility may be granted only where the use is found to be consistent with the general criteria of Section 11.3.3 and the following additional criteria:
  - a. The proposed use will not alter the essential nature and character of the community.
  - b. The proposed use will not result in a duplication of services, in relation to need, cost, and service efficiency, that would hinder the community integration goals of the facility and create service capacity in excess of the overall need in the community. Considerations relevant for this determination are the distance between the proposed facility and other facilities which offer the same services, the capacity of the proposed facility and total capacity of all similar human service facilities in the community, the success or failure of other such facilities operated by the individual or group seeking approval, and the ability of the community to meet the special needs, if any, of the applicant facility.

- O. Kennel.** An establishment where four or more dogs over six months of age are boarded, bred, raised, and trained.
1. Any exterior boarding quarters and exercise areas located outside must be designed to provide shelter against weather.
  2. Fencing of exterior exercise areas and any animals boarding quarters is required. Fencing surrounding exterior exercise areas must be between six and seven feet in height to prevent escape, and must be buried a minimum of one foot to prevent escape by digging beneath the fence.
- P. Live Entertainment.** A venue for one or more of any of the following activities performed live by one or more persons, whether or not done for compensation and whether or not admission is charged: musical or disc jockey performance, live theater, stand-up comedy, dance, magic acts, or similar activities.
- Q. Medical Clinic.** A facility for physicians, dentists, chiropractors, physical therapists, alternative medical practitioners, or other licensed healthcare practitioners to examine and treat persons on an outpatient basis.
- R. Open-Air Market.** An outdoor site where individual stalls or spaces are provided for vendors to display, buy, sell, exchange, or deal retail goods.
- S. Restaurant.** A business where food and beverages are prepared for and served to patrons for consumption either on-premises or off-premises.
1. The sale of alcohol for on-premises consumption requires separate approval as a tavern. The sale of alcohol for off-premises consumption requires separate approval for an alcohol sales establishment.
  2. A restaurant may include ancillary live entertainment without a separate approval, except in the N-2R and N-3R zones, so long as all of the following conditions are met:
    - a. No permanent space is dedicated for live entertainment.
    - b. No admission is charged for live entertainment.
    - c. When live entertainment is offered, it is clearly incidental and subordinate to the restaurant use.
  3. Ventilation systems may not be installed on any front or corner side facade unless the applicant can prove that no other feasible alternative is available. To the maximum extent feasible, ventilation systems must be directed away from adjacent residential properties.
- T. Retail and Service, General.** A business that provides goods or services directly to the consumer, and where such goods or services are available for immediate purchase on the premises by the purchaser.
- U. Retail and Service, Heavy.** A retail and service business with permanent outdoor display, service, and storage areas, such as vendors of lumber and building supplies, landscaping supplies and equipment, industrial equipment, commercial and recreational vehicles, watercraft, and outdoor structures such as prefabricated sheds, decks and patios, swimming pools, and play equipment. This does not include a garden center, which is addressed by Section 6.1.5.L.
1. A Type C buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
  2. Any materials stored that exceed the height of the screening must be located a minimum of 25 feet from any lot line.
- V. Self-Storage Facility.** A business that leases individual storage units for the storage of personal property, and that may include ancillary retail sales of packing, moving, and storage supplies.
1. The individual storage units of a self-storage facility in the N-1C, N-1S, N-2C, N-2E, N-3C, and N-3E zones must be located

only in the upper stories of a fully-enclosed building, with access to individual storage units provided from common areas located indoors.

2. The individual storage units of a self-storage facility in the D-S and D-C zones must be located in a fully-enclosed building, with access to individual storage units provided from common areas located indoors.
3. Storage units accessed individually from outside a structure are permitted only in the D-IL and D-IH zones. A self-storage facility that offers outdoor storage pods is permitted only in the D-IL and D-IH zones.
4. Where the individual storage units of a self-storage facility are accessed from outside a structure, such a facility must include a Type C buffer yard, designed per Section 7.1.6, along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.

**W. Stables/Riding Center.** A structure or land used, designed, and arranged for the care and shelter of equines, or for rentals, riding, shows, or training, which may include horses not boarded on-site.

- X. Tavern.** A business that serves alcoholic beverages for on-premises consumption, and may or may not serve food.
1. A tavern may include ancillary live entertainment without a separate approval, except in the N-2R and N-3R zones, so long as all of the following conditions are met:
    - a. No permanent space is dedicated for live entertainment.
    - b. No admission is charged for live entertainment.
    - c. When live entertainment is offered, it is clearly incidental and subordinate to the tavern use.

**Y. Tobacco/Hookah/Vaping Establishment.** An establishment which sells tobacco products or related accessories, hookah products or related accessories, other smoking products or related accessories, or electronic nicotine delivery systems or related accessories, for on- or off-premise use.

**Z. Vehicle Rental or Sales.** A business that sells, leases, or rents automobiles, vans, three-wheelers, motorcycles, scooters, or other powered personal transportation or conveyance, and which may include on-site facilities for the repair and service of vehicles sold, leased, or rented. This does not include the sale, lease, or rental of recreational vehicles, commercial vehicles, or watercraft, which is considered a heavy retail and service use.

1. In the N-1D, N-1C, N-2C, N-2E, N-3C, and N-3E zones, vehicle rental and sales must be located within a fully enclosed building. In the N-1S zone, vehicle rental and sales facilities may be located outdoors, so long as it is in a rear yard and not visible from a public right-of-way other than an alley.
2. Any repair and service operations must be performed within a fully enclosed building. Bay doors may be open during hours of operation.
3. A vehicle rental or sales establishment must screen any outdoor display area, as follows:
  - a. A Type C buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
  - b. A Type D buffer yard, designed per Section 7.1.6. is required along front or corner side lot lines. In lieu of a Type D buffer yard, a solid masonry wall may be installed at the right-of-way line of between two feet and three and one-half feet in height.



4. No partially dismantled, wrecked, or unregistered vehicle may be stored outdoors on the premises.

**AA. Vehicle Repair, Major.** A business that offers repair services such as engine rebuilding; major reconditioning of worn or damaged motor vehicles or trailers; towing and collision service, including body, frame, or fender straightening or repair; painting of motor vehicles; or repair to commercial vehicles, recreational vehicles, or watercraft.

1. Any repair and service operations must be performed within a fully enclosed building. Bay doors may be open during hours of operation.
2. No partially dismantled, wrecked, or unregistered vehicle may be stored outdoors for more than 30 days. Temporary storage of such vehicles are not allowed in any yard within the N-1C, N-2C, and N-3C zones, and otherwise are allowed within the interior side and rear yards only, so long as they are not visible from a public right-of-way other than an alley.
3. A Type C buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines of an outdoor storage area that abuts any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
4. A major vehicle repair establishment must be located at least 150 feet from an Historic Olmsted Park or Parkway. This requirement does not apply to any establishment that offers repair services for watercraft in the C-W zone.

**AB. Vehicle Repair, Minor.** A business that offers minor repairs to motor vehicles, including, but not limited to, repair or replacement of cooling, electrical, fuel, and exhaust systems; brake adjustments, relining, and repairs; wheel servicing, alignment, and balancing; repair and replacement of shock absorbers; detailing; and replacement or adjustment of muffler systems, hoses, belts, fuses, windshield wipers, and the like. Minor vehicle repair also includes repairs to two-wheeled and

three-wheeled motor vehicles, and may include incidental, ancillary towing and collision service.

1. Any repair and service operations must be performed within a fully enclosed building. Bay doors may be open during hours of operation.
2. A minor vehicle repair use may not include vehicle dismantling.
3. No partially dismantled, wrecked, or unregistered vehicle may be stored on-site.
4. A minor vehicle repair establishment must be located at least 150 feet from an Historic Olmsted Park or Parkway. This requirement does not apply to any minor vehicle repair establishment in the D-S, D-C, D-IL, or D-IH zone.

### 6.1.6 Employment

**A. Industrial, Artisan.** A manufacturing use involving small-scale production or assembly with no noxious by-products, and which may include a showroom or ancillary sales of products.

1. No processes or equipment may be used that creates heat, glare, dust, smoke, fumes, odors, or vibration detectable off the property.
2. Outdoor storage is prohibited, except as follows:
  - a. Outdoor storage is allowed in the D-IL and D-IH zones.
  - b. Outdoor storage is allowed in the N-1S and D-C zones, so long as it is in a rear or interior side yard and not visible from a public right-of-way other than an alley.
3. Deliveries or pick-ups in connection with the use are limited to parcel and small freight carriers, except in the N-1S, D-C, D-IL, and D-IH zones.

**B. Industrial, Heavy.** The processing, manufacturing, or compounding of materials, products, or energy, or any industrial activities which because of their scale or method of operation regularly produce



noise, heat, glare, dust, smoke, fumes, odors, vibration, or other external impacts detectable beyond the lot lines of the property. Heavy industrial uses may regularly employ hazardous material or procedures or produce hazardous by-products, include outdoor storage areas, and may have activities that take place outside of structures.

1. A plan for the prevention and control of petroleum and chemical facility discharges is required for all major petroleum and chemical facilities, and must be submitted to the City Emergency Management Services Office.
  2. A Type A buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
- C. Industrial, Light.** The processing or manufacturing of finished products or parts from previously prepared materials including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided that all manufacturing processes are contained entirely within a fully enclosed building. Any heat, glare, dust, smoke, fumes, odors, or vibration are confined to the building. A light industrial use may include a showroom or ancillary sales of products related to the items manufactured on-site.
1. A Type B buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
- D. Junk/Salvage Yard.** A facility where used vehicles, appliances, building fixtures, and similar commodities are sorted and dismantled, and may be offered for sale.
1. The minimum lot area for a junk/salvage yard is two acres.
  2. Junk/salvage yards must be located at least 500 feet from a lot in any zone other than a D-IL, D-IH, or C-R zone.

3. A Type A buffer yard, designed per Section 7.1.6, is required along the entire perimeter of any outdoor storage and/or operations of the junk/salvage yard. Outdoor storage or operations of any kind is prohibited outside the fenced or walled area.
  4. A junk/salvage yard must not be located in a C-W zone.
- E. Professional Offices.** A facility for the processing, manipulation, or application of business information or professional expertise, and which may or may not offer services to the public. An office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, or engaged in the repair of products or retail services. Professional offices do not include government offices.
- F. Recycling Facility.** A facility that accepts materials, such as dry paper, glass, cans, or plastics, for storage and processing by power-driven equipment for the subsequent reuse in the secondary materials market.
1. A Type A buffer yard, designed per Section 7.1.6, is required along the entire perimeter of any outdoor storage and/or operations of the recycling facility. Outdoor storage or operations of any kind is prohibited outside the fenced or walled area.
  2. Recycling drop-off facilities, manned or unmanned, must be located within the interior side or rear yard.
  3. A recycling facility must not be located in a C-W zone, unless the recycling facility is water-dependent (must be conducted on, in, over, or adjacent to a waterway).
- G. Research/Laboratory Facility.** A facility where research and development is conducted in industries including, but are not limited to, biotechnology, pharmaceuticals, medical instrumentation or supplies, communication and information technology, electronics and instrumentation, and computer hardware and

software. A research/laboratory facility does not involve the manufacture, fabrication, processing, or sale of products, with the exception of prototype development.

- H. Storage Yard.** The use of land to store material, equipment, or vehicles for a period greater than 24 hours, and any structures associated with the outdoor storage.
1. A Type B buffer yard, designed per Section 7.1.6, is required along the entire perimeter of any outdoor storage area in all zones except for a D-IL or D-IH zone, where a Type C buffer yard is required. Outdoor storage of any kind is prohibited outside the fenced or walled area.
  2. Storage of materials that exceed the height of the required fence or wall must be located at least 25 feet from the fence or wall.
  3. Outdoor storage must be located outside of the front yard and must not be placed between the principal building and the principal thoroughfare. This standard does not apply to storage yards in a D-IH zone.
  4. In an N-1S or D-C zone, the storage of materials may only be located in a rear or interior side yard and may not be visible from a public right-of-way other than an alley.
- I. Warehouse/Distribution.** A facility for the storage, wholesaling, and distribution of goods. If a warehouse/distribution use is ancillary to another principal use, and has a floor area of less than 10,000 square feet, it is considered part of the principal use and is not considered a separate principal use.
1. A Type B buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
- J. Waste Transfer Station.** A facility for the collection, storage, and transference of solid waste, which may include the collection, storage, processing, and transference of recyclables, and organic

and yard waste. A waste transfer facility does not include industrial or sanitary landfills, or waste incineration facilities.

1. The following must not be accepted at a waste transfer facility: mixed solid waste, hazardous wastes, industrial wastes, medical wastes, liquid wastes, and asbestos. A special use permit may further restrict what may be accepted.
2. The facility must post signs showing hours of operation and indicating that mixed solid waste, hazardous wastes, industrial wastes, medical wastes, liquid wastes, and asbestos are prohibited from being accepted at the site. The signs must be visible to any vehicle or person approaching the facility entrance.
3. A Type A buffer yard, designed per Section 7.1.6, is required along the entire perimeter of any outdoor storage and/or operations of the waste transfer facility. Outdoor storage or operations of any kind is prohibited outside the fenced or walled area.
4. A waste transfer station must not be located in a C-W zone, unless the waste transfer facility is water-dependent (i.e., must be conducted on, in, over, or adjacent to a waterway).

### 6.1.7 Agriculture

- A. Community Garden.** A site where food, ornamental crops, or trees are grown for group, shareholder, or lessee use, or for donation.
1. Seed, fertilizer, and feed must be stored in sealed, rodent-proof containers.
  2. No equipment, process, or other practice may be employed at a community garden that creates dust or odors detectable off the property, or any other effect determined by the Commissioner of Permit and Inspection Services to be detrimental to the public health, safety, or welfare.
- B. Market Garden.** A site where food, ornamental crops, or trees are grown for sale to the general public.

1. A special use permit for a market garden may be granted in an N-4-30 or N-4-50 zone only if located east of Jefferson Avenue, south of Best Street/Walden Avenue, west of Bailey Avenue, and north of Clinton Street.
2. Seed, fertilizer, and feed must be stored in sealed, rodent-proof containers.
3. No equipment, process, or other practice may be employed at a market garden that creates dust or odors detectable off the property, or any other effect determined by the Commissioner of Permit and Inspection Services to be detrimental to the public health, safety, or welfare.
4. Agricultural products, plants, eggs, and honey grown or produced on or within the subject property or within the City of Buffalo may be sold on the premises if the market garden use is the only use of the subject property or occupies at least 50% of the area of the property. In addition, foods prepared on site or off site may be sold if the principal ingredients are grown or produced on the subject property or within the City of Buffalo.
5. On-site sales within an N-2R, N-3R, N-4-30, or N-4-50 zone must comply with the following:
  - a. No structure or building except for a maximum of one market stand may be used to sell produce or other goods.
  - b. On-site sales are limited to 10 hours per week.

### 6.1.8 Transportation

- A. **Bicycle Parking Station.** A structure designed for use as a long-term bicycle parking facility, and which may include ancillary uses, such as bicycle repairs and showers or lockers for bicycle commuters.
- B. **Dispatch Facility.** A dispatch facility is a facility where ambulances, taxis, limousines, armored cars, tow trucks, and similar vehicles for specialized transportation are stored, and from which they are dispatched, and/or where

ambulance vehicles and crews not based at a hospital or fire department stand by for emergency calls. A dispatch facility may include ancillary professional offices and vehicle repair.

1. The storage of vehicles must be within a fully-enclosed structure. This requirement does not apply in the D-IL and D-IH zones. In addition, outside storage of vehicles is allowed in the N-1S and D-C zones within interior side and rear yards only, so long as it is not visible from any public right-of-way other than an alley.
- C. **Freight Terminal.** A facility for freight pick-up, transfer, or distribution by rail, truck, or water.
  - D. **Heliport.** A designated landing area for discharging and picking up passengers or goods by helicopter or similar vertical lift aircraft, including terminal facilities for passengers, aircraft servicing, or storage or basing of aircraft.
  - E. **Helistop.** An area of land or a structure used for the landing and take-off of helicopters with no terminal facilities for passengers, aircraft servicing, or permanent storage or basing of aircraft.
  - F. **Marina, Dry Storage.** A site used for the long-term dry storage of recreational watercraft in racks or other storage systems, and which may include ancillary repair facilities for watercraft.
    1. In the N-2C, N-2E, N-3C, and N-3E zones, this use is allowed with a special use permit only on sites that are also located within a C-W zone.
  - G. **Marina, Recreational.** A site used for docking and storage of pleasure boats or services for pleasure boaters, including minor repair of boats while in the water, sale of fuel and supplies, or provision of food, beverages, and entertainment.
    1. In the N-2C, N-2E, N-3C, and N-3E zones, this use is permitted only on sites that are also located within a C-W zone.
  - H. **Metro Rail Station.** A Metro rail station is a facility that is part of the Metro Rail system that is used for the boarding, departure, or transfer of public transit passengers.

- I. Parking Lot, Commercial.** A non-accessory parking lot made available to the general public in exchange for a fee.
1. No commercial parking lot in the N-1C zone may be established on or extended to a corner lot.
  2. All commercial parking lots must be designed in accordance with Section 8.3.3.
- J. Parking Lot, Neighborhood.** A non-accessory parking lot operated by a government or nonprofit organization as a service to the general public.
1. No neighborhood parking lot in an N-1C, N-2C, N-2E, N-3C, or N-3E zone may be established on or extended to a corner lot.
  2. All neighborhood parking lots must be designed in accordance with Section 8.3.3.
- K. Parking Structure.** A structure of one or more levels, whether underground, at ground level, or above ground level, in which more than 50% of the gross floor area is used for parking vehicles.
1. All parking structures must be designed in accordance with Section 8.3.4.
- L. Passenger Terminal.** A facility for handling, receiving, and transferring intercity passenger traffic, including by air, train, ferry, and bus.
- M. Pedestrian or Bicycle Path.** A public off-road path that connects places of activity, constructed for pedestrian or bicycle travel, or both.
1. A pedestrian or bicycle path must comply with the Manual on Uniform Traffic Control Devices (MUTCD), plus New York State Supplement, and the AASHTO Guide for the Development of Bicycle Facilities.
  2. If a pedestrian or bicycle path exists adjacent to an active rail right-of-way, the path must be separated from the active rail tracks per the FHWA Rails-with-Trails Best Practices Report.
- N. Railway Facilities.** Facilities for switches, spurs, tracks, structures, rail yards, and other facilities used in connection with the transportation of persons or goods by rail, including related equipment such as locomotives and shipping containers.
- O. Truck Stop.** A business that offers the sale of fuel for trucks, incidental service and repair of trucks, and eating, sleeping, or truck parking facilities.
1. A Type B buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.
  2. A truck stop may not be located in a C-W zone.

### 6.1.9 Infrastructure

- A. District Energy System.** A community-based energy system shared by property owners for common use, or managed by a homeowners' association, institution, or similar organization.
1. District energy systems must be built in accordance with accessory use standards for each type of energy system, as applicable, per Section 6.2.
- B. Solar Farm.** A site at which photovoltaic cells and generators are used to generate and produce electric power for distribution to consumers, typically managed by a single entity.
- C. Utilities and Services, Major.** Large-scale facilities that primarily serve a regional need, which because of their scale or method of operation are more likely to produce external impacts that are detectable beyond the property lines of the subject property. Such facilities include, but are not limited to, sewage treatment plants, electric or gas generation plants, high voltage transmission lines, water pumping stations, and water towers and tanks.
1. A Type C buffer yard, designed per Section 7.1.6, is required along interior side and rear lot lines that abut any lot in an N-2R, N-3R, N-4-30, N-4-50, D-R, D-OS, D-OG, or D-ON zone.

**D. Utilities and Services, Minor.** Facilities and services that primarily serve local distribution needs, including, but not limited to, water and sewer pump stations, electrical transforming substations, water conveyance stations, gas regulating stations, telephone exchange/switching centers, and emergency communication warning/broadcast facilities.

**E. Wind Farm.** A site at which wind turbines are erected to generate and produce electric power for distribution to consumers, typically managed by a single entity, and exceeding a rated capacity of 500 kW.

**1. Construction**

- a.** The design of the wind farm must conform to applicable industry standards, including those of the American National Standards Institute. The facility owner or operator must submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- b.** An engineer's certificate must be completed by a structural engineer, licensed in New York State, certifying that the tower and foundation of the wind turbines are compatible with, and are appropriate for, the particular model of wind turbine used, and that the specific soils at the site can support the wind turbine.

**2. Setbacks**

- a.** Wind turbines must be set back from all buildings and all lot lines a distance of 110% of the turbine tip height, as measured from the nearest point on the foundation of the occupied building to the nearest point on the outside edge of a tower. Turbine tip height is measured from the base of the tower to the tip of a prop at maximum vertical rotation.

- b.** Accessory operation and maintenance buildings and substations must be set back in accord with the underlying zone standards.

**3. Design**

- a.** Wind turbines must be a non-obtrusive and non-reflective color, such as white or off-white. The facility owner or operator must maintain the paint on wind turbines at all times in good repair.
- b.** Wind turbines may not be artificially lighted unless otherwise required by the Federal Aviation Administration (FAA) or any other governmental authority. If lighting is required, the lighting must, to the extent feasible, cause the least disturbance to the surrounding areas.
- c.** Non-essential appurtenances may not be affixed to any wind turbine, including, but not limited to, wireless or radio antennae.
- d.** A "Danger, High Voltage" sign must be installed where it is clearly visible by persons standing near the base of all pad-mounted transformers and substations. No additional signs or advertising are permitted on the turbine aside from identification of the turbine manufacturer or the facility owner and operator.
- e.** To prevent unauthorized climbing, climbing pegs must be removed from the lower ten feet of the turbine, or ladder access must be restricted. All access doors to wind turbines and electrical equipment must be locked or fenced, as appropriate, to prevent entry by unauthorized persons.

**4. Operation**

- a.** The facility owner or operator must make reasonable efforts to avoid disruption or loss of radio, telephone, television, or similar signals, and must mitigate signal disruption caused by the wind

- farm in a manner reasonably calculated to remedy such disruption, including, but not limited to, providing alternative methods of signal delivery to affected property owners at the facility owner or operator's expense. This provision may not be interpreted to excuse compliance with any regulations governing electronic transmissions.
- b.** During normal operation, wind turbines may not exceed five dBA over ambient sound as measured at the closest neighboring inhabited dwelling in existence at the time of application for the wind farm. This sound level may be exceeded during short-term events, such as utility outages and storms.
  - c.** A wind turbine may not cause shadow flicker to fall upon any window of an inhabited dwelling that exists at the time of application for the wind farm.
  - d.** A wind turbine must employ preventive measures to eliminate any deleterious effects of ice throw in compliance with specifications contained in the latest edition of the Germanischer Lloyd Guideline for the Certification of Wind Turbines.
- 5. Termination of Use.** A wind farm or wind turbine that has reached the end of its useful life must be removed within six months of such determination. A wind energy system is considered to have reached the end of its useful life when it has been inoperable for six consecutive months. Time extensions may be granted by the Commissioner of Permit and Inspection Services when good faith efforts to repair the turbine are demonstrated. Foundations must be removed, unless an exception is granted by the Commissioner of Permit and Inspection Services. The City may ensure and enforce removal by means of its existing regulatory authority.
- F. Wireless Communication.** Towers, antennas, and ancillary structures used to transmit and receive radio-frequency signals, microwave signals, or other signals.
- 1. Application Requirements.** In addition to any other submittal requirements, all applications to erect, construct, or modify any part of a wireless communication tower, antenna, or ancillary structure must include the following items, unless waived by the Commissioner of Permit and Inspection Services:
    - a.** A site plan showing the location, height, size, color, lighting, landscaping, screening, and design of all structures and equipment, including fences. If the site plan is for a new wireless communication tower, the site plan must indicate the fall zone by a shaded circle.
    - b.** A demonstration of the need for, and service area of, the wireless communication tower, antenna, or related structure, with specific reference to the provider's coverage, capacity, and quality needs and objectives.
    - c.** The service area of the proposed wireless communications tower, antennas, and ancillary structures.
    - d.** If the proposal is for a wireless communication tower, a written report proving that collocation is not feasible.
    - e.** Certification by a licensed and registered professional engineer regarding the manner in which the proposed structure could fail.
  - 2. Wireless Communication Tower.** Any structure that is designed and constructed for the purpose of supporting one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication, including without limit freestanding towers, guyed towers, lattice towers, monopole towers, self-supporting towers, and similar structures. The term includes the structure and any support elements, such as guy wires.



- a. Wireless communication towers must be designed to provide for collocation by additional providers.
  - b. A Type C buffer yard, designed per Section 7.1.6, is required surrounding the base of a ground-mounted wireless communications tower.
  - c. A wireless communication tower must be white or off-white, galvanized silver, or gray in color or be finished or painted so as to reduce visual obtrusiveness, unless otherwise required by the Federal Aviation Administration (FAA) or any other governmental authority.
  - d. No signs or advertising materials of any nature may be allowed on any communication tower, except for warning signs or other notifications designed to alert the public to safety concerns.
  - e. Wireless communication towers must not be artificially lighted unless otherwise required by the Federal Aviation Administration (FAA) or another governmental authority. If lighting is required, the lighting must, to the greatest extent feasible, cause the least disturbance to the surrounding areas.
- 3. Wireless Communication Antenna.** Any device or exterior apparatus mounted on a tower, building, utility pole, light pole, or other structure to transmit or receive communication signals or electromagnetic waves for the purpose of telephonic, radio, data, Internet, or television communication, and its attendant base station. If the following standards are met, a wireless communication antenna does not require a special use permit:
- a. The antennas are enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer; or
  - b. The antennas are mounted on or in a structure that is already allowed within the zone, such as a water tower, belfry, elevator penthouse, steeple, or existing wireless communication tower, and do not increase the overall height of the structure.
- 4. Ancillary Communication Structure.** Any ancillary facility or structure serving or being used in conjunction with a wireless communication tower or antenna. Examples include utility or transmission equipment storage sheds or cabinets. An ancillary communication structure does not require a special use permit when installed in conjunction with an approved wireless communication tower or antenna.
- a. Any buildings, cabinets, or shelters may house only equipment and supplies for operation of the wireless communication tower or antenna. Any equipment not used in direct support of such operation must not be stored on the site. The facility must be unstaffed.
  - b. Signs for the ancillary communication structure are limited to ownership and contact information, FCC antenna registration number (if required), and any other information required by a governmental authority. Commercial advertising is prohibited.
- 5. Termination of Use.** A wireless communication tower or antenna that has reached the end of its useful life must be removed within six months of such determination. A wireless communication tower or antenna is considered to have reached the end of its useful life when it has not operated for six consecutive months. Time extensions may be granted by the Commissioner of Permit and Inspection Services when good faith efforts to repair the wireless communication tower or antenna are demonstrated. Foundations and support structures must be removed, unless granted an exception by the Commissioner of Permit and Inspection Services. The City may ensure and enforce removal by means of its existing regulatory authority.



## 6.2 ACCESSORY USES

### 6.2.1 General

- A.** All accessory uses and structures must comply with the standards of this section.
- B.** Accessory uses and structures are permitted in conjunction with allowed principal uses.
- C.** Accessory uses and structures must be:
  - 1.** Customarily found in association with the principal use.
  - 2.** Clearly incidental and subordinate to the principal use in terms of area and function.
  - 3.** Located on the same site as the principal use.
- D.** Accessory structures:
  - 1.** Must comply with the maximum building coverage and impervious coverage requirements of the zone.
  - 2.** May encroach upon required corner side, interior side, and rear yards, so long as they are not expressly restricted in the standards in Section 6.2.2, and do not in the aggregate occupy more than 50% of the area of any individual required yard.
  - 3.** May not encroach upon required front yards or forwards of the front building wall of a principal building, unless expressly allowed in the standards in Section 6.2.2.
  - 4.** Must be located at least 18 inches from lot lines, except where there is no required yard or where lot lines share a right-of-way line with an alley. The standards in Section 6.2.2 may require larger minimum setbacks for some accessory uses and structures.
  - 5.** Are limited to a maximum height of 18 feet, unless otherwise allowed or restricted by the standards of Section 6.2.2.
- E.** All accessory uses and structures must meet any applicable federal, state, and local requirements,

including, but not limited to, licensing, health, safety, and building and fire code requirements.

- F.** Where a specific accessory use or structure is not listed in Section 6.2.2, but is customarily found in association with, and is clearly incidental and subordinate to, an allowed principal use, the Zoning Administrator may interpret the accessory use or structure as allowed per Section 11.3.11. The accessory use or structure must comply with all general standards of Section 6.2.1.

### 6.2.2 Accessory Structures and Uses

- A. Above-Ground Storage Tank.** The storage of flammable liquids or gases in a container at or above ground level.
  - 1.** No above-ground storage tank in excess of 50 gallons is permitted, except in a D-M, D-IL, D-IH, or C-R zone. An above-ground storage tank in excess of 50 gallons may be allowed only with a special use permit in an N-1S, D-E, or D-C zone.
- B. Amateur (Ham) Radio Equipment.** Antennas located on ground-mounted towers and roof-mounted support structures used to broadcast an amateur (ham) radio station licensed by the Federal Communication Commission (FCC).
  - 1.** Ground-mounted towers are permitted only in the rear yard and must be located a minimum of ten feet from any lot line and any overhead electric distribution or transmission lines.
  - 2.** Ground-mounted towers may not exceed 35 feet, measured from the base of the supporting tower to its tallest point. A roof-mounted antenna, when fully extended, is limited to a maximum height of ten feet above the height of the structure to which it is mounted.
  - 3.** Additional height may be approved by the Commissioner of Permit and Inspection Services if the applicant can demonstrate that such height is necessary to effectively engage in radio communications.

**C. Apiary.** A structure for the keeping of honeybees.

1. Signed statements, consenting to the keeping of bees on the premises, from the property owner, all residents of the subject property, and all residents of any property within a 50 foot radius of the subject property, must be provided prior to engaging in any beekeeping activities.
2. Ground-mounted apiaries are permitted only in rear yards, and must be located a minimum of five feet from any lot line and ten feet from any dwelling.
3. All honeybee colonies must be kept in removable frame or top bar hives.
4. When an apiary is located within 25 feet of a lot line, a flyway barrier of a minimum of six feet in height is required, located within five feet of the hive and extending at least two feet on either side of the hive. The flyway barrier must be made of a fence, tarp, or dense vegetation to effectively prompt bees to fly at an elevation at least six feet above ground level.
5. A convenient source of water must be available to the bees at all times.
6. No bee comb or other materials may be left exposed on the property. Upon their removal from the hive, all materials must promptly be disposed of in a sealed container or placed within a bee-proof enclosure.
7. All colonies must be maintained with queens selected from stock bred for gentleness and non-swarming characteristics. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, the beekeeper must promptly re-queen the colony with another queen.
8. A minimum 500 square feet of unobstructed area is required per bee colony.
9. No more than two accessory bee colonies are

allowed per lot, except in the N-1S, D-E, D-IL, D-IH, D-OG, D-ON, and C-R zones.

**D. Aquaculture/Aquaponics.** The farming of aquatic organisms such as fish, crustaceans, mollusks, and aquatic plants under controlled conditions.

1. All aquaculture/aquaponics facilities must be located within fully enclosed structures designed for holding and rearing fish, and containing adequate space and shade.

**E. Arbor.** A freestanding landscape structure that is at least 50% open and is designed as a passageway, often to support vines or climbing plants.

**F. Automated Teller Machine (ATM).** A computerized, self-service machine used by bank customers for financial transactions, including deposits, withdrawals, and fund transfers, without contact with financial institution personnel. The machines may be located at or within a financial institution, or at other locations.

**G. Automobile Charging Station.** A public parking space intended for electric vehicles and served by vehicle battery charging equipment.

1. Each charging station must include signs that indicate the space is for electric vehicle charging purposes only. In addition, the following information must be posted at all charging stations: voltage and amperage levels, fees, safety information, and contact information for reporting problems with equipment.

**H. Balcony.** A raised outdoor platform that is attached and adjacent to a building facade above the first story. A balcony is not allowed in an interior side yard where the lot abutting the interior side yard line is located in an N-2R, N-3R, N-4-30, or N-4-50 zone.

**I. Carport.** A covered structure that provides protection to motor vehicles from the elements.

1. A carport must be set back at least 20 feet from the front facade of the principal building, except where carports face an alley, in which case no setback is required.

2. Where an improved alley is available, carport access must take place from the alley.

**J. Chicken Coop.** A structure where hens are kept.

1. **Number of Chickens.** A maximum of one chicken may be kept on a lot for each 1,000 square feet of lot area. Roosters are prohibited. If the gender of a chick cannot be determined at hatching, a chick of either gender may be kept on the property for no more than six months.
2. **Construction**
  - a. Chicken coops are only allowed in rear yards; must be at least ten feet from any building used for dwelling purposes, and five feet from interior or corner side lot lines.
  - b. A minimum of two square feet of coop area must be provided for each chicken within the coop.
  - c. A nest box must be provided for every five birds. The nest box must be located in a dark and secluded area, be weatherproof, be dry with friable nesting material, provide ventilation, and allow the bird to perch and alight.
  - d. The coop must be adequately constructed to protect the birds from predators and weather extremes. The coop must be well ventilated, allowing for fresh air and natural light.
  - e. The birds must not be subjected to dim or continuous lighting or kept in permanent darkness. In the daytime, the birds must be able to see each other, their food and water sources, as well as their surroundings clearly. Use of artificial light is permitted as long as it does not exceed a maximum day-length of 16 hours and is distributed evenly.
  - f. Bedding must be kept in a dry, mold-free, friable condition, and replenished as necessary. Bedding from timber-

based products sourced from chemically-treated wood is not permitted.

**3. Open Space**

- a. Each chicken must have continuous access to at least four square feet of range and foraging area.
- b. The range and foraging area must be well drained and clean at all times, offer access to living vegetation whenever conditions allow, be resistant to erosion by activities of the birds, and provide access to water, shelter, and feeding areas.
- c. Areas of retreat or cover, such as trees or shrubs, must be available and provided in a manner that encourages ranging behavior and ensures maximum use of the ranging and foraging areas available.
- d. All facilities, equipment, fittings, and ranging areas must be designed and maintained so that they do not pose a risk of injury to the birds.

**4. Care of Chickens**

- a. Birds must be properly selected for the region's specific climate conditions so that they voluntarily choose to go outdoors in all but the most extreme weather.
- b. Chickens must be kept in coops from dusk to dawn.
- c. Coops must be managed to ensure the regular removal of manure and the elimination of ammonia, dampness, and mold.

- K. Cold Frame.** An unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

- L. Compost Bin.** An enclosure in which organic waste material, such as yard and food waste, is naturally degraded in a controlled setting to produce a fertilizer or soil amendment.
  1. Compost bins are only allowed in rear yards and must be located at least ten feet from any building used for dwelling purposes.
  2. Compost materials must be maintained in a manner that controls odor, prevents infestation, and prevents runoff onto adjacent properties.
  3. Compost bins must be concealed from view or otherwise appropriately screened from adjacent properties and public rights-of-way.
  4. Composting of animal scraps, biosolids, septage, sludge, and raw manure is prohibited, except that chicken manure may be used when blended with low-nitrogen, carbonaceous materials, such as sawdust or straw.
  
- M. Day Care Home.** A day care home is a dwelling in which a permanent resident provides licensed care in a protective setting for up to six children or elderly or disabled adults for less than 24 hours per day. The number counted includes the family's natural, adopted, or foster children who are under six years of age.
  
- N. Deck.** A roofless outdoor space built as an aboveground platform projecting from the wall of a building and connected by structural supports at ground level.
  1. Deck railings are limited to a maximum height of four feet.
  
- O. Donation Box.** A container used for the purpose of collecting donated items for resale or for use by a charitable organization or institution.
  1. Donation boxes are allowed only in a rear yard in an N-2R, N-3R, N-4-30, N-4-50, and D-R zone.
  2. Only one donation box is permitted per lot.
  
- 3.** Donation boxes must be located a minimum of 20 feet from any building used for dwelling purposes.
- 4.** Donation boxes must contain the following contact information on the front of each donation box: the name, address, email, and phone number of the operator.
- 5.** Donation boxes are limited to six feet in height and 150 cubic feet in volume.
  
- P. Fire Escape, Exterior.** An emergency exit, mounted outside of a building that provides a method of escape in the event of a fire or other emergency when interior stairwells are inaccessible.
  1. Exterior fire escapes may encroach upon front and corner side yards when proof is provided that no other alternative is available for the location of a required fire escape.
  2. A fire escape may encroach upon a public right-of-way only with an encroachment permit per Section 11.4.1.
  
- Q. Garage.** A fully-enclosed structure, whether attached to or detached from a principal building, used for the storage of vehicles.
  1. A garage, whether attached or detached, must be set back at least 20 feet from the front facade of the principal building, except where the principal building and the garage face an alley, in which case no setback is required.
  2. Where an improved alley is provided, garage access must take place from the alley.
  
- R. Gazebo.** A detached structure covered by a roof, occasionally enclosed with screening, and intended for outdoor recreational use.
  
- S. Greenhouse.** A temporary or permanent structure, typically made of glass, plastic, or fiberglass, in which plants are cultivated.
  1. Roof-mounted greenhouses must be located a minimum of five feet from any roof edge. Roof-mounted greenhouses are limited to a

maximum height of 18 feet above the surface of the roof.

**T. Home Occupation.** An occupation carried on by the resident of a dwelling unit, where the occupation is secondary to the use of the dwelling unit for residential purposes.

1. The home occupation must be located within a fully enclosed building owned or occupied by a resident of the site. A home occupation may not be established prior to residential occupancy of the site by the operator of the home occupation.
2. The home occupation may not exceed 25% of the gross floor area of the principal dwelling unit.
3. No more than one non-resident employee may be present at any one time during the hours of operation. No more than two clients may be served at one time.
4. No more than one vehicle may be used in association with the home occupation. No commercial vehicle, defined as any vehicle with a gross vehicle mass rating of over 10,000 pounds, the use of which is the transportation of commodities, merchandise, produce, freight, vehicles, animals, or passengers for hire, or which is used primarily in construction or farming, including but not limited to bulldozers, backhoes, tractors, and cranes, may be stored on site.
5. There may be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation, with the exception of a home occupation sign erected per Section 9.4.1.J.
6. No display of products may be visible from the adjacent public right-of-way. Direct sales and rentals of products off display shelves or racks are not allowed, although a person may pick up an order previously made by telephone, by internet, or at a sales meeting. Vehicle repairs are not allowed as part of a home occupation use.

7. No business storage or warehousing of material, supplies, or equipment is allowed outdoors on the site.
8. No processes or equipment may be used that creates heat, glare, dust, smoke, fumes, odors, or vibration detectable off the property.
9. No processes or equipment may be used that creates sound above the ambient noise level for more than 10 minutes in any given hour during any day between 7:00 A.M. and 7:00 P.M. No related sound above ambient noise level is permitted that is be detectable off the property at any other time.

**U. Hoop House.** A structure, typically made of piping or other material covered with translucent plastic in a half-round or hoop shape, in which plants are cultivated.

**V. Market Stand.** A partially-enclosed structure used for outdoor retail sales.

**W. Mechanical Equipment.** Equipment necessary for the heating, cooling, ventilation, electric generators, and similar mechanical functions of a building.

1. Ground-mounted mechanical equipment must be screened with a fence, wall, or dense evergreen hedge, so that no portion is readily visible from any public right-of-way, with the exception of alleys. If ground-based mechanical equipment is screened by existing structures, fencing, or landscape, this requirement is deemed to have been met.
2. Roof-mounted mechanical equipment must be fully screened. Screens must be of durable, permanent materials and be constructed to a height of at least one foot above the height of the mechanical equipment.
3. Any existing mechanical equipment, which was lawfully established prior to the adoption of this Ordinance, will be considered conforming, and may be repaired and replaced in kind.

- X. Outdoor Dining.** An outdoor seating area for a restaurant or tavern.
  1. A special use permit is required for outdoor dining in the N-2C, N-2E, N-3C, N-3E, and D-R zones, is prohibited in the N-2R and N-3R zones, and is prohibited in any zone in which taverns or restaurants are also prohibited.
  2. Outdoor dining must not interfere with ingress and egress points, including building entrances, parking spaces, and drive aisles, and must maintain a minimum of five feet of sidewalk clearance at all times.
  3. Unless otherwise allowed by an encroachment permit per Section 11.4.1, outdoor dining areas must be located on private property.
  
- Y. Outdoor Display.** The outdoor display of products actively available for sale. Outdoor display does not include vehicle sales, which is considered a principal use.
  1. An outdoor display may encroach upon any required yard, as well as forwards of the front building line of the principal structure, regardless of the provisions in Section 6.2.1.
  2. An outdoor display must maintain a minimum of five feet of sidewalk clearance at all times.
  3. An outdoor display must be located a minimum of five feet from any public entrance or vehicular travel way.
  4. The products on display, as well as any structures used for outdoor display, are limited to a maximum of seven feet in height.
  5. The products on display must be removed and placed inside a fully-enclosed building at the end of each business day, except in the case of ice machines, propane tanks, and vending machines, which may be permanently located along the exterior of a structure.
  6. Unless otherwise allowed by an

encroachment permit per Section 11.4.1, an outdoor display must be located on private property.

- Z. Patio.** A hard surface, constructed at ground level, designed and intended for outdoor recreational use, and not used as a parking space.
  
- AA. Pergola.** A structure consisting of parallel colonnades supporting an open roof of girders and cross rafters, often shading an outdoor recreation area.
  
- AB. Porte-Cochere.** A porte-cochere is a roofed structure that extends from a building over a driveway, providing an articulated entryway and protection from the weather.
  1. A porte-cochere must be open on at least two sides.
  2. A porte-cochere must be placed in an interior side or rear yard. A porte-cochere may be placed within a front or corner side yard only with a special use permit.
  
- AC. Rain Barrel/Cistern.** An aboveground receptacle, reservoir, or tank for storing rainwater.
  1. A rain barrel or cistern may encroach upon any required yard, as well as a required front yard, regardless of the provisions in Section 6.2.1.
  2. Water collected from rain barrels may be used only for non-potable purposes, such as irrigation and toilet use.
  3. Rain barrels and cisterns must be watertight, made of materials suitable for storage of potable water, and anchored according to manufacturer specifications.
  4. Rain barrel openings must be screened to prevent mosquitos from entering. Large openings in rain barrels must be securely fastened to prevent accidental drowning.
  
- AD. Recreational Equipment and Game Courts.** Play apparatus, such as swing sets and slides, sandboxes, picnic tables, pools, and game



courts, including tennis, pickleball, and basketball courts.

1. An outdoor swimming pool may be located only in rear and interior side yards and must be located at least five feet from any lot line.
2. A basketball standard or backboard may encroach upon any required yard, including a required front yard, regardless of the provisions of Section 6.2.1.

**AE. Recycling Collection Station.** A container used for the purpose of collecting items for recycling, which may be manned or unmanned.

1. Only one recycling collection station is permitted per lot.
2. Recycling collection stations are only allowed in rear and interior side yards and must be located at least 20 feet, or to the extent practicable, away from any building used for dwelling purposes.
3. Recycling collection stations must contain the following contact information on the front of each container: the name, address, email, and phone number of the operator.
4. An unmanned recycling collection station must not exceed six feet in height and 150 cubic feet in volume.

**AF. Refuse and Recycling Storage Area.** Designated storage areas and equipment used to collect refuse and recyclables, including any refuse handling area that accommodate dumpsters or ten or more garbage and recycling totes.

1. Refuse and recycling storage areas are only allowed in rear and interior side yards and must be located at least 20 feet, or to the extent practicable, away from any structure used for dwelling purposes.
2. Refuse and recycling storage areas, if not within a fully-enclosed building, must be screened on three sides by a solid wall or fence of between six and seven feet in height. The enclosure must be gated. Gates

must visually conceal of the contents of the enclosure, and must remain closed except when the dumpster is being loaded or unloaded or when maintenance is needed.

3. A refuse and recycling storage area must be located on an impervious surface.

**AG. Religious Shelter Unit.** An accessory facility associated with a place of worship that is for counseling, education, and referral services for temporary residents.

1. The religious shelter unit must be accessory to a place of worship, and must not occupy more than 10% of the gross floor area of principal buildings on the site.
2. The religious shelter unit may house no more than 15 residents at any one time.

**AH. Roof Deck.** A roofless outdoor space built as a platform on the roof of a building.

1. A roof deck may be built only on a flat roof.
2. The deck surface may be raised no more than two feet above the roof surface supporting the deck.
3. The deck must be set back at least five feet from the front facade of the building.
4. Deck railings are limited to a maximum height of four feet.

**AI. Salt Dome.** An accessory structure used to store road salt for on-site use.

1. Salt domes are permitted only within interior side and rear yards, and must be located a minimum of five feet from any lot line.
2. Road salt must be stored on an impervious surface and be securely covered to protect from contact with precipitation. A waterproof tarp may be used as a covering if it is sufficiently secured to withstand disturbance by wind. Securing the tarp with excess salt is prohibited.



**AJ. Satellite Dish Antennas.** A dish antenna for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication, or other signals from other antennas, satellites, or services. Small satellite dish antennas are one meter or less in diameter and large satellite dish antennas exceed one meter in diameter.

1. Satellite dish antennas must be permanently installed as building-mounted or ground-mounted structures. Satellite dish antennas must not be mounted on a portable or movable structure.
2. Subject to operational requirements, the dish color must be of a neutral color, such as white or grey. No additional signs or advertising are permitted on the satellite dish, with the exception of the satellite dish service provider logo or dish manufacturer.
3. Satellite dish antennas not in active service must be removed within 30 days of ending the service subscription. Proof of active service is demonstrated by a current invoice, or active contract, demonstrating such service to be in effect.
4. A building-mounted satellite dish antenna may not be installed on a front or corner side facade of a structure unless such placement is required for reception of an acceptable signal, according to a written statement from a licensed, authorized installer on company letterhead that includes the installer's signature.
5. A large satellite dish must be set back from all lot lines a distance that at least equal to the height of the dish. When roof-mounted, a large satellite dish must be located at least five feet from the roof edge.

**AK. Solar Energy System.** An energy system that uses the power of the sun to capture, store, and transmit energy.

1. To the maximum extent feasible, solar panels must not obscure architectural details or features.

2. A "Danger, High Voltage" sign must be installed where it is clearly visible by persons standing near the base of the solar energy system. No additional signs or advertising are permitted on the system aside from manufacturer logos.

3. No grid-tied solar energy system may be installed until the applicant has submitted evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

**4. Building-Mounted Systems**

- a. **Roof-Mounted.** Solar panels may be mounted on a flat roof, may project no more than 12 feet above the roof surface, and must be set back at least 18 inches from the roof edge. Solar panels may also be mounted on a sloped roof, and must be set back at least six inches behind the roof edge.

- b. **Facade-Mounted.** Solar panels may be applied flat against a building facade, or project off a building facade up to three feet.

**5. Ground-Mounted Systems**

- a. A ground-mounted solar energy system is limited to a maximum height of 12 feet.

- b. Power transmission lines from a ground-mounted solar energy system to any structure must be located underground, if possible, and must be completely shielded against shock hazard.

**AL. Storage Shed.** An accessory structure used primarily for additional storage, often purchased pre-built or as a kit in pre-fabricated sections.

**AM. Trellis.** A framework of latticework that is at least 50% open, typically made of bars of wood or metal crossed over each other, and chiefly used as a support for vines, fruit trees, or climbing plants.

1. A trellis is limited to a maximum height of eight feet.

**AN. Wind Energy System.** A wind energy conversion system typically consisting of a turbine apparatus and associated control or conversion mechanism, which does not exceed a rated capacity of 500 kW. A wind energy system exceeding a rated capacity of 500 kW is considered a wind farm.

1. A wind energy system is allowed only in interior side and rear yards or on rooftops.
2. A wind energy system may be erected only up to the minimum height required to ensure proper function; i.e., at least 30 feet above any obstruction within a 500 foot radius, including the structure to which the system is mounted and the surrounding tree height.
3. The wind energy system must be located at a distance at least 110% of the turbine tip height from lot lines, unless written permission is obtained from the owners of the affected adjoining properties at the time of application. Turbine tip height is measured from the base of the tower to the tip of a prop at maximum vertical rotation.
4. Applications for multiple small wind turbines on a single property must follow manufacturer or installer recommendations regarding minimum separation between turbines.
5. To prevent unauthorized climbing, climbing pegs must be removed from the lower ten feet of the tower, or ladder access must be restricted.
6. A "Danger, High Voltage" sign must be installed where it is clearly visible by persons standing near the tower base. No additional signs or advertising are permitted on wind energy systems aside from manufacturer logos.
7. Non-essential appurtenances may not be affixed to any wind turbine, including, but not limited to, communication antennae.
8. During normal operation, wind energy systems may not exceed five dBA over ambient sound as measured at the closest property line of the closest neighboring inhabited dwelling that exists at the time of application. This sound level may be exceeded during short-term events, such as utility outages and storms.
9. Wind turbines with swept areas up to 200 meters-squared must be certified to the most current version of AWEA 9.1 by the Small Wind Certification Council or a Nationally Recognized Testing Laboratory (NRTL), as recognized by the US Occupational Safety and Health Administration (OSHA). Applications for provisionally certified or non-certified turbines with swept areas over 200 meters-squared must include a description of the safety features and sound emissions of the turbine, must show compliance with applicable standards of the International Electrotechnical Commission (IEC), and require a special use permit.
10. Power transmission lines from a ground-mounted wind energy system to any structure must be located underground, if possible, and in any case must be completely shielded against shock hazard.
11. No grid-tied wind energy system may be installed until the applicant has submitted evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
12. A wind energy system that has reached the end of its useful life must be removed within six months of such determination. A wind energy system is considered to have reached the end of its useful life when it has been inoperable for 12 consecutive months. Time extensions may be granted by the Commissioner of Permit and Inspection Services when good faith efforts to repair the turbine are demonstrated. Foundations must be removed, unless an exception is granted by the Commissioner of Permit and Inspection Services. The City may ensure and enforce removal by means of its existing regulatory authority.

## 6.3 TEMPORARY USES

### 6.3.1 General

- A.** All temporary uses and structures must comply with the standards of this section.
- B.** No temporary use may be established on a public right-of-way or public park without the authorization of the Commissioner of Public Works, Parks, and Streets.
- C.** Temporary uses that require a temporary use permit are subject to the following general requirements, as applicable:
  - 1.** A coordinator must be identified that will perform the coordinating role for management of the temporary use and to liaise with the City.
  - 2.** If the operator of the temporary use is not the owner of the site where the temporary use will be located, written permission from the property owner is required.
  - 3.** The operator of the temporary use must ensure adequate traffic control, emergency vehicle ingress and egress, provision for trash/recycling and sanitary facilities, and measures for security and crowd control, as necessary.
  - 4.** All temporary structures must be cleared from the site within 24 hours after the use is terminated, unless an exception is granted by the Commissioner of Permit and Inspection Services.
  - 5.** A site plan may be required, where applicable, to demonstrate compliance with this Ordinance and all other requirements.
- D.** No temporary use may result in adverse effects upon the public health, safety, and welfare, as determined by the Commissioner of Permit and Inspection Services.
- E.** Any temporary use that may reasonably be assumed to attract a combination of spectators or participants to equal or exceed 3,000 persons

must be approved by the Special Events Advisory Committee in accordance with Chapter 414 of the City Code.

- F.** All temporary uses must meet any applicable federal, state, and local requirements, including, but not limited to, licensing, health, safety, and building and fire code requirements.

### 6.3.2 Temporary Uses, Permit Required

The following temporary uses are allowed subject to approval of a temporary use permit issued in accordance with Section 11.3.10.

- A. Batching Plant, Temporary.** A temporary facility for mixing cement, concrete, or asphalt.
  - 1.** Temporary batching plants are allowed only in connection with active construction activities. In no event may the use of temporary batching plant continue past completion of the construction activity or expiration of the building permit.
- B. Carnival/Circus.** The temporary use of structures or land for mechanical rides, amusement devices, games, and live performances to which the public is admitted, including any temporary stands or structures for selling food, beverages, souvenirs, and similar related goods.
  - 1.** Carnival/circus uses are limited to a maximum duration of 14 consecutive days, unless otherwise limited or extended by the Commissioner of Permit and Inspection Services.
  - 2.** Upon written notice from the Commissioner of Permit and Inspection Services, all operators must immediately stop the use of any amusement device or structure found by the City to pose a threat to the public safety.
- C. Holiday Entertainment.** A temporary event for holiday-related entertainment activities, such as haunted houses, holiday set-pieces, and similar participatory holiday entertainment activities.
  - 1.** Holiday entertainment uses are limited to a maximum duration of 45 consecutive days.

**D. Mobile Retail Vendor.** A readily movable, motorized wheeled vehicle, or a towed wheeled vehicle, designed and equipped as a retail establishment, typically a food truck or food trailer, but which may be any kind of retail vendor.

1. Sale of alcoholic beverages from a mobile retail vendor is permitted only in conjunction with an approved special event.
2. During business hours, a trash receptacle must be provided for customer use. The surrounding area must be kept clear of litter and debris at all times.
3. A permanent water or wastewater connection is prohibited.
4. Electrical service may be provided only by temporary service or other connection provided by an electric utility, or by an on-board generator.
5. Drive-through service is prohibited.
6. Signs for mobile retail vendors are limited to those mounted flat against the truck or trailer with a maximum projection of 18 inches, and no more than one sidewalk sign, erected per Section 9.2.11.

**E. Open-Air Market, Temporary.** A temporary outdoor marketplace at which retail goods are sold, such as farmers markets and flea markets, and which may include incidental sales of food or live entertainment.

1. Temporary open-air markets are limited to a maximum duration of two consecutive days, plus any federal holiday, once per week.

**F. Outdoor Vehicle Show or Sale.** An outdoor motor vehicle show or sale.

1. Outdoor vehicle shows or sales are limited to a maximum duration of 14 consecutive days, unless otherwise limited or extended by the Commissioner of Permit and Inspection Services.

**G. Seasonal Sales.** A temporary event for the sale of

holiday-related goods, such as pumpkin patches and Christmas trees.

1. Seasonal sales are limited to a maximum duration of 45 consecutive days.

**H. Sidewalk Sale.** A temporary sales event where merchants display merchandise outside of the establishment.

1. Sidewalk sales must be in conjunction with, and clearly incidental to, an existing business on-site. Sidewalk sales are permitted to display and sell only merchandise that is found in stores participating in the sale.
2. All sidewalk sales must provide for a minimum of five feet of sidewalk clearance on the adjacent public right-of-way and along pedestrian ways serving the site.

### 6.3.3 Temporary Uses, Permit Not Required

The following temporary uses are permitted without a temporary use permit, subject to applicable standards. However, no temporary use may be established within a public right-of-way or public park without authorization of the Commissioner of Public Works, Parks, and Streets per Section 6.3.1.B, regardless of whether a temporary use permit is required.

**A. Construction and Equipment Storage.** Any outdoor storage of materials or equipment customarily found in association with a construction site.

1. The outdoor storage of construction materials and equipment is allowed only in connection with active construction activities and must be removed once the building permit expires.
2. Construction materials and equipment may be stored within a public right-of-way only if a right-of-way work permit is granted per Section 11.4.3.

**B. Contractor Trailer, Temporary.** A mobile home, travel trailer, truck trailer, or other structure used as an on-site management or marketing office in conjunction with a construction project.

1. Contractor trailers are allowed only in

connection with active construction activities and must be removed once the building permit expires.

2. Sleeping or cooking facilities within the trailer are prohibited.
3. No trailer may be used as the main office or headquarters of any firm.

**C. Garage/Yard/Estate Sale.** A temporary event for the sale of miscellaneous household goods or personal articles.

1. Garage, yard, and estate sales are limited to a maximum duration of three consecutive days, three times per calendar year.

**D. Real Estate Model Unit.** The temporary use of a dwelling unit within a development project as a sales or rental office, or as a representative unit for units located on-site.

1. Real estate model units may be used for active selling and leasing of space in a development project for up to six months after issuance of the final certificate of occupancy.
2. The model unit must be converted to its intended residential use at the conclusion of its use as a model unit.

**E. Storage Pods.** Self-storage containers delivered to a resident or business owner to store belongings, which are then picked up and returned to a warehouse until needed.

1. One storage pod for off-site storage of household or other goods located in any yard is allowed for a maximum of 30 consecutive days twice per calendar year.
2. The storage pod must be placed on an impervious surface.

**F. Temporary Emergency Shelter.** Temporary shelter for citizens during seasonal or emergency events, such as extreme temperature, flooding, or natural disaster.

1. Temporary emergency shelters are permitted as part of a civic use only.

2. The maximum length of stay is 14 days, unless otherwise limited or extended by the Commissioner of Permit and Inspection Services.

3. On-site supervision must be provided at all times. Security personnel must be provided during the hours of operation, unless exempted from this requirement by the Commissioner of Permit and Inspection Services.

4. Where a temporary emergency shelter is operated to accommodate refugees, a temporary use permit is required. The temporary emergency shelter must meet all above standards with the exception of standards for length of stay. The maximum length of stay for a temporary emergency shelter operated to accommodate refugees is limited to 90 days within any calendar year. This time period may be further extended or restricted as part of the temporary use permit.

**G. Tent.** A portable shelter typically made of canvas, supported by one or more poles and stretched tight by cords or loops attached to pegs into the ground.

1. Tents used in conjunction with a nonresidential use may be erected for no more than 14 days. Tents must be removed within 24 hours of the cessation of the temporary use.

2. Tents used in conjunction with a residential use may be erected for no more than five days and are permitted in an interior side and rear yard only.

3. Tents with an occupant load of 50 or more persons require approval by the City of Buffalo Bureau of Fire Prevention.